

BUYING PEACE: AMNESTY AS A TOOL IN ENDING CIVIL WARS

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Abstract

This thesis examines the use of amnesty as a tool for ending civil wars. The thesis is innovative in its focus on amnesties during civil wars and their impact on conflict termination. I examine the conditions under which governments grant amnesties, and the various mechanisms through which amnesty acts as an incentive to stop fighting. I then study how international laws and norms against impunity for atrocious crimes influences the use of amnesty. The thesis combines in-depth quantitative and qualitative analysis by using statistical analysis of all conflict episodes from 1975-2011, as well as an intensive study of the peace negotiations in Colombia.

The thesis has a number of innovative findings. I show that governments are more likely to use amnesty as an instrument of war, and they use it to pick off weaker groups with whom it is easier to settle. Secondly, I find that amnesties are effective both as a direct incentive, but also because they give the government military advantages. Thirdly, I demonstrate that governments balance amnesty against other transitional justice measures to avoid giving political concessions.

The thesis makes various contributions to different literatures. To the transitional justice literature, I bring a comprehensive study of amnesty during civil war, and empirical findings on its determinants and effectiveness. To the civil war literature, I bring a theory of amnesty as an incentive in conflict termination, and a model of the impact of legal intervention as an external action. Overall, this thesis offers both a comprehensive study and theoretical insights into the use of amnesty during civil war.

Resum

Aquesta tesi examina la utilització d'amnisties com a eines per a finalitzar guerres civils. La tesi és innovadora pel seu enfoc específic sobre amnisties en guerres civils i el seu impacte en la finalització del conflicte. Examino les condicions sota les quals els governs atorguen amnisties, així com els mecanismes pels quals les amnisties actúen com a incentiu per deixar la lluita. A continuació estudio com les lleis i normatives internacionals contra la impunitat per atrocitats contra la humanitat influeix sobre l'ús de les amnisties. La tesi combina anàlisis en profunditat quantitativ i qualitativ, incloent una anàlisis estadística de tots els episodis de conflicte en el període 1975-2011, així com un estudi a fons de les negociacions de pau a Colòmbia.

Aquesta tesi presenta resultats innovadors. Demostro que els governs són proclius a fer servir les amnisties com a armes de guerra, amb la intenció de dividir i separar els grups rivals més febles, amb els quals és més fàcil arribar a acords. En segon lloc, trobo que les amnisties efectivament funcionen no sols com a incentius directes, sinò també perquè donen avantatges militars als governs. En tercer lloc, demostro que els governs utilitzen les amnisties com una mesura més per a evitar concessions polítiques més costoses.

Aquesta tesi contribueix a dues branques de la bibliografia política. A l'àrea de justícia transicional, hi aporto un estudi exhaustiu de les amnisties en guerres civils, amb resultats empírics sobre els seus factors determinants i efectivitat. A la literatura en guerres civils, hi aporto una teoria sobre la utilització d'amnisties com a eines en la terminació de conflictes, i un model sobre l'impacte de les intervencions legals externes. En conjunt, aquesta tesi presenta un estudi a fons i noves idees teòriques sobre l'ús d'amnisties en guerres civils.

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Introduction

Amnesties as a tool in ending civil war

“No peace process anywhere in the world has ended with the leaders of the insurgency behind bars,” said Iván Márquez, leader of the negotiation team for the Revolutionary Armed Forces of Colombia (FARC).¹ This research arose out of the dilemma expressed in those words. How can we reconcile the tension between encouraging rebel leaders to make peace while simultaneously threatening them with punitive consequences? In particular, I look at the role that amnesty, a legal measure that prospectively bars prosecution, plays in ending civil wars. Amnesty has traditionally been seen as an incentive that “buys peace”. How is it actually used by governments? Does it bring about peace? Furthermore, international criminal law and international norms are changing with respect to amnesty for atrocious crimes. The use of amnesties now draws the possibility of reactions by third parties such as the International Criminal Court. What effect does the expectation of their involvement bring? Is it harder now to make peace? To what extent do governments have their hands tied over what amnesty they can offer? As Licklider said, amnesties are a “flashpoint” between transitional justice and conflict scholarship, because the endorsement of the transitional justice scholars for prosecution and not amnesty endangers the ability to negotiate settlements to civil wars (2008: 382). This research aims to explore that flashpoint.

Most scholarship on amnesty is limited to the analysis of *post-conflict* justice. This research takes a different focus and looks at amnesty given *during* conflict. By adopting this focus, I provide a more complete analysis of the use of amnesty as a justice mechanism. The research also takes a further shift, which is away from the traditional focus on transitional justice in processes of *democratization*, to look instead solely at amnesty during *conflict*. I propose that amnesty can be used instrumentally during conflict and the dissertation

¹ La Semana (23 Feb 2015) “Para los guerrilleros cero cárcel”: Iván Márquez [online], <http://www.semana.com/nacion/articulo/ivan-marquez-dice-que-guerrilleros-de-las-farc-no-pueden-ir-la-carcel/418869-3>, accessed 18 August 2015 [author translation]

examines under what conditions, with what results and with what limitations the use of amnesty occurs.

I approach the topic through three articles. I consider amnesty first as one more tool in the government's toolkit for dealing with conflict. The government can use amnesty to affect the dynamics of the conflict without fighting. Amnesty is a weapon that does not kill. The choice of the government is contingent on the circumstances within which it acts, which can include domestic and international pressures. It must also consider the expected reaction from the rebels, which may vary according to the power balance between the two parties. I find that the government uses amnesty strategically to extract the most benefit with the least costs.

I then turn to examining the outcomes of amnesties, to explore whether they have any effects. Just as Zartman (1989, 2000) talked about a conflict being "ripe for resolution", there may be times when a conflict is ripe for amnesty and it can change the dynamic of the conflict. There is a widespread view in the literature that amnesty is a way of buying peace, and I find some support for that view. However, I also find that amnesty can bring military benefits to the government. Effects can be felt indirectly and later.

The international context for amnesties has changed and is changing dramatically, particularly with the rise of third parties, not least the International Criminal Court (ICC). The third article focuses on the moment of negotiation and asks how the possibility of legal intervention as an external action affects the use of amnesty. I find that the government has room for manoeuvre, but that this is still within a grey legal area. Therefore, the ICC constrains the political negotiations of peace and puts at risk genuine peace negotiations.

The thesis addresses important normative questions. Whereas previously amnesty was given almost automatically, now the pendulum has swung hard in the other direction. In the midst of this normative struggle, painful decisions have to be made about making peace, bringing justice and respecting the rights of victims. As Freeman says, "There are no obvious or cost-free answers to the amnesty dilemma" (2009: 7). Amnesty is increasingly seen as unacceptable, but this thesis focuses on the empirical evidence to find under what circumstances it is used, when it has effects, and how third actors are now constraining its use.

Below, I explain what I mean by amnesty, justify the research and define the gap, review what others have said about it, and give a preview of my argument. Then, I lay out the plan of the thesis.

What is amnesty?

I take my definition of amnesty from Mark Freeman, one of the foremost thinkers about amnesty. He defines amnesty in his seminal book *Necessary Evils: Amnesties and the Search for Justice* (2009: 13) thus:

Amnesty is an extraordinary legal measure whose primary function is to remove the prospect and consequences of criminal liability for designated individuals or classes of persons in respect of designated types of offenses irrespective of whether the persons concerned have been tried for such offenses in a court of law.

This is similar to, though more specific than, the definition from the United Nations, where amnesty is defined as “legal measures that have the effect of prospectively barring criminal prosecution and, in some cases, civil actions against certain individuals or categories of individuals in respect of specified criminal conduct committed before the amnesty’s adoption” (UN High Commissioner for Human Rights, 2009: 5). However, the UN definition specifies that amnesty is only for crimes prior to the amnesty’s adoption, whereas the Freeman definition is open on this issue. This is important because some amnesties that are relevant to my study are granted in order to encourage the lower-level fighters to defect, for example, in Algeria (1999), Uganda (2000), Colombia (2003), and Afghanistan (2007).² Such amnesties are open-ended in order to encourage ex-fighters to come forward in the future, and so are designed to guarantee amnesty for crimes that may not yet have been committed.

The definition used also distinguishes amnesty from pardons. While amnesty is often used alongside pardons, for this study it is important to discriminate between the two. Pardon applies to those who have already been convicted and removes the consequences that have been imposed, e.g. imprisonment. The person is often already arrested, sentenced and imprisoned. Therefore, they are usually under the control of the government. In this study, I am interested in the effects of amnesties over fighters still at large and not under the control of the government. Furthermore, this ties in to issue of “choice”, because fighters who are at large have a choice whether to take up the amnesty or not, and I explore the circumstances by which they might do so in the second paper.

² Law 98-08 on Civil Harmony, 1999 (Algeria); the Amnesty Act, 2000 (Uganda); Executive Decree 128/2003 (Colombia) and the National Reconciliation Charter, 2007 (Afghanistan).

I also distinguish between amnesty and impunity. Much of the normative debate around amnesty has been driven by an equation between amnesty and impunity yet the two should be clearly separated. Impunity is defined by the United Nations Commission on Human Rights as “the impossibility, *de jure* or *de facto*, of bringing the perpetrators of violence to account – whether in criminal, civil, administrative, or disciplinary proceedings – since they are not subject to any inquiry that might lead to their being accused, arrested, tried and, if found guilty, sentenced to appropriate penalties and to making reparations to their victims” (D. F. Orentlicher, 2005). Impunity is the negation of any possibility of bringing perpetrators to account, while amnesty bars criminal or civil actions against specific persons or groups of persons, but still allows for the possibility of other forms of disciplinary proceedings, for example, truth commissions, apology, or reparations. Amnesty, therefore, is a more specific concept, since it need not release the perpetrator from administrative and disciplinary proceedings, and can be seen as a lesser category of impunity.

Amnesty has also been described as *de jure* or *de facto*: the former consisting of formal agreements and treaties; the latter occurring when calls for trials are resisted or “simply ignoring the question of punishing perpetrators” (Snyder & Vinjamuri, 2003: 6). Freeman (2009) argues that this term is misleading, since the very definition of amnesty is that it is a legal measure. Instances such as these should rather be seen as “impunity in practice” (p. 17). I therefore limit my study to *de jure* amnesties given as explicit legal amnesties. Following Olsen, Payne and Reiter, I also include “official state declarations” in the definition of amnesties (Olsen et al., 2010b: 36).

However, unlike Olsen, Payne and Reiter (2010b) I also discriminate between enacted amnesty laws and amnesty offers. Amnesty offers are probably often present and discussed informally prior to being granted. However, I choose to study enacted amnesty laws for substantive and methodological reasons. Substantively, enacted amnesties are public and may require the consent of the legislative body, and thus are a costly signal by the government. An offer, by contrast, may be just an attempt to test the rebels with no intention of following through. Amnesty legislation therefore demonstrates more commitment from the government. Using legislation also means that the amnesties may be more comparable, since they have all passed a certain minimum threshold. Methodologically, overtures of peace such as amnesty offers may be shrouded in secrecy and may even remain hidden until well after the moment has passed. Missing cases would be missing for endogenous reasons.

Variation in amnesties

Amnesties can vary by the persons to whom they are granted, the crimes, or times which they cover, and the conditions that may be attached to them. For example, amnesties can be granted to both sides in a conflict, or to just one side. The 2004 amnesty in Algeria was to just the Islamic militants, whereas the 2006 amnesty was to both state forces and Islamic militants.³ Compared the amnesties in transitions to democracy, there are remarkably few amnesties to solely state forces. In transitions to democracy, the state often issues itself a self-amnesty as a form of protection in the event of transition. The fact that this is not seen as necessary in civil wars exposes the different context of wars, and may support the idea that such amnesties as a form of “victory” for the government.

Amnesties can also be granted to all combatants, or to only specific actors. Alternatively, specific actors can be excluded from amnesties, and this is particularly used with respect to leaders. The 1994 amnesty in Cambodia excluded the rebel leaders, while the 1996 amnesty named Ieng Sary, the second-in-command.⁴ Amnesties can be designed to cover or exclude only certain crimes or time periods. In particular, amnesties often put a time limit on when the amnesty can be taken, and this is a form of putting pressure on the rebels. The amnesty may then be extended, as was the case in Guatemala, which gave an amnesty in 1987 that was extended in 1998,⁵ two of the seven amnesties given between 1982 and 1988.

Finally, amnesties can be conditional on certain other actions, such as telling truth, giving information, apologizing, or making reparations. The 1992 amnesty in Peru stated that those who voluntarily left the terrorist groups and confessed to the crimes they had taken part in would have any subsequent sentence halved. However, if a person gave information on leaders, specific actions planned, etc., that brought about the capture of the leaders or prevention of those actions, they would have no punishment.⁶ The 2005 amnesty in Colombia

³ Charter for Peace and Reconciliation "Charte pour la paix et la Réconciliation Nationale, Journal Officiel de la République Algérienne, No 55 (15 August 2005)"

⁴ Loi Relative a la mise hors-la-loi de la clique du Kampuchéa Démocratique, Loi No. 064 and the Royal Decree NS/RKT/1996/72

⁵ Esquipulas II peace accords (Arias Plan), implemented in Decreto Ley No. 71-87 and Decreto Ley 32-88

⁶ Decreto Ley 25499, Establecen los terminos dentro de los cuales se concederán los beneficios de reducción, exención, remisión o atenuación de la pena, a incursos en la comisión de terrorismo [Establishing the terms within which benefits arising from the reduction, immunity, remission or reduction of sentences from the commission of acts of terrorism will be granted], <http://docs.peru.justia.com/federales/decretos-leyes/25499-may-12-1992.pdf>, and Decreto Ley 25475, Establecen la penalidad para los delitos del terrorismo y los procedimientos para la investigación, la instrucción y el juicio [Establishing the punishment for crimes of terrorism and the processes for the investigation, legal instruction and judgement], <http://www.congreso.gob.pe/ntley/Imagenes/Leyes/25475.pdf>, accessed 25 April 2014

was dependent on not returning to violence.⁷ The use of these kinds of conditional amnesties has been increasing, probably so that states can fulfil their obligations to international norms on truth and reparations (Mallinder, 2008).⁸

In different parts of the thesis I exploit this variation to break open the concept of amnesty and examine the different impacts of different types of amnesty. For example, I examine generous amnesties that release the recipient from prosecution of any crime regardless of international law, including genocide, crimes against humanity and war crimes; I examine amnesties given to elites; and I examine amnesties with different conditions attached.

Justification for the research

Amnesty has a long history,⁹ and the idea of mercy to one's enemies and drawing a line under the past was common. However, there has been a turn against amnesties and a rise in individual criminal accountability.¹⁰

A key turning point in the use of amnesty came with the Lomé peace agreement of 1999 in the Sierra Leone civil war. On his copy of the peace agreement, the Special Representative of the UN Secretary-General added the handwritten note “the UN holds the understanding that the amnesty provisions of the Agreement shall not apply to the international crimes of genocide, crimes against humanity, war crimes and other serious violations of international humanitarian law” (Freeman, 2009: 89). The two domestic institutions tasked with overseeing transitional justice in Sierra Leone – the Truth and Reconciliation Commission and the Special Court – presented very different reactions to this amnesty. The Special Court ruled that the amnesty in the peace agreement was invalid, since the Sierra Leone government “could not legally declare an amnesty for crimes under international law that are subject to universal jurisdiction” (Schabas, 2004: 161). By contrast, the Truth and Reconciliation Commission stated in their 2004 report that “those who argue

⁷ Justice and Peace Law La Ley de Justicia y Paz,[amended in 2009 and 2010] Ley 975 de 2005 por la cual se dictan disposiciones para la reincorporación de miembros de grupos armados organizados al margen de la ley, que contribuyan de manera efectiva a la consecución de la paz nacional y se dictan otras disposiciones para acuerdos humanitarios

⁸ For example, the right to truth is covered in the UN *Principles on the Rights to Remedy and Reparation for Victims* and the *Principles on Actions to Combat Impunity* (Orentlicher, 2005; van Boven, 2005); however, these are non-binding on states.

⁹ In ancient Greece in 405 BC, amnesty legislation was enacted pardoning the oligarchs for their overthrow of democracy in 411 BC (Elster, 2004).

¹⁰ A detailed history of the turn against amnesty is given in the Appendix.

that peace cannot be bartered in exchange for justice, under any circumstances, must be prepared to justify the likely prolongation of an armed conflict...The Commission is unable to declare that it considers amnesty too high a price to pay for the delivery of peace” (Schabas, 2004: 163-4).

These two statements reflect the controversy that surrounds the use of amnesty as a tool for ending civil war. International criminal law expert William Schabas has dubbed the Special Court judgement “a superficial and exaggerated treatment of a complex question” (2004: 163). Yet, in the midst of this controversy, we know very little about when amnesty is actually used during civil wars and when it is effective in ending civil wars. We also know little about how amnesty is being used under the new international norms. This is particularly important given the claims made for amnesty’s efficacy.

The first contribution of this research is to contribute to the increasing empirical research on transitional justice. Much of the debate within the transitional justice literature has been normative and has been driven by legal scholars and political philosophers (Elster, 2004). The polar positions have been described by Olsen, Payne and Reiter (2012) as the “challenger” and the “proponent” approaches, roughly mirroring the views of the Special Court for Sierra Leone and the Truth and Reconciliation Commission discussed above. The proponents of amnesty argue that trials or the threat of trials can damage a peace process by dissuading the elites from ending their rule or entering negotiations, and these elites can play the role of spoilers, whose interests are best served by continuing the fighting (Stedman, 1997). Amnesties can have an essential role to play in the interests of immediate transition or peace (Huntington, 1991; Putnam, 2002; Snyder & Vinjamuri, 2003). Although unpalatable, trading justice for peace may enable peace to be established earlier than otherwise and ultimately prevent many more deaths (Anonymous, 1996). These are important moral questions. Implicit within the normative analysis is the assumption that amnesties are effective as an incentive in ending civil wars, and the question is what outcome makes them normatively acceptable. However, we have very little empirical analysis on the actual use and effectiveness of amnesties. This thesis looks deeper at the use and outcomes of amnesties during conflict and contributes to the increased research interest in the actual hows and whens and outcomes of the use of transitional justice measures (Binningsbø, Loyle, Gates, & Elster, 2012; Lie, Binningsbø, & Gates, 2007; Mallinder, 2009a, 2009c; Olsen et al., 2010b; Van Der Merwe, Baxter, & Chapman, 2009).

The thesis makes two moves with respect to most existing literature on transitional justice. Firstly, research has mainly focused on theories that arise from transitions through

democratization, whereas this thesis focuses on amnesty in *civil war*. It is important to distinguish theoretically these two cases, something which is not yet widely done. Roht-Arriaza (2006) argues that the theorizing in transitional justice was framed by the transitions in Latin America and East Europe. Yet these are a specific set of cases where transitional justice has been used. Lutz (2006) also discusses how the first generation literature considered societies where the judicial system was still intact, unlike cases emerging from civil wars. Also, the crimes committed were state repression and the debate was framed around human rights law. Now, war crimes are much more prevalent and the debate is framed around international humanitarian law. Transitions to democracy have a very different context to civil wars – there is usually a clean break with the past, with a new regime that wishes to mark clearly a new way of doing justice; and wrongs were usually committed primarily by one side. Patterson (2012) talks about how most of the third wave of democratization events were “pacted”, i.e. the old regime retained power to resist while forces for change were popular but weak, which accounted for the requirement for compromise and so for amnesty. Also, transitional justice in democratization is normally implemented after successful transitions and so selects cases that are democracies. There are also empirical arguments to focus on civil wars - the majority of amnesty processes occur during and after civil wars (Olsen et al., 2010a: 110-111). Also, the recent wave of transitions to democracy seems to have passed, while civil wars continue, with 26 civil wars active in 2014, including one new conflict (UCDP, 2015). While there is a large research agenda on the impact of international justice on transitions (Elster, 2004; Huntington, 1991; Kritz, 1995; Olsen et al., 2010b), this thesis looks at the relatively unexplored impact of amnesties on making peace.

The second move I make is to study amnesties *during* conflict. Much of the research focuses on the *post*-transition or *post*-conflict period. Yet, since 1945, 64% of amnesties have been granted during conflict, compared to 36% of amnesties granted post conflict.¹¹ Some scholars consider that justice is not possible without a peaceful society in which stable institutions can be set up, while a stable peace is supported by ensuring impartial justice (Lutz, 2006; Mendez, 2012; Roht-Arriaza & Mariezcurrena, 2006). Therefore, the debate should not be cast as a dichotomy because both principles support each other. However, there is a time disjunction in much of the literature about transitional justice, whereby the view of hand-in-hand peace and justice can be applied to *post*-transition or *post*-conflict societies. In

¹¹ Source: the author’s dataset.

these cases, the reasons why peace and justice sustain each other are likely to be the reasons why the peace happened in the first place. If, on the other hand, we consider the impact of justice on moments of transition or moments of peace negotiations, the question is still wide open as to whether the threat of justice hinders peace. This is particularly true in the light of rise of international consequences, such as international criminal tribunals, universal jurisdiction, and UN rulings of the duty to prosecute and the rights of victims (Orentlicher, 1991; van Boven, 2005). This thesis aims to fill this gap by focusing exclusively on amnesties during civil wars and their use as an incentive, along with looking at the impact of the new international legal regime.

A further justification is that amnesty has been a popular transitional justice measure. According to one database, amnesties comprised 54% of all transitional justice measures used between 1970 and 2005 (Payne, Olsen, & Reiter, 2011).¹² Figure 1 shows the proportion of active civil conflicts in which an amnesty is granted each year. Amnesty is granted in 9.2% of all conflict years.

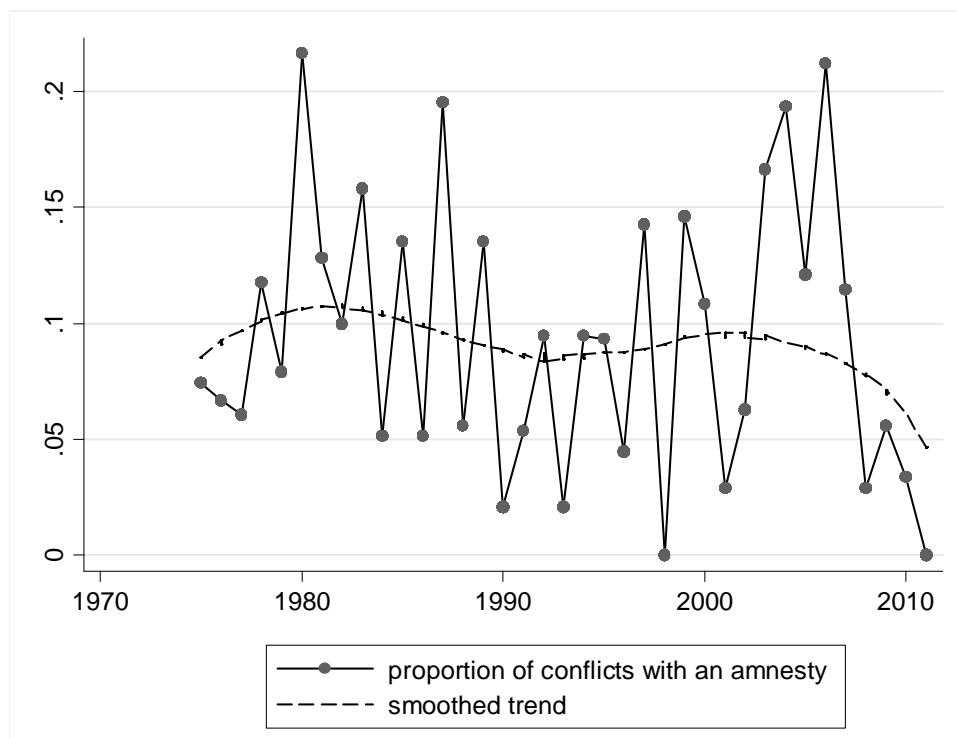


Figure 1: Conflicts with an amnesty: 1975-2011. Source: Author's dataset

Two things strike us in Figure 1. Firstly, that there are few years in which there are no amnesties. Secondly, that the rate has decreased since 2002. This gives us preliminary

¹² The justice mechanisms considered are trials, amnesty, truth commissions, reparations and lustration/vetting.

evidence of the impact of the global norm. Researchers disagree, however, about whether the trend is upward or downward. The compilers of two major databases find that the incidence of amnesties remains high (Mallinder, 2008; Olsen et al., 2012b), despite the “justice cascade” proclaimed in the transitional justice literature (Sikkink, 2011). Indeed, some scholars argue that we should expect to see more amnesties, as states attempt to ensure non-prosecution through legal provisions (Mallinder, 2008; Sikkink, 2012). However, Payne, Lessa and Pereira (2015) find that the level of amnesties remains steady and this is not affected by a shift in global norms, but rather simply by the number of transitions.

In summary, the popularity of amnesty, and the importance of understanding the impact of the rise of international criminal law and the increased use of prosecutions in post-transition and post-civil war societies, provide strong motivations for this study.

The literature on amnesty

This research aims to consciously bring together two fields of literature that overlap but that have not fed into each other empirically – that of transitional justice and of civil war studies. To date, the transitional justice literature has responded primarily to transitions to democracy and focused on the post-conflict or post-transition period. On the civil war side, the focus has been on the negotiations and implementation of peace agreements. Surprisingly, there has not been much consideration of the politics of amnesty. This research will join both literatures to analyse what is useful in the specific context of civil wars.

Transitional justice literature

Let me consider first how amnesties are viewed in the transitional justice literature. They have a controversial position. Originally, this debate was framed as “peace versus justice”, where the “legalist” scholars argued that those who committed atrocities should be brought to justice, meaning trials and punishment, while “pragmatists” were prepared to compromise on justice in order to bring about peace or stability and thus saw amnesties as a means to an end (Gallagher, 2000; Mallinder, 2007; Orentlicher, 1996; Scharf, 1996; Snyder & Vinjamuri, 2003; Sriram, 2004).

On the one side are the so-called legalists, who advocate trials and accountability and oppose amnesties (Orentlicher, 1991, 1996). To date, most of this literature has been heavily influenced by normative principles and the agenda has been set by those working in setting

up the courts and truth commissions (Vinjamuri & Snyder, 2004). Justice here is seen as retributive, and proponents believe that “wrongdoing must be punished” (Sriram, 2004: 7). Legalists base their case on legal, moral and political arguments - the legal arguments revolve around the need to abide by domestic or international law, particularly the duty to prosecute (Orentlicher, 1991; Roht-Arriaza, 1990; Scharf, 1996). The moral arguments tend to focus on the obligation to victims. For example, some scholars claim the South African Truth and Reconciliation Commission (TRC) “robbed survivors of justice for over 1,000 incidents of abuse” (Chapman & van der Merwe, 2008: 284; Gibson, 2002, 2006). Truth commissions linked to conditional amnesties may be essential to encourage perpetrators to tell their stories, but may leave victims without redress, i.e. they may “serve the larger national reconciliation process, but on an individual level people may still feel wronged” (Kerr & Mobekk, 2007: 140). Ten years after end of TRC, Desmond Tutu changed his assessment and suggested that prosecutions should have been carried out alongside truth telling.¹³ The political arguments consider the danger of a victims’ retaliatory justice (Bass, 2000). This may be particularly important in ethnic conflicts. Lutz (2006) considers that trials can prevent stigmatization and prevent vigilantism. Amnesty may initially ease the transition and keep the potential opposition under control, but later fuel discontent among victims and lower faith in the degree of change undertaken (Backer, 2009). Other political arguments are that accountability can have a deterrent value, where “the fulcrum of the case for criminal punishment is that it is the most effective insurance against future repression” (Orentlicher, 1991: 2540). Authors note that amnesties have been followed by atrocities, for example following the Lomé Agreement in Sierra Leone (Kerr & Mobekk, 2007). Trials can also help construct the authority of the new democracy by marking a clean break with the past, by clearly establishing power over the previous regime, and in some cases by showcasing what the domestic courts are capable of. Transitional justice can also be used to “identify, stigmatize and even physically remove certain individuals from a region of conflict” (Kerr & Mobekk, 2007: 7). You can break these actors’ influence by discrediting them at peace processes, stopping their disturbing influence on new peace arrangements and stopping the fear they generate.

On the other side of the debate are the so-called pragmatists, who argue that trials or the threat of trials can damage a peace process, and that amnesties can have an essential role to play in the interests of immediate peace (Putnam, 2002; Snyder & Vinjamuri, 2003). The

¹³ BBC News (16 December 2005), “Tutu Urges Apartheid Prosecutions” [online] <http://news.bbc.co.uk/2/hi/africa/4534196.stm>, accessed 18 August 2015

pragmatists argue their case on the usefulness of amnesties for different reasons at different points of time. During a conflict or authoritarian regime, the threat of trials may dissuade the elites from ending their rule or entering negotiations, and they can play the role of spoilers, whose interests are best served by continuing the fighting (Stedman, 1997). Patterson (2012) applies the *jus in bello* standards to the post-conflict period and argues that order (i.e. governance and security) takes priority; justice (punishment and restoration) should be included if possible; while conciliation (warring parties must ultimately work together) should be always kept in mind as an ultimate aim. He argues political forgiveness can be pragmatic because it may be the carrot required to ensure the outgoing regime leaves, or it may be a deliberate form of reconciliation in order to bring long-term stability. This can range from minimally keeping spoilers such as the Inkatha in South Africa and senior military leaders in Argentina on board, to reintegrating former fighters and military into wider society. This reflects Snyder and Vinjamuri's (2003) finding that trials do not guarantee an end to violence, while amnesties can contribute to peace, but work best in a context of strong institutions and political support. The top priority should be to strengthen institutions – first political and then legal.

Amnesties may be needed as incentives, and although unpalatable, trading justice for peace may enable peace to be established earlier than otherwise, and ultimately prevent many more deaths (Anonymous, 1996). Putnam (2002) argues that in a wide range of countries “explicit or de facto amnesties have proven key to attaining settlement” (p. 240). She is highly critical of international human rights organisations, asserting that they can “place the entire enterprise of peace at risk” if they insist on prioritizing human rights over peace” (p. 240). One example she gives, citing Anonymous (1996), is the Bosnian Muslims' last minute rejection of the proposed 21 September 1993 settlement partly in response to the outcry from human rights NGOs that it was an implicit endorsement of ethnic cleansing. Since the agreement could not actually change the ethnic cleansing that had taken place, and since the later Dayton Agreement, reached seventeen months and thousands of lives later, did not differ on the issue of ethnic partition, she argues that “the price of maintaining the moral and rhetorical high ground will be paid in additional lives lost” (p. 240).

After the transition or ending of the conflict, amnesties may enable previous elites to enter the governmental system and previous fighters to enter a reformed and depoliticized armed forces, which enables reintegration and neutralization of potential spoilers (Jeffery, 2012; Snyder & Vinjamuri, 2003). Furthermore, pushing for trials at times of transition can put a strain on the new democracy that it may not be able to sustain, whereas allowing

amnesties may ensure that the democratic structures, without which a legal framework is impossible, are entrenched (Cobban, 2006; Putnam, 2002). Elster (2004: 188) talks about the “hard” constraints around justice, whereby, depending on the dynamics of the transition, justice may threaten the new stability too much and so be an impossibility. Cobban (2007) examines South Africa, Rwanda and Mozambique and argues that a lack of trials have not affected the quality of peace. Rather the quality of peace comes from negotiations, which shows a willingness to settle.

While the “peace versus justice” dichotomy represented the early debate on amnesty and accountability, now the discussion has become more nuanced. The debate has moved on from a simple dichotomy and recognises that justice is not a simple monolithic concept that maps directly onto trials and punishment. It can be retributive, but it can also be restorative, reparative or rectificatory (Braithwaite, 2002). Furthermore, it is increasingly recognised that retributive and restorative justice need not be opposing concepts, but may have the same end aims, use the same mechanisms and be implemented simultaneously or in sequence to complement each other (Jeffery, 2012; Mallinder, 2007; Olsen et al., 2010; Payne, Reiter, & Olsen, 2011; Sriram, 2004). This has led to a more nuanced view of amnesties, where benefits independent of a trade-off for peace are explored. For example, amnesty can have potential positive effects through acknowledging crimes, but without the bitter confrontation of trials (Hadden, 2004). There has also been a rise of interest in “amnesty plus”, where amnesties are linked to another justice mechanisms, such as a local justice programme, as in Mozambique, or a truth commission, as in South Africa (Mallinder, 2008).

Much of this literature focuses on the moral and legal aspects of amnesties and transitional justice. Amnesties provoke controversy and raise important and unsettling questions, as these on-going debates show. These controversies provide a further motivation for a deeper study of amnesties, their uses and effects. It is important that we understand their uses as much as possible.

Civil war literature

While much of the transitional justice literature is concerned with what *should* happen in the process of ending civil wars, the civil war literature is concerned with *how* and *when* termination happens. This, therefore, makes it very relevant to amnesties, which are viewed as pragmatic actions, focused on the logic of consequences (Snyder & Vinjamuri, 2003).

Intrastate wars are often considered as a single category, though some researchers have questioned whether such diverse occurrences can usefully be considered in the aggregate (Kalyvas & Balcells, 2010). By considering sub-categories, researchers have found important differences in causes, dynamics, terminations and post-conflict situations. While disaggregating an already rare occurrence brings problems for statistical analysis, the differing results thrown up by considering ethnic wars and wars over government or territory separately highlight the relevance of disaggregating in case research and theory development.

A range of factors and mechanisms have been examined to explain conflicts and the transition to peace. These can be grouped into three areas: firstly, the context of the conflict; secondly, the conditions of the conflict itself; and thirdly, the conditions of the termination.

Early work focused on structural reasons for civil war.¹⁴ From this research, we can draw some general conclusions of the importance of the structural factors, such as the cleavages in a society (Esteban, Mayoral, & Ray, 2012; Fearon & Laitin, 2003; Horowitz, 1985; Reynal-Querol, 2002; Sambanis, 2001); the factors that increase the feasibility of an insurgency (Collier & Hoeffler, 2004; Fearon & Laitin, 2003); and the impact of resources on opportunity and motivation (Fearon & Laitin, 2003; Humphreys, 2005; Ross, 2004). Other theories focus on the role of the state, particularly on how weak states create a security vacuum (Fearon, 1998; Goldstone et al., 2010; Posen, 1993). A further body of research focuses on grievances as a mechanism leading to civil war (Gurr, 2000; Hegre, Ellingsen, Gates, & Gleditsch, 2001). Structural explanations for civil war duration include that a weak state leads to longer civil wars (DeRouen & Sobek, 2004; Mason & Fett, 1996; Mason, Weingarten Jnr, & Fett, 1999).

Other scholars examine the conditions of the conflict itself, for example, the length and intensity of the fighting (DeRouen & Sobek, 2004; Toft, 2009). Many other scholars consider the cause of the conflict. This is conventionally divided into conflicts over government, where groups are struggling to gain control over the whole state, and conflict over territory, where localized groups are fighting for increased autonomy or concessions from the central state. Sambanis (2001) also finds that ethnic as opposed to non-ethnic wars have different causes, with wars over identity more likely to be predominantly caused by political grievance. Kalyvas and Balcells (2010) disaggregate by the form of fighting, i.e. the technology used, and find different effects in symmetric conventional civil wars (those fought along conventional front lines), symmetrical unconventional civil wars (where both the state

¹⁴ An excellent overview of the work on civil wars is given in Blattman and Miguel (2010).

and the rebels are weak) and irregular civil wars (where state and rebel forces are unmatched).

The third area is around the conditions of the termination. Various scholars show that the balance between forces is important (Licklider, 1993, 1995). Strong rebels mean short wars and weak rebels mean long wars (Cunningham, Gleditsch, & Salehyan, 2009). When government and rebels are in parity, conflicts tend to end in negotiated settlement (Brandt, Mason, Gurses, Petrovsky, & Radin, 2008; Mason & Fett, 1996). Conflicts are longer when rebels control over territory (Cunningham et al., 2009) and resources (Buhaug, Gates, & Lujala, 2009). The studies on rebel groups have now extended to how groups interact with each other in multi-actor conflicts. The number of groups and the alliances between them also affect their strength, with groups with strong ally ties more likely to gain victory (Akcinaroglu, 2012), and weak groups in a multi-group conflict more likely to strike a deal (Nilsson, 2010). Stedman (1997) finds that the presence of spoilers is a significant hindrance to settlement.

Recently, there has been a shift in research interest to a more disaggregated level of study, with a focus on the configurations of the actors, initially driven by studies on conditions of the rebels (Buhaug et al., 2009; Cunningham, 2006). This research has been applied to civil war duration, as explored above. The focus on actors has also been extended to more dynamic understandings of their preferences and choices. The literature on negotiation, settlement and conflict termination has much to offer. Mason, Weingarten and Fett (1999) draw on Stam's (1996) game theory model to show that continued fighting is the dominant strategy for both government and rebels. Mason and Fett (1996) and Mason, Weingarten and Fett (1999) analyse actors' preferences during a conflict and develop an expected utility model that balances the actor's choices in continuing the conflict to victory or quitting and negotiating a settlement. This shows that a negotiated settlement becomes more attractive when factors lower the chance of victory, increase the costs of fighting, or increase the time expected to victory. These findings reflect Zartman's (1989, 2000) concept of a conflict being ripe for resolution under certain conditions, which include the perception of a mutually hurting stalemate and the perception of a way out.

One way in which negotiations can move to success is if each side commits to measures that are costly to them, such as disarmament or offering military integration. These act as an expression of faith and so help to build trust between the parties (Hartzell, Hoddie, & Rothchild, 2001; Hartzell & Hoddie, 2003; Hartzell, 1999; Jarstad & Nilsson, 2008). A key mechanism is the control of commitment problems, where parties fear exposing themselves

to the predatory behaviour of the other party (Fearon, 1995; Walter, 2001). More detail on how individuals as actors affect peace comes from studies on powersharing, which find that different manifestations of power-sharing are also important, where territorial and military power-sharing increases the likelihood of peace, although political pacts do not (Fortna, 2003; Jarstad & Nilsson, 2008).

A further shift has been to take a more dynamic view of conflict and to explore some of the reasons for shifting up or down levels of conflict. Some causes for changes in the dynamic of a conflict include the group's capabilities for mobilization, which can cause the rebel to switch tactics between civil war and terrorism (Bueno de Mesquita, 2013), and battlefield success, which can affect the propensity of actors to accept mediation (Greig, 2015; Ruhe, 2015). Obayashi (2014) suggests that defections from rebel groups can affect the ongoing dynamic of a conflict due to the information defectors bring to the government. For her part, Cunningham (2011) notes that typically outcome and process are treated as separate, however, in her work on concessions to separatist groups she sees so many concessions that have no hope of settling the conflict that she concludes the aim must be to change the process.

We see that this literature has moved from the consideration of structural factors to an emphasis on actors. Now, the literature is moving to instruments, such as negotiations and peace agreements, along with an exploration of the dynamics of conflict and how these can be changed. This thesis explores an area that has previously not be examined, which is to analyse a legal instrument. Similar to studies on "lawfare" (Dunlap, 2008; Meierhenrich, n.d.), I examine how it can be used as a strategic action.

Reviewing the argument

Given the strength of views held by the UN and international activist organisations opposing amnesties, it seems important that we differentiate amnesties and understand more clearly under what conditions different types of amnesties are adopted and under what conditions different types of amnesty contribute or not to peace based on scientific cross-national empirical work in order to separate out effectiveness from moral principle. With the motivations discussed above in mind, I develop three research questions:

Under what conditions do governments grant amnesties during civil war?

Under what conditions do these amnesties have an effect in reducing or ending civil war?

What impacts does the International Criminal Court have on the use of amnesty during negotiation?

I examine these key questions about the use of amnesty during civil war in order to develop a theoretical framework for amnesties, drawing on the insights from the civil war, terrorism, sociology, and transitional justice literatures. I take as a starting point the view that the use of violence is a rational act (Fearon & Laitin, 2003; Kalyvas, 2006).¹⁵ The ending of violence is therefore also a rational act that can be examined in terms of the costs and benefits of the continued use of violence, based on bounded rational choice theory such that actors use the information they have available to take the decision that has the most benefits and least costs for them. A further underpinning assumption is that amnesty is part of a dynamic process, i.e. driven by expected reaction of other party.

The thesis is developed in three articles that build on each other. In **Paper 1**, I ask under what conditions governments grant amnesties during civil war. Amnesties bring many advantages to the government, which I explore extensively. The choice of amnesty depends on the expected utility the government expects to receive, itself contingent on the conditions in which the government acts. I place amnesty within a range of measures that the government can use in response to ongoing conflict. I jump off from the Mason, Weingarten and Fett (1999) model, to consider that the government's choice will be conditioned by the decision of the rebels they are fighting against. By choice, here, I mean that the government will prioritize the action that brings it the highest expected utility. The government takes into account the benefits that accrue from each action, and also the costs that it expects to suffer. Thus, context matters and the utility will be conditional on many domestic and international pressures that can include economic, political or reputational costs. Economic costs can include the costs of protracted war, where money targeted at prosecuting war may have to be diverted from development goals of the country. Political costs can include a domestic backlash against making peace at any price, and may come from domestic opposition or from justice advocates. Reputational costs depend on the "amnesty culture", where certain amnesties may be popular, but others unacceptable. This can come from within the country or from international pressure. Thus, the government must act taking into account contingent

¹⁵ However, see Kaufman (2006) for an alternative view.

considerations such as power imbalances, its domestic and international power, and international pressure, amongst others.

| | | | |
|---------------------|---------------------------|----------------|------------------------------|
| | Government fights | | Government quits |
| Rebels fight | Continued fighting | | Rebel victory |
| Rebels quit | Government victory | Amnesty | Negotiated settlement |

Figure 2: The position of amnesty

The Mason, Weingarten and Fett (1996) model shows the consequence that each party’s choice has on the other party’s choice. In the original model, the government’s choices are to continue fighting until the rebels quit and there is a government victory, or to quit and suffer either a rebel victory or, at best, a negotiated settlement. The government’s preference is government victory, but in Figure 2 I show how amnesty can be a form of “victory-lite” for the government, in that an amnesty can be instrumental in getting the rebels to quit. The use of amnesty can have benefits for the government, by avoiding less-favoured options. On the one hand, this can be to avoid negotiations where the government might have to concede more substantive policy powers, such as offers of power sharing or the ceding of territorial control. Amnesty merely removes the possibility of prosecution for acts undertaken. On the other hand, an amnesty has advantages over continued fighting, where the outcome always carries a degree of uncertainty, and particularly if the discount factor is high.

The literature on mediation has found that negotiations are demanded by strong rebels as a concession (Clayton, 2013; Melin & Svensson, 2009). As the saying goes, “Kill one person, you go to prison; kill twenty, you go to an insane asylum; kill ten thousand, and you get invited to a peace conference” (cited in Combs, 2007: 129). We might expect that amnesty is given as a concession to strong rebels, with a similar logic to negotiations (Loyle & Binningsbø, 2012). However, I propose that amnesty can also be used instrumentally by the government as a weapon of war, allowing it to maximize its strategic position in the conflict, avoid costly extended conflict, or settle with groups without having to enter negotiations. I also address the costs that granting amnesty may carry for the government and find that domestic costs and reputation matter. I find that the government’s decision to grant amnesty is driven by the costs and benefits it expects from granting amnesty and I address the

question of when benefits might outweigh costs. I find support for the idea that amnesty is used by the government as an instrument of war against weak groups and in multi-group conflicts.

Amnesty has the potential to change the dynamic of a conflict, even contributing to its resolution. In **Paper 2**, therefore, I shift the focus to whether amnesty has effects on reducing or ending conflict. Much of the literature dealing with amnesties focuses on the most egregious cases, often the cases where the tens of thousands have been killed. The underlying assumption is that amnesty is essential in bringing an end to such a conflict, and may even be justified as a “necessary evil” (Freeman, 2009). However, the empirical research is less clear-cut and findings on the effects of amnesty are mixed. Olsen, Payne and Reiter find that extending amnesty to the opposition during conflict does not help end the conflict, a result they find “interesting” (2010a: 128). Reiter (2014) finds that amnesties during conflicts do not have effects, but that amnesties during negotiations do. I therefore explore this question in more depth. Specifically, I look at how amnesty can work as an incentive, while also accounting for the different contexts in which amnesty can be given. I propose three mechanisms by which amnesty could have an effect and test these. I find support for the view that generous amnesties can change the dynamic of a conflict, and even end it. I also find that amnesty does not have a single mechanism, but is highly dependent on context and conditions. It works both as a direct incentive to rebels, but also as a mechanism to give military advantage to the government. The effects may be seen later and indirectly.

Both of the previous papers take a long-term view, from 1975-2011. In **Paper 3** I focus on the present and in particular the changed international context for amnesties, outlined in the history of amnesty in the Appendix. I examine what effects external third parties can have on the granting of amnesty in this current environment. The use of amnesties is in a state of flux, deeply influenced by the changes in international law and norms. The granting of an amnesty is no longer the sole preserve of the national government. Such an action is now likely to draw comment and possibly reaction from external third parties such as the International Criminal Court, the UN, or legal systems in other states under the universal jurisdiction rule. These new actors are present, even if only as shadows, at the negotiating table. This has consequences for conflict termination. Some scholars contend that the shadow of ICC has had positive impacts on peace, acting as a deterrent to repression (Kastner, 2007), while others argue that the consequences are not so clear-cut (Vinjamuri, 2010). Again, this is an area where the focus has been on transitions to democracy. The impact of the ICC on ongoing conflict is still unclear – does it promote or impede peace?

This is the focus of the third paper, which asks what impact external third parties have on the use of amnesty. Whereas before in peace negotiations there were two actors, the government and the rebels, now there are three. I develop a model of interactions between these three actors, along with a model of a two-dimensional issue space wherein the government and rebels must settle. I find that the ICC constrains the government's room for settlement, particularly impacting on the political room for unsavoury compromises. I also find that the government tries to balance amnesty with other transitional justice measures.

In sum, the government may find that amnesty is a useful instrument for improving its position within the conflict, or to change the dynamic or end the conflict. The success of this depends on the characteristics of the rebels, but also on the utility that they see in the amnesty. Whereas previously there were two players in this interaction, now there are three and this limits how the government can use the tools in its toolkit, and also how the rebels can respond.

Data and methods

I explore the first research questions, under what conditions do governments grant amnesty and under what conditions do these amnesties have an effect in reducing or ending civil war, using a database of amnesty laws from 1975-2011. Much research has concentrated on case studies and small-N case comparisons. However, when looking for causation, it is important to examine conflicts where amnesty did not happen. Only in this way, can we know that results are unique to amnesties and not to confounding factors. Therefore, my universe of cases is all conflict episodes, as defined by the Armed Conflict Database of the Uppsala Conflict Data Programme, and the unit of analysis is the conflict episode-year. To this, I add all amnesties connected to the civil wars and given during the civil wars. I create the database of amnesty laws mainly from the qualitative database collected by Mallinder (2008, 2009b). This database relies on amnesty documentation on enacted laws or promulgated decrees and the author has gone to great lengths to access lesser-known conflicts and smaller countries. To my knowledge, the article presented here is the first to code and use these data in a cross-national analysis. I also draw on the Transitional Justice Database developed by Olsen, Payne and Reiter (Olsen, Payne, & Reiter, 2010b; Payne, Olsen, & Reiter, 2011), and I add to my database any amnesties that are verified as granted amnesties (rather than offers) using Keesing's News Archives. I create a database that includes amnesties given during the

conflict period and in peace settlements, though in the first paper I restrict this to only amnesties during the conflict period, as I am interested strictly in the interpretation of amnesties during war. I use logit analysis accounting for duration dependence to examine the granting of different types of amnesty, the change in conflict intensity and conflict ending.

For the examination of the impact of the ICC, I take a different approach. There are not many examples of ICC interventions and so I choose to examine the research question of what impacts the ICC has on the use of amnesty during negotiation using an in-depth case study. I choose Colombia because it has a long history of ICC involvement, since it was one of the first cases that the ICC acted upon, by opening a preliminary examination in 2004. I carry out extensive interviews across a wide variety of actors and support this with a range of primary and secondary materials, in order to triangulate findings and come to a deeper understanding of the case.

The final chapter concludes the thesis by drawing together the findings and linking across the themes. I highlight the contributions made by the thesis and then go further to make some policy recommendations. I finish by reflecting on some limitations and caveats of the research, and I consider some future research directions.

Paper 1

Instrument of war, instrument of peace: The strategic use of amnesty during civil wars

Abstract

Amnesties are often seen as a powerful tool in ending conflict, but we still know little about the conditions under which they are granted by governments. This is particularly so for the use of amnesties during conflict (rather than during transitions or post conflict), even though this is the most informative focus if we are interested in the instrumental use of amnesties to gain peace. Governments face a range of options during civil wars - under what conditions do they grant amnesties? This paper examines the costs and benefits to governments of giving amnesties during conflict and explores two interpretations: amnesty as an instrument of peace or as an instrument of war. Amnesties are not a unitary concept, and I illuminate the use of amnesty by contrasting unconditional/unlimited (generous) amnesties with conditional/limited (strict) amnesties. The determinants of these two types of amnesties are then tested on a newly-coded database of amnesty laws during conflicts from 1975 to 2011, using a newly-coded measure of relative strength. The results support the idea that different amnesties are driven by cost-benefit considerations by the government and can be used as an instrument of war against weak groups or in multi-group conflicts. Recently, there has been a rising global norm against amnesties and so it is important to understand the conditions under which governments find it useful to grant amnesty.

Key words: civil war, amnesty, transitional justice, conflict termination

Introduction

In 1994, Cambodia faced its most positive future for many years. A peace agreement had been signed in 1991, the United Nations had overseen the transition by running an interim government, and elections had just been held to establish a unity government. However, the Khmer Rouge, one of the main parties to the conflict, refused to demobilize its troops (numbering around 15,000),¹⁶ or to participate in the elections. Fighting continued. In July 1994, the government granted an amnesty to guerillas who wished to defect from the Khmer Rouge, giving them six months to abandon violence and take up an incentive package of land and financial assistance along with freedom from prosecution. Thousands reportedly took up the offer and the fighting force reduced to 9,000 by the end of 1994 and 7,500 by the end of 1995. Fighting ended in 1996, when a greatly weakened Ieng Sary, the Khmer Rouge second in command, took up a further amnesty granted by the government and brought some 3,000 fighters out of the jungle (Peou, 2002).

The research presented here focuses on amnesties: “extraordinary legal measures whose primary function is to remove the prospect and consequences of criminal liability for designated individuals or classes of person in respect of designated types of offences” (Freeman, 2009: 13).¹⁷ Much of what we currently know about amnesty comes from studies within the field of transitional justice. This research has found that amnesty is generally part of a package that ensures that outgoing actors do not return to jeopardize the new political arrangements (Gonzalez-Enriquez, Aguilar, & Barahona de Brito, 2001; Huntington, 1991). In order to assess whether these theories are applicable in the different context of civil wars, recent scholarship has moved to looking at the use of transitional justice measures specifically in civil wars (Binningsbø et al., 2012; Reiter, Olsen, & Payne, 2012). This has primarily focused on post-conflict, but a further shift, which has not yet been extensively explored, is to study the use of transitional justice during civil wars.¹⁸ Of the 241 amnesties granted in 55 conflicts since 1945, 64% of amnesties are granted during conflict, compared to 36% of amnesties granted post conflict.¹⁹ Amnesties given during conflict are assumed to be linked to conflict termination, yet, surprisingly, amnesties have not been much considered in

¹⁶ Troop numbers are taken from UCDP dynamic dataset (UCDP, 2013).

¹⁷ Amnesties are the most common transitional justice measure used during conflict. According to one dataset, 56 out of 82 transitional justice mechanisms between 1970 and 2007 are amnesties (Reiter et al., 2012: 158), where transitional justice mechanisms refer to trials, truth commissions, and amnesties.

¹⁸ See the During-Conflict Justice Project (<http://www.justice-data.com>), which includes trials, exiles, purges, truth commissions, amnesties and reparations.

¹⁹ Source: the statistics on amnesties are taken from the author’s dataset based on Mallinder’s collection of amnesty laws (Mallinder, 2008). See the data section for more details.

this literature. Moreover, amnesties granted during conflict are driven by security and bargaining questions, yet these factors are often ignored within the transitional justice field. Furthermore, amnesties affect the conditions of the conflict termination and of the post-conflict environment. Since the presence of an amnesty will constrain the future options available, it is therefore important from a policy point of view to understand what determines the granting of an amnesty during conflict. This research attempts to help fill these gaps.

Different theoretical roles for amnesties have been proposed. In the field of transitional justice they are seen as an instrument of peace, aiming to bring a settlement with those most likely to endanger it, with the main debate raging over the normative acceptability of amnesty (Snyder & Vinjamuri, 2003). However, an alternative point of view is that amnesties can be used as an instrument of war, deployed strategically to target rebel groups when they are weak or to suck away support from groups. Loyle and Binningsbø (2012) suggest that amnesty works by changing the motivations of rebels, but they aggregate amnesties with other transitional justice measures so that it is difficult to separate the effects of amnesties. Reiter (2014) makes a similar argument for amnesties and pardons, but in a qualitative way.

I contribute to the literature by focusing exclusively on amnesties and formalizing a theory of amnesties based on the costs and benefits to the government. I do this by creating a disaggregated form of amnesty that sheds light on the use of amnesty in different conditions. All amnesties are not the same, but may cover different crimes or come with different conditions. I create two categories of amnesties – generous and strict. The former are unconditional amnesties (where there are no requirements on the rebels) and unlimited amnesties (which cover all crimes, regardless of their severity). The latter are conditional amnesties (which come with requirements) and limited amnesties (which are not available for heinous crimes). I then test the alternative theoretical positions of amnesty as an instrument of peace or amnesty as an instrument of war using a newly-coded database of amnesty laws,²⁰ along with a newly-coded measure of relative strength. The results show that the balance between the actors matters, with generous amnesties given to somewhat strong rebel groups. Furthermore, costs are also higher for such amnesties - they are less likely to be given by democracies or where reputation might be damaged. By contrast, strict amnesties are more likely when rebels are relatively weak and when many groups are fighting, and reputational, domestic and international costs are low for such amnesties. Seen from this perspective,

²⁰ I code Mallinder's (2008) qualitative dataset of amnesty laws.

amnesty is one more mechanism within the government's armoury, a weapon that does not kill, and is deployed when the government expects most benefit.

This paper takes a cross-national quantitative approach to examine the determinants of amnesties during civil war. Much research to date has been driven by transitional justice scholars working within a legal scholarship epistemology, focusing on egregious cases in the search for precedent-setting examples. While such a motive is important, are such examples representative of amnesties, or do we get a misleading picture by focusing just on these most controversial examples? This question has important impacts for policy. Given the recent turn against amnesties, cross-national research looking at the total universe of cases can help us have as full an understanding as possible of when they are used.

The paper is arranged as follows. The next section develops a theoretical framework for amnesties by drawing on existing literature from studies on transition justice and conflict and by considering interactions between incumbent and challenger during conflicts. The following sections explain the data and methods and then present the results of the tests, while the final section concludes.

Theoretical framework

Most studies of amnesties to date are within the field of transitional justice and often presented as “legalism” versus “pragmatism”. On the one side are the so-called legalists, who advocate trials and accountability and are against amnesties (Orentlicher, 1991, 1996). Amnesties are opposed because “wrongdoing must be punished” (Sriram, 2004: 7), and for legal, moral, and political reasons.²¹ To date most of this literature has been heavily influenced by normative principles (Vinjamuri & Snyder, 2004), which has led to talk of a justice cascade (Sikkink, 2011) and a rising global norm against impunity (Orentlicher, 1991; Pinsky, 2008; Sikkink, 2012). These debates have led to concrete expressions, such as the founding of the International Criminal Court (ICC) in 2002. Furthermore, the impact has been felt in negotiations, with a strong stance from the United Nations, which has published explicit instructions to all staff, including negotiators, that they “must never encourage or condone amnesties that prevent prosecution [for the most serious crimes] or that impair a

²¹ The legal arguments revolve around the need to abide by domestic or international law (particularly the duty to prosecute) (D. F. Orentlicher, 1991; Roht-Arriaza, 1990; Scharf, 1996); the moral arguments tend to focus on the obligation to victims; while the political arguments consider the danger of a victims' retaliatory justice (Bass, 2000) and the deterrent value of trials as ‘the most effective insurance against future repression’ (Orentlicher, 1991: 2540).

victim's right to a remedy ... or a victim's or societies' right to truth" (UN High Commissioner for Human Rights, 2009: 27).²²

On the other side of the debate, the so-called pragmatists argue that trials or the threat of trials can damage a peace process and amnesties can have an essential role to play in the interests of immediate peace (Mallinder, 2007; Putnam, 2002; Snyder & Vinjamuri, 2003). During a conflict or authoritarian regime, the threat of trials may dissuade the elites from ending their rule or entering negotiations, and these elites can play the role of spoilers, whose interests are best served by continuing the fighting (Stedman, 1997). Amnesties may be needed as incentives, and although unpalatable, trading justice for peace may end a conflict earlier than otherwise and ultimately prevent many more deaths (Freeman, 2009). Licklider (2008: 382) describes amnesties as the "flashpoint" between transitional justice and conflict scholarship, because the endorsement of the transitional justice scholars for prosecution and not amnesty endangers the ability to negotiate settlements to civil wars.

Most of the theorizing about amnesty has come from studies following transitions to democracy. Many researchers emphasise the conditions of the previous regime, arguing amnesty is more likely the longer a regime has been in power, with repression further in the past, and after a high level of atrocities (Elster, 2004; Gonzalez-Enriquez et al., 2001; Huyse, 1995; Olsen, Payne, & Reiter, 2010a). However, other researchers take a more strategic view of amnesty and focus on the process of transition, arguing that amnesties are primarily given to incumbents leaving power who have the potential to disrupt the democratization process (Huntington, 1991; Kritz, 1995: xxxi). Reiter, Olsen & Payne (2012) take both foci to the post-civil war use of amnesty. They find that expectations about the conditions of the conflict such as level of battle deaths, and type of conflict are not significant, suggesting that these are not sufficient hypotheses; while their expectations on the process of termination, i.e. that settlements lead to amnesties, are supported. Current research examines the role of transitional justice specifically during civil war (Loyle & Binningsbø, 2012; Reiter, Olsen & Payne, 2012; Reiter, 2014), but results are mixed. Reiter, Olsen & Payne (2012) again look at the conditions of the conflict and find amnesty is more likely in wars over government and in longer wars. Others take a more strategic view (Loyle & Binningsbø, 2012), and find no significant results, though amnesty is aggregated with other transitional justice mechanisms. Given that recent research has focused on different aspects and thrown up mixed results, it

²² The crimes included are "serious crimes under international law, such as war crimes, genocide and crimes against humanity, or gross violations of human rights, such as extrajudicial, summary or arbitrary executions; torture or similar cruel, inhuman or degrading treatment; slavery; and enforced disappearance, including gender-specific instances of these offences" (UN High Commissioner for Human Rights, 2009: 27).

suggests that a more comprehensive theoretical framework for the adoption of amnesties is required.

Governments face a range of options of how to act in civil wars. The mechanism chosen at any moment will be determined by the circumstances in which it finds itself, along with its interests and preferences, and also its expectations of rebels' responses. This is reflected in recent research on civil war that has moved away from more structural explanations and focuses instead on the characteristics of the actors as groups (Cunningham, Gleditsch, & Salehyan, 2009), and on the actors' incentives to end civil wars (Fearon, 2004, 2013; Mason & Fett, 1996; Mason et al., 1999). This suggests that a more appropriate way to approach amnesties during civil wars is to consider the expected utility to the government, drawing on the rational choice literature. This article therefore develops hypotheses that are specific to the use of amnesty during civil war and considers amnesty as a choice by the government during civil war, a choice that is driven by the balance between the expected benefits and costs.

Benefits of amnesties

One of the aspects determining the attractiveness of an amnesty is its utility to the government. We know from the Mason and Fett (1996) model that the government's optimum outcome is government victory. Therefore, when the government perceives it has a good chance of victory, amnesty is not attractive as an option. As the government perceives that its likelihood of outright victory decreases, it faces the option of continuing to fight or attempting to end the stalemate. When the rebels are strong, fighting will be unattractive as outright military victory is unlikely and the government faces a costly and long conflict.

If we look to recent research on negotiations, this work suggests that negotiations happen when both government and rebels are strong (Melin & Svensson, 2009). Furthermore, stronger rebels increase the likelihood of a peace settlement and on better terms to the rebels (Clayton, 2013), and with political rather than military power sharing (Gent, 2011). However, what happens in the area between negotiations and continued fighting, when rebels are somewhat less strong? Loyle and Binningsbø (2012) examine relative strength with respect to all transitional justice measures and find that what they call "motivation-addressing" transitional justice, which includes amnesties, is more likely to stronger rebels than

“opportunity-addressing” transitional justice such as trials.²³ These findings suggest that amnesties, as a “necessary evil”, will be used as a concession to somewhat strong rebels.²⁴ Such rebels have more capacity to carry on fighting and are able to threaten worse consequences (a longer conflict or the possibility of rebel victory). Thus, the government has to give higher concessions to such groups if it wants to influence the rebels’ response, i.e. it grants generous amnesties, with no conditions or no limitations on the crimes covered. This view of amnesty, as an instrument of peace, leads to the first hypothesis:

Hypothesis 1: Generous amnesty is more likely when rebels are somewhat strong.

However, amnesty could alternatively be considered as a strategic weapon of war, used instrumentally to strengthen the government’s position. The utility of amnesty is high when it confers military advantages that enable the government to increase its possibilities of either victory or a better negotiating position, thus ensuring itself maximum political power. Amnesty can be seen as a form of “victory-lite” for the government. On the one hand, this can be to avoid conceding more substantive policy powers, since an amnesty does not involve offers of power sharing or the ceding of territorial control that may arise if the government enters negotiations: amnesty merely removes the possibility of prosecution for acts undertaken. On the other hand, an amnesty has advantages over continued fighting, where the outcome always carries a degree of uncertainty, and particularly if the discount factor is high. Furthermore, amnesties can be implemented immediately and presented as a take-it-or-leave-it offer, in order to break a stalemate and end the conflict. An amnesty can be used after a military push, in order to finish the job. In the conflict in Sri Lanka, the government offered an amnesty to the Tamil Tiger rebels in February 2009, following the government conquest of the Tigers’ headquarters at Kilinochchi.

Amnesties can also be used to create internal divisions. Individuals inside a rebel group may take advantage of an amnesty and surrender, which can weaken the rebel group internally and reduce the pool of troops that the rebels mobilize (Toft, 2009). This can be seen in the conflicts in Uganda, where by January 2006 more than 19,000 people had taken

²³ As they test a combined category including amnesty, reparations and truth commissions, it is difficult to isolate the determinants of amnesties.

²⁴ The term is associated with Mark Freeman (Freeman, 2009), but his argument is a normative and legal one, that amnesties should be available as a last resort in contexts of extreme violence.

up the amnesty granted by the government in the 2000 Amnesty Act.²⁵ This is likely to take place particularly in weak rebel groups where commanders lack internal control. Gates (2002) finds that rebels that are further from the commander geographically, ethnically or ideologically need higher incentives to stay loyal. Alternatively, amnesty can have an impact on factions within a rebel group, causing the entire group to splinter, which we know from the literature on fragmentation leads to more in-fighting (Cunningham, Bakke, & Seymour, 2012; Pearlman & Cunningham, 2012), and which also puts the government in a militarily advantageous position since information has been revealed about the internal unity of the rebel parties.

Strong rebels will hold out for negotiations, as discussed above, but weaker and weaker rebels are less able to make demands on the government. The government can use amnesty in these cases instrumentally as a weapon of war, setting conditions and limits on the amnesty. For example, amnesties can be used to incentivize rebel behaviour deemed useful to the government, such as disarmament, or giving information about colleagues. Obayashi (2014) finds information given by defectors increased the probability of government victory in the conflict in Sri Lanka. As rebel groups are weaker and weaker relative to the government, they have less and less leverage for concessions, such that the government may refrain from giving any amnesty at the point where the benefits of an amnesty are outweighed by the costs (discussed below). In sum, the government strategically chooses the most punitive strategy against the rebels that it expects the rebels to accept, and can impose more demanding conditions on weaker groups. Thus:

Hypothesis 2: Strict amnesty is more likely when rebels are weaker relative to the government, with an inverted U-shaped relationship.

Amnesty can be targeted at specific groups both as a direct tactic, but also in conflicts against multiple opponents to reduce the number of actors.²⁶ An example is the amnesty in Algeria in 1999, where the Islamic Salvation Army (AIS) opted for amnesty but the Armed Islamic Group (GIA) kept fighting. The logic is similar to that argued by Driscoll (2012), who finds that the conflict in Tajikistan did not end cleanly but was a series of co-options of various rebel leaders, bringing them into the regime with offers of governmental positions. Taking

²⁵ “Uganda” Escola de Cultura de Pau, <http://escolapau.uab.cat/img/programas/desarme/mapa/ugandai.pdf>, accessed 3 July 2014

²⁶ See Cunningham (2006) for the argument that rebellions involving many rebel actors can be more difficult to settle due to multiple veto players, thus causing longer conflicts.

into account the rebels' expected reactions, the government can use amnesties strategically, targeting specific groups, particularly those that are easy to settle with or that will settle for amnesty and nothing else. Following the logic of hypothesis 2 above, we would expect strict amnesties against weaker groups. Cunningham (2011) finds that concessions are used as part of the bargaining process by the government to gain advantage against weaker opponents.²⁷ Reducing the strength of these groups or ending conflict with them leaves the government with more forces to tackle the remaining opponents. We can expect to see these effects thus:

Hypothesis 3: Strict amnesty is more likely when multiple groups are fighting.

Costs of amnesties

The costs to the government of granting an amnesty will also influence the utility, where low costs make an amnesty more advantageous. I consider here reputational, domestic and international costs. The first argument is that the government's choice is driven by the effect on its reputation and the risk of inciting undesirable reactions from rebels. Granting amnesties reveals information about the government's willingness to settle, but this may have the counterproductive effect of boosting increased resistance from the rebels. Additionally, the government should be worried about creating a form of moral hazard and encouraging other groups to proliferate (Walter, 2006). Thus, the amnesty is a signal to current and would-be rebels. We can expect to see the effects of this argument when multiple groups are fighting, with generous amnesties more costly (because they are more favourable to the rebels) and strict amnesties less costly. We should also expect this effect to be strongest for the first amnesty granted. With subsequent amnesties, the information has already been relayed, the damage has already been done, and so the government does not pay such a high cost for additional amnesties. As above, generous amnesties are more costly and strict amnesties less costly. Thus:

Hypothesis 4: Generous amnesty is less likely and strict amnesty more likely when there are multiple groups fighting, also when previous amnesties have been granted.

Secondly, I look at domestic costs and whether these differ as a function of regime. I argue that costs are lower in autocracies and higher in democracies. Melander (2009), looking at

²⁷ However, she applies this only to self-determination movements. She also treats all groups, i.e. whether a violent group or a social pressure group, as equivalent.

amnesties only in peace agreements, argues that within authoritarian regimes perpetrators on both sides can enter “dirty deals that reflect the balance of power” and finds that amnesties are more likely in autocracies (p. 17). By contrast, costs are high in democracies. Firstly, there are more veto players – internally, leaders have to answer to their citizens and the opposition parties may well make political advantage of any concessions. Secondly, democracies are more constrained by acting within the rule of law,²⁸ so find it harder to present impunity as acceptable. Such constraints are tighter and so costs are higher for generous amnesties, and particularly where an amnesty does not respect legal norms, such as the one against international crimes. I expect this to have a linear effect such that costs increase with increasing democracy. Strict amnesties should not carry the same costs. Thus:

Hypothesis 5: Generous amnesty is less likely as a regime is more democratic.

Finally, I consider international costs and the effects of the rising global norms against generous amnesties. This is a process that has developed primarily since 1990 and has led to a growing norm of states’ “responsibility to investigate and punish perpetrators” (Sikkink, 2012: 21). Initial developments occurred simultaneously on multiple stages (domestic trials and ad hoc international institutions such as the International Criminal Tribunals in the Former Yugoslavia and in Rwanda).²⁹ This process was accompanied by a UN move against amnesties for serious violations of international humanitarian law, first manifested in the rejection of the amnesty to Foday Sankoh in Sierra Leone in 1999 (Freeman, 2009: 88). This momentum led to the creation of the ICC, established in 2002 by the enactment of the Rome Statute signed in 1998. However, others have argued that empirically the use of amnesty has not decreased in recent years (Mallinder, 2008; Olsen et al., 2012b). Some scholars argue that we can expect to see more amnesties, as states attempt to ensure non-prosecution through legal provisions (Mallinder, 2008; Sikkink, 2012). However, Payne, Lessa and Pereira (2015) find that the level of amnesties remains steady and does not correspond to a shift in global norms, but rather simply to the number of transitions.

Hypothesis 6: Generous amnesty is less likely in more recent times.

²⁸ The idea that the rule of law should sit over a political system and act as a buttress against autocracy is one that goes back to Aristotle (Politics: 3:16). See, for example, O’Donnell (2004) for a discussion of the relationship between rule of law and democracy.

²⁹ See Sikkink (2011, 2012) for deeper descriptions of this process.

Data and methods

The hypotheses are tested on the UCDP Armed Conflict Database (ACD) and the unit of analysis is the conflict-year (Gleditsch, Wallensteen, Eriksson, Sollenberg, & Strand, 2002; Themner & Wallensteen, 2012). I choose the UCDP definition of civil conflict, where a case enters the dataset if there are more than 25 conflict-related deaths in a year since my hypotheses lead me to believe that amnesties, and particularly strict amnesties, might be focused on smaller and weaker groups, which are included in the UCDP data.³⁰ Due to restrictions in other variables (discussed below) I analyse the years from 1975-2011. Since the focus is on the use of amnesty as a method for changing preferences *during* civil war, I drop short conflicts in the database that last less than one week. The majority of these are coups that last only one day. Since the dependent variable is a categorical variable (see below for more detail), the model is tested on presence of amnesty using multinomial logit regression accounting for duration dependence. I time-set the data and create cubic functions of episode duration to account for time dependence (Carter & Signorino, 2010), and cluster errors on conflict-episode.

Dependent variable

The model tests the determinants of amnesty legislation passed in favour of the rebel group or groups during that year. The analysis is based on enacted amnesty laws, and these are preferred over amnesty offers for substantive and methodological reasons. Substantively, enacted amnesties are public and often require the consent of the legislative body, and thus are a costly signal by the government. An offer, by contrast, may be just an attempt to test the commitment of the rebels with no intention of following through. Methodologically, overtures of peace such as amnesty offers may be shrouded in secrecy and may even remain hidden until well after the moment has passed. Missing cases would be missing for endogenous reasons.

I take the amnesties mainly from the qualitative database collected by Mallinder (2008, 2009b). This database relies on amnesty documentation on enacted laws or promulgated decrees and the author has gone to great lengths to access lesser-known conflicts

³⁰ I suffer from the usual problem with the UCDP data that groups that do not perpetrate 25 battle-related deaths do not appear in the dataset. This excludes many groups that may be inactive but still present. Unfortunately, I am thus unable to test whether governments use amnesty to attempt to get such groups to settle.

and smaller countries.³¹ The database collects information on 506 amnesty processes in 130 countries. To my knowledge, the article presented here is the first to code and use these data in a cross-national analysis. In this paper I take a strict interpretation of during conflict and include only those amnesties that are in place before the end of the conflict, as defined by the ACD, thus I do not include amnesties from the peace agreements that mark the end of a conflict. I also include only the principal amnesty legislation and substantive amendments for each amnesty event, and do not include amnesties that are merely extensions to existing deadlines, to ensure that my amnesties are independent.³² I also draw on the Transitional Justice Database developed by Olsen, Payne and Reiter (Olsen et al., 2010b; Payne, Olsen, et al., 2011),³³ and I add to my database any amnesties that are verified as granted amnesties (rather than offers) using Keesing's News Archives.³⁴ Where I could not verify that these amnesties were enacted laws or proclamations, I err on the side of caution and do not include them. I take only amnesties where rebels are included in the conditions of the amnesty, therefore not including amnesties that are to state agents only. There are only three amnesties during conflict to state agents only,³⁵ and including them in the analysis does not affect the results. I also do not include amnesties to prisoners only, because I am interested in the effects of amnesties on fighters and the data do not allow for verification of the status of prisoners. Applying these restrictions, I have 125 amnesties in 52 conflicts. The dependent variable is coded as a dichotomous variable that takes the value of 1 if an amnesty is enacted during that calendar year. Amnesty is granted in 9.2% of all conflict years. Figure 1.1 shows the proportion of active civil conflicts in which an amnesty is granted each year. Two things strike us. Firstly, that there are few years in which there are no amnesties. Secondly, that the rate has decreased since 2002. This gives us preliminary evidence of the impact of the global norm.

³¹ Mallinder sources her amnesty database through a LexisNexis search and correspondence with amnesty commissions and non-governmental organizations in relevant countries. She includes only amnesties where there is some form of verifiable amnesty process, in order to exclude 'empty words' (author correspondence).

³² There are 5 extensions and including them does not alter the results.

³³ This database includes 192 cases of amnesties in 92 countries that have had a civil war between 1970 and 2007. However, this database mixes information on amnesty offers and enacted amnesty laws.

³⁴ These are Bangladesh 1991, Colombia 1985, Iran 1984, Iraq 1975 and 1976, Pakistan 1971, and Thailand 2004.

³⁵ These are Guatemala 1985, Peru 1995 and Philippines 1994. Note, there are many amnesties to *both* rebel and state actors. This feature is one of the differences between amnesties related to conflict and amnesties related to transitions. In the latter, the amnesties are often granted by the state to state agents in self-amnesties.

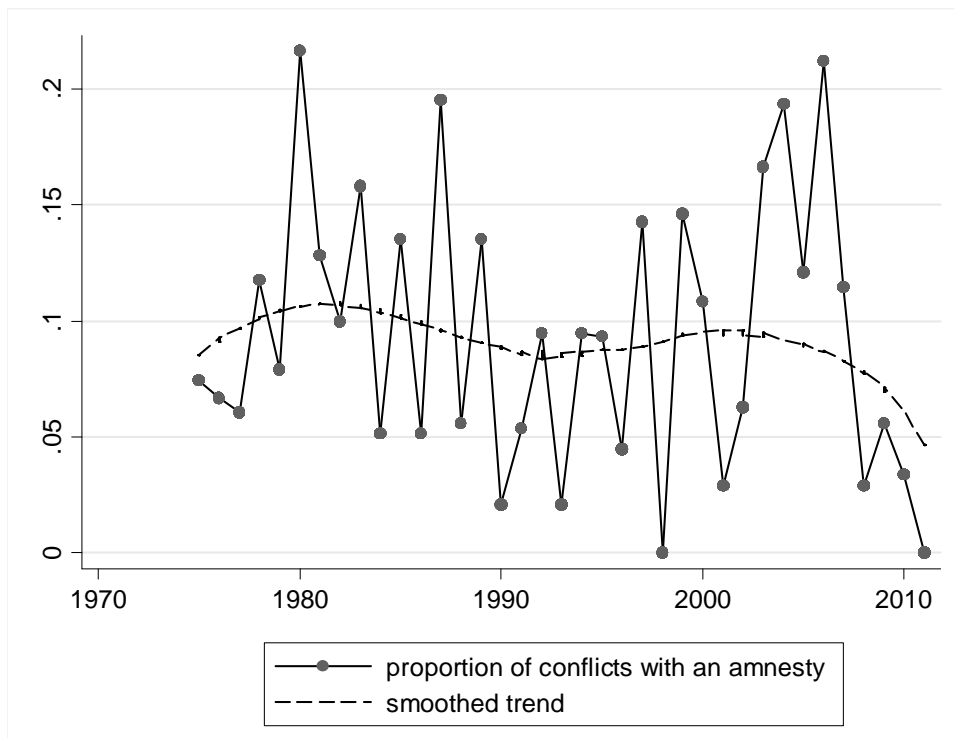


Figure 1.1: Conflicts with an amnesty: 1975-2011

Mallinder’s rich qualitative database allows me to disaggregate amnesties. Amnesties are not a unitary concept, but can rather be disaggregated to levels of receivers, conditions attached, time limits, etc. To analyse further the idea that amnesties can be used for different purposes, the global concept of amnesty is disaggregated to create two amnesty types – strict (conditional/limited amnesties) and generous (unconditional/unlimited) amnesties. Conditional amnesties require the rebels to fulfil one or more of the following conditions that could give the government a military advantage: disarmament, demobilization, oaths of allegiance, or giving information on comrades; whereas unconditional amnesties require no actions by the rebels. Limited amnesties are ones that do not grant an amnesty for heinous crimes, particularly the international crimes of genocide, crimes against humanity and war crimes,³⁶ while unlimited amnesties have no restrictions on the crimes covered. In both cases, a non-binary categorical variable is created where zero represents no amnesty, category one is the strict amnesty and category two is the generous amnesty. Where I do not have information on conditions or scope the observation is dropped, since I do not know to which

³⁶ This is created by coding as 1 those cases where the amnesty document specifies that international crimes are included in the amnesty and also cases where international crimes are not excluded, and is only applied to conflicts where international crimes have been committed.

category the amnesty should be allocated. In the analysis the base category is no amnesties and I am comparing the other amnesties with the base category.

My aim is to explore how the different types of amnesties differ from each other and expose different mechanisms at work. Table 1.1 shows the distribution of these amnesties. I am testing in the first instance on the conditions attached to the amnesty and in the second instance on the content of the amnesty.

Table 1.1: Amnesties by category

| | By condition | By scope |
|----------|--------------|----------|
| Generous | 31 | 67 |
| Strict | 88 | 32 |
| Total | 119 | 99 |

Independent variables

The first set of hypotheses is drawn from considerations around the utility of amnesty and the two theories – that amnesty is used as an instrument of peace or as an instrument of war. Both are tested with the relative strength between the government and the rebels. I create a new measure using troop numbers taken from the UCDP dynamic dataset (UCDP, 2013) and the data is available from 1975 to 2011. To my knowledge, this is the first time this data has been coded back to 1975. Ideally this would be the government troops in the conflict area, but data is not consistently available, therefore total government troops are used. Rebel troops are given for the conflict area.³⁷ Where data is a range, an average is taken. The balance of forces is measured by relative strength, which is the logged values of government strength / rebel strength and increases as the rebels become weaker relative to the government. Other researchers have used a measure of only the government military capacity (Mason et al., 1999; Walter, 2003) or an ordinal scale (Cunningham et al., 2009; Nilsson, 2010). The use of relative troop numbers allows finer-grained analysis and for the examination of changes in relative military strength through the duration of the conflict.

³⁷ Given the difficulty of reliable data collection there are a number of missing values. Missing values are conservatively extrapolated only where there are values for the years before and after and further verification is sought from *Military Balance*, published by the International Institute for Strategic Studies. I also test against only the years for which troop data is available, without substantive differences (Table A2 in the Appendix). As a robustness check I also use data from Cunningham, Gleditsch & Salehyan (2009) on the analysis of dyadic conflict without substantive differences (Table A4 in the Appendix).

The theory of amnesty as a weapon of war is also tested by whether amnesties are more likely when multiple groups are fighting, where the government has a further opportunity for strategic action to remove groups with which it is easier to settle. To test this, the logged number of groups fighting in a conflict is included, taken from the ACD.³⁸

The second set of hypotheses is taken from considerations around the costs to the government of granting an amnesty. Reputational costs are tested by which of the two types of amnesty is more likely when multiple groups are fighting, and with previous amnesty, calculated by taking a count of previous amnesties. Domestic costs are tested by regime, measured by the lagged linear value from the Polity IV dataset, such that the value increases as the regime is more democratic (Marshall, Jaggers, & Gurr, 2013).³⁹ The international costs of a rising global norm against amnesties is tested by a dummy variable for post-2002, the year in which the ICC was established.⁴⁰

Control variables

I include a number of variables that could influence the government's strategic decisions, and that are considered relevant in the conflict termination literature. I take three variables on the conditions of the conflict - conflicts over government; the severity of the conflict, given as the lag of the intensity; and the length of time that this conflict-episode has been ongoing. All are taken from the ACD. The robust link between poverty and civil war is theorized to affect civil war termination by making a rebel "career" an attractive financial option or through reducing the opportunity costs of recruitment (Collier, Hoeffler, & Söderbom, 2004; Collier & Hoeffler, 2004). I use the log of GDP per capita, lagged, taken from Maddison (Maddison-Project, 2013).

Results

Table 1.2 reports the determinants of the pairs of disaggregated amnesties.

³⁸ Again, I suffer here that the UCDP do not include inactive groups.

³⁹ The values are transformed to run from 1 to 21.

⁴⁰ Alternative dates are post-1998, the time when the Rome Statute establishing the ICC was signed and the UN explicitly prevented their negotiators authorizing amnesties for international crimes, or post-1990, when global attitudes started to change (Sikkink, 2012). However, the development of a norm is slow-moving and may take time to accumulate an effect, so we may only see an effect at the later date.

Table 1.2: Determinants of generous and strict amnesties

| DV | Model 1 | | Model 2 | |
|---------------------------|-----------------------------|-------------------------|-------------------------|---------------------|
| | Unconditional (generous) | Conditional (strict) | Unlimited (generous) | Limited (strict) |
| Gov. relative strength | 1.000 (1.13) | 1.270* (0.53) | 0.965 (0.76) | 1.748** (0.57) |
| Gov. relative strength sq | -0.282 (0.21) | -0.201* (0.08) | -0.198 (0.13) | -0.265** (0.08) |
| No. rebel groups | 1.151 (0.90) | 1.361* (0.56) | 0.674 (0.74) | 3.464** (0.68) |
| Previous amnesty | 0.509 (0.40) | 0.544** (0.14) | 0.507* (0.25) | 0.575** (0.18) |
| Regime | -0.007 (0.04) | 0.010 (0.02) | -0.063* (0.03) | 0.165** (0.06) |
| Post-2002 | -0.775 (1.13) | 0.753* (0.31) | 0.596+ (0.33) | 1.157* (0.57) |
| Conflict over gov. | 0.919 (0.71) | 0.293 (0.30) | 0.245 (0.40) | 1.188+ (0.63) |
| Death intensity | 0.566* (0.29) | 0.399+ (0.24) | 0.425+ (0.25) | 0.415 (0.42) |
| Duration | -0.180 (0.20) | 0.093 (0.11) | 0.115 (0.11) | 0.164 (0.12) |
| Duration sq | 0.010 (0.01) | -0.009 (0.01) | -0.009+ (0.01) | -0.013+ (0.01) |
| Duration cubed | -0.000 (0.00) | 0.000 (0.00) | 0.000 (0.00) | 0.000+ (0.00) |
| GDPpc | -0.003 (0.48) | 0.016 (0.24) | -0.155 (0.23) | 0.045 (0.53) |
| Constant | -5.550+ (3.26) | -6.540** (1.97) | -3.685+ (2.15) | -13.173** (3.53) |
| Observations | 1011 | 1011 | 999 | 999 |
| Pseudologlikelihood | -294.558 | -294.558 | -255.395 | -255.395 |
| AIC | 641.117 | 641.117 | 562.790 | 562.790 |
| BIC | 769.003 | 769.003 | 690.366 | 690.366 |

Significance: + $p < 0.1$, * $p < 0.05$, ** $p < 0.01$. Standard errors clustered on the conflict episode reported in brackets. Models are multinomial logit regressions showing the granting of types of amnesty in a conflict-year compared to no amnesty.

I start by examining the different hypotheses that test the two proposed theories - that amnesty is an instrument of peace offered to strong opponents with the principal aim of settling the conflict, and that amnesty may also be an instrument of war, used strategically by the government to gain advantage, whether in the military arena or in future negotiations. The principal critical test is to look at the balance of powers between the two forces and how this affects the likelihood of the two different types of amnesty. For amnesty as an instrument of peace, strong rebels have leverage for concessions (negotiations) because the government does not expect a quick or easy victory. When rebels are less strong but still somewhat strong, by the same logic, we expect generous amnesties. Thus, we expect negative values for government relative strength. However, in the two generous forms of amnesty - unconditional amnesties in Model 1 and unlimited amnesties in Model 2 – the balance of forces is insignificant. By contrast, for the theory of amnesty as an instrument of war, where weak groups cannot push for generous amnesty, we expect positive values for government relative strength. The theory predicted a non-monotonic relationship, since weaker and weaker groups have less and less leverage for any concession, even strict amnesty, particularly beyond the threshold where costs outweigh benefits for the government. When we look at the two strict forms of amnesty – conditional amnesties in Model 1 and limited amnesties in Model 2 - government relative strength is positive at 95% and 99% respectively, with the squared term negative at the same significance. Thus, in contrast to Hypothesis 1 around amnesty as an instrument of peace, we find significant support for Hypothesis 2. Disaggregating amnesties in this way allows me to more finely pinpoint what is driving the determinants of particular amnesties in particular circumstances.

To interpret the impact of relative strength better, I calculate the substantive effects of different values of relative strength on the probability of amnesties that have military conditions (strict) or no conditions (generous) (Figure 1.2). We see that in both types of amnesty there is an inverted U-shaped relationship with government relative strength, meaning weaker groups are less able to push for amnesty. Generous amnesties are most likely with somewhat stronger rebel groups, while strict amnesties are significantly more likely as groups are weaker. At its maximum, a strict amnesty is 9.7% more likely than no amnesty, whereas a generous amnesty is 3.4% more likely.

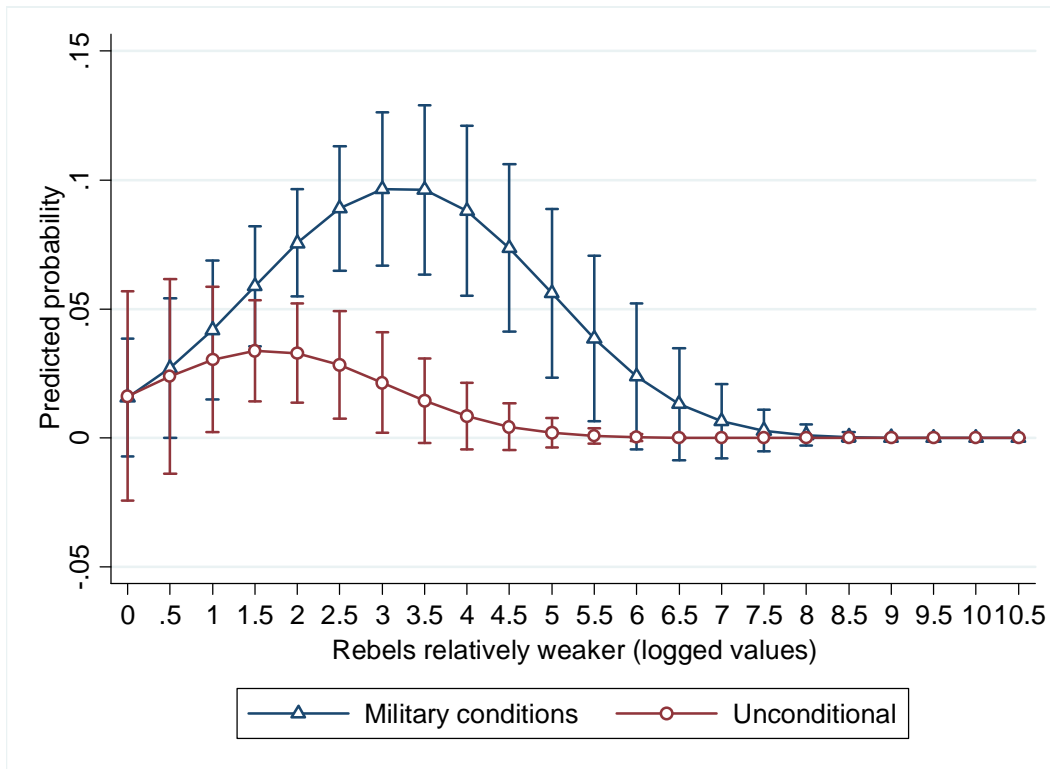


Figure 1.2: Impact of relative strength on the predicted probability of conditional (strict) and unconditional (generous) amnesty

As a robustness check, I use the unextrapolated strength variable. I also run the analysis on dyadic conflicts, using the UCDP dyadic dataset (Harbom, Melander, & Wallensteen, 2008; Themner & Wallensteen, 2012; UCDP, 2013).⁴¹ This acts as both a robustness check and permits more focus on the characteristics of the individual groups. I also use an alternative strength variable at the dyadic level taken from Cunningham, Gleditsch & Salehyan (2009). The results hold across all these tests, and are reported in Tables A1.3 to A1.5 in the online Appendix.

The hypotheses on utility also predict that the government would use amnesties strategically against multiple opponents in the same conflict, granting amnesties in order to incite the weaker group to surrender. If this is the case, we should expect amnesties to be more likely as the number of groups involved in a conflict increases. We see strong support for this idea with the strict amnesties (conditional and limited), with significance at 95% and 99%, giving support to Hypothesis 4. Again, we see differences across the models, as the

⁴¹ Due to the missing values for the strength variable in many dyads, my N is low in comparison to the total number of dyadic conflict years.

results are not significant for generous amnesties (unconditional and unlimited). Using amnesties in this way seems to go against Cunningham's (2006) finding on negotiations, where the presence of more groups makes it harder to reach a settlement, because each group may act as a veto player. However, a settlement has to be agreed by all groups, whereas an amnesty can be taken by just one group in a conflict. This ability to use amnesty to pick off individual groups and settle with them, thus leaving all forces to focus on the remaining group or groups is part of the strategic attraction of amnesty to the government. Coupled with the previous finding that military amnesties are used against weak groups, these results support the theory of amnesty as an instrument of war, where the government uses these amnesties strategically to target groups when they are weak in order to settle a conflict without further bloodshed and without needing to make further political concessions, or to settle with weak groups in a multi-group conflict, in order to remove these groups from the equation and thus be able to focus all forces on the remaining groups.

These results may lead us to wonder why governments do not spend all their time granting amnesties. I turn to considering the costs of giving amnesties. In some circumstances it may be that costs are so steep that amnesties become unattractive, even though the government can see strategic advantage in deploying amnesty. Again, I exploit the differences between the two types of amnesty. Firstly, giving amnesty carries reputational costs in that it signals weakness and a willingness to settle on the part of the government. The test for multiple groups can also cast light on this cost. Costs for strict amnesties are lower and, combined with the benefits discussed above, the utility for the government is high. As we saw above, strict amnesties are significantly more likely as there are more groups in the conflict. The idea is also tested by looking at the effect of previous amnesties. Again, the results for strict amnesties are stronger, with significance at 99%. Taken together, these results support Hypothesis 4 that strict amnesties carry less costs.

The second consideration is of domestic costs, with the idea that generous amnesty is more costly and so less likely in democracies, as these regimes have wider checks on their behaviour. This hypothesis finds support in Model 2, where unlimited amnesties are significantly less likely in democracies. This is not surprising, since it is amnesties that allow international crimes that are most difficult to reconcile with democratic norms. By contrast, the results for limited amnesties in the same model are significantly more likely in democracies, suggesting that democracies actively use amnesties to settle conflicts while exploiting the ability to exclude the most heinous crimes (Mallinder, 2012). The results for amnesties with military conditions (Model 1) are insignificant, suggesting that using

amnesties in this way does not trouble democracies. I also test for non-monotonic effects using the square value of the Polity IV measure (reported in Table A1.6 and Figure A1.1 in the Appendix) and find that autocracies, and particularly anocracies, are significantly more likely to grant generous amnesties. This finding can arise because these regimes are less bound by reputation and adherence to law. Additionally, autocracies, and particularly anocracies, may make amnesties generous in order to counteract the commitment problem (Fearon, 1995; Walter, 1997). Generous amnesties increase the regime's credibility, since with these amnesties rebels can easily return to fighting.

Finally, I turn to the international costs, tested with the proposed rising international norm against amnesties. In particular, this should make amnesties that allow international crimes less likely and this is tested by considering amnesties post 2002. Surprisingly, the generous amnesties are not less likely, and unlimited amnesties (Model 2) are even significantly likely, at 90%. Strict amnesties are also significantly more likely, supporting the argument that states are not troubled by offering these amnesties.⁴² Indeed, they may link the use of conditional or limited amnesty with stricter treatment of the most responsible (Mallinder, 2012).⁴³ Thus, it would seem that Sikkink's (2011) assertion that there is a rising norm against amnesties is disproved, and particularly so with strict amnesties. Mallinder (2008, 2012) argues that more amnesties may arise from more awareness of the necessity to actively guard against the possibility of prosecution. These findings also show how it is important to disaggregate amnesties.

Turning to the control variables, the incompatibility is significant in only one model, where limited amnesties are more likely in conflicts over government. In such conflicts, opponents must continue to live together, and limited amnesties offer the most targeted way to combine reconciliation with persecution, since lower-order crimes and political crimes are amnestied, while perpetrators of international crimes are not. The latter are usually those who represent the greatest threat to the government. The levels of battle-related deaths are a significant factor and more significant in generous amnesties than in strict amnesties. This may give support to the view of amnesty as an instrument of peace, a price worth paying for heavy suffering. However, it is difficult to pursue this idea without data on whether deaths are on the government or the rebel side. Poverty, which relates to the rebels' motivation to fight, is insignificant.

⁴² Testing earlier cut-off points (post-1999 and post-1991) reveals a significant effect from 1999 onwards.

⁴³ When data on all transitional justice measures used during conflict is released (Peace Research Institute Oslo, 2015), it will be possible to look at how such options are used in tandem or in sequence with amnesty.

To further test the model, I add a robustness check to explore the impact of external intervention on the use of amnesty. A government's amnesty is subject to the commitment problem (Fearon, 1995; Walter, 1997), which may be lessened if there is a third-party operation in place, as the reputational cost of renegeing on the amnesty law is higher. I measure third-party operation by the lagged presence of a UN Peace-Keeping Operation (PKO), taken from the International Peace Institute (Perry & Smith, 2013). However, similar to Reiter, Olsen and Payne (2012), I do not find any significant results (Table A1.7 in the Appendix).

Conclusions

This research moves beyond the traditional focus of looking at amnesties to dictators during transitions or the post-conflict effects of amnesty to look specifically at the use of amnesty during conflict. The research finds support for two ideas. The first is that the use of amnesty is determined by the government's cost-benefit analysis. The government faces a range of choices and chooses the one most likely to bring the highest benefit at the lowest cost. The second is that we should not treat amnesty as a unitary concept but should disaggregate it by different content or different conditions.

Previous research has mainly focused on the most egregious examples of amnesties, where amnesties are given to rebel leaders in order to persuade them to stop fighting. This research set out to examine whether amnesty should be seen as an instrument of peace, a concession determined by strong rebel groups, or an instrument of war and control used against relatively weak rebel groups. The use of an actor-centred model is justified as the balance of the actors is seen to be important. While research shows that negotiations occur when rebels are strong, the research presented here finds a different logic for amnesties. Somewhat less strong rebels still have the leverage to get generous amnesties, but weaker groups receive strict amnesties. The proposed mechanism is that the government uses amnesties instrumentally against particular groups and targets weaker groups. It also uses amnesties in multi-actor conflicts to eliminate weaker groups and ensure that all military strength can be reserved for the more threatening group.

Costs also matter. Generous amnesties carry reputational costs and are significantly less likely to be given by democracies, though, surprisingly, these amnesties are not influenced by the global norm against impunity. Strict amnesties, on the other hand, carry

lower reputational costs, do not trouble democracies, and are not seen to contradict recent norms against amnesty. Indeed, strict amnesties may be used as a way to combine reconciliation with punishment.

Understanding the determinants of amnesties is particularly important now that the use is constrained by international norms. Whereas previously generous amnesties would have been part of the negotiators' toolkit, this option is now normatively more unacceptable. Removing this mechanism limits the government's strategic choices – if the government is unwilling to implement a military surge to ensure victory, these wars will drag on either as intractable conflicts or until the rebels become strong enough to press for negotiations. In the absence of amnesty, it is important to have a clearer idea of the balance between these options. This research attempts to inform that debate. On the other hand, the use of conditional and limited amnesties seems to be increasing. Future research should look at how such options are used in tandem or in sequence with other transitional justice measures.

Paper 2

Buying Peace: Can Amnesty to Rebels during Civil Wars Reduce or End Conflict?

Abstract

Can peace be bought with an amnesty? In the difficult process of ending civil wars, granting amnesties during conflict as a means to achieve termination has long been seen as a useful, and in some cases essential, option for governments, with the underpinning assumption that such a trade-off is effective. However, how sure are we that this is the case? There has been remarkably little scholarship on this question, beyond case studies. Furthermore, by what mechanisms might amnesties have this effect? These are the questions that this article addresses. I examine systematically whether amnesties granted during conflict reduce the level of fighting or end the conflict using a cross-national dataset of amnesty laws. The article proposes three mechanisms by which amnesties might have an effect: as an incentive; by alleviating the commitment problem; or by increasing the government's military advantage. The results show that amnesty can be successful in reducing conflict and find support for the three mechanisms - by direct incentive but only when the incentive is generous, and by increasing the government's military advantage. The impact of amnesty is shown to be contingent on conditions and timing, and may be felt indirectly and later. At a policy level, the results suggest that "peace-bombing" a dyad, even those that may be peripheral to a main conflict, may have consequences for the overall dynamic of a conflict.

Key words: civil war, amnesty, conflict intensity, conflict duration, conflict termination

Introduction

The Algerian civil war was known as the “dirty war” for its brutality against civilians, journalists, foreigners, other factions, as well as the state. The Islamic Salvation Front (FIS) fought a violent civil war after the government cancelled results of elections in 1991, under pressure from the military. The rebels splintered into the Islamic Salvation Army (AIS) and the more hard-line Armed Islamic Group (GIA) and both committed atrocities. Between 44,000 and 150,000 people died (Hagelstein, 2008; Schulhofer-Wohl, 2007).

During the course of the conflict, the government repeatedly used amnesties, to release political prisoners and during negotiations. For example, an amnesty law in 1999 was included as part of the negotiations with the more moderate AIS. Press reports suggest about 1,500 fighters took up this amnesty (Human Rights Watch, 2001). When the six-month limit to this amnesty ended, President Bouteflika issued a further amnesty by presidential decree. This second amnesty was more generous and allowed amnesty for all crimes, even the most heinous. It led to the final surrender of AIS, along with a breakaway group from GIA, and between 2,000 and 4,000 more fighters took advantage of this amnesty. In 2005, a further amnesty law was enacted with the aim of encouraging remaining groups of Islamist fighters to enter peace negotiations. Between 250 and 300 fighters surrendered (Mallinder, 2009b; Tlemcani, 2008).

The so-called peace versus justice debate hinges on the idea that the unpalatable sacrifice of justice is necessary for peace, and there has been a large literature written on the normative considerations involved (for example, Roht-Arriaza, 2006; Skaar, 2013; Sriram, 2004; Vinjamuri & Snyder, 2004). Although there has been a strong international turn against amnesties (Orentlicher, 1991, 1996; UN Secretary-General, 1999), recently there has been a reassertion of their uses (Cobban, 2007; Freeman, 2009; Mallinder, 2008; Mendez, 2012; Patterson, 2012; T. Putnam, 2002; Snyder & Vinjamuri, 2003). Olsen, Payne and Reiter (2012) describe these two points of view as the “challenger” and the “proponent” approach.

Amnesties have even been advocated as acceptable under the responsibility to protect, with the argument that the first priority must be to save lives and ending the conflict swiftly will bring a lower overall death toll (Anonymous, 1996). To give just one example, many feel revulsion at the offer of amnesty in 2006 to the Lord’s Resistance Army leader, Joseph Kony, while others argue that threatening him with trials has had a worse net effect, since this move backed him into a corner where he had no choice but to fight in order to ensure his own

freedom (Schomerus & Ogwaro, 2010).⁴⁴ Underpinning these arguments is an assumption that amnesties are effective in helping bring conflicts to a close. However, when we consider the impact of justice or amnesty on moments of transition or of peace negotiations, the question is still wide open as to whether the threat of justice hinders peace and amnesty helps it. Surprisingly, there has been little empirical work on the actual effects of amnesty in order to ensure peace. Surely we want to know whether the granting of an amnesty actually helps to make peace and shortens civil wars? Given the stakes and the moral hazard involved, it is important to know whether that is true. At the moment, “there is much less empirical certainty about amnesty’s benefits than many realists are ready to concede” (Freeman, 2009: 7).

This research therefore sets out to examine whether amnesties change civil war intensity and duration. While there has been some general quantitative work on transitional justice mechanisms and civil war (Binningsbø et al., 2012; Lie et al., 2007; Loyle & Binningsbø, 2012; Olsen et al., 2010b; Reiter et al., 2012), to the author’s knowledge this is the first systematic examination in a cross-country manner of the consequences of amnesties granted during civil wars. Olsen, Payne and Reiter (2010) look briefly at the effects of different transitional justice measures and they do not find that amnesty helps end the conflict. However, they treat all amnesties as homogenous, whereas we saw in Paper 1 that the use of amnesties is contingent, resulting in differing forms of amnesty. Loyle and Binningsbø (2012) look at how different transitional justice measures can alter the rebels’ opportunities or change their motivation. They find opportunity-addressing measures make conflicts shorter, but motivation-addressing measures (including amnesties) make conflict longer. However, they group transitional justice measures together and do not consider amnesties separately. Reiter (2014) disaggregates by timing, and finds that amnesties used during conflict have little effect on peace and security, while those given as part of a peace agreements result in lasting peace. However, it is hard to distinguish the impact of amnesties as he does not include cases where amnesties did not happen. Therefore, it is important to address this question systematically, examining the impact of amnesties on ending conflict and looking at specific mechanisms through which this might happen.

The second contribution is to the civil war literature on conflict termination. This literature has recently shifted to a focus on actors (Blattman & Miguel, 2010; Gleditsch, Metternich, & Ruggeri, 2014) and a more dynamic view of conflict that focuses on shifts

⁴⁴ The government of Uganda referred the case in December 2003 to the International Criminal Court, which issued sealed warrants of arrest in July 2005. These warrants were unsealed in October of that year.

between different levels of violence. This article builds on these trends and contributes to the study of the termination of conflict by considering the impact of an incentive on rebel behaviour. I take as a starting point the view that the use of violence is a rational act (Fearon & Laitin, 2003; Kalyvas, 2006). The ending of violence is therefore also a rational act that can be examined in terms of the costs and benefits of the continued use of violence, based on bounded rational choice theory where actors use the information available to take the decision that has the most benefits and least costs for them. In the context of amnesties, this theory would predict that offering amnesties to perpetrators changes their decision calculus. I therefore take a micro-level approach and focus on how an incentive might affect the rebel leadership. The article examines the circumstances under which amnesties would change the decision calculus and the mechanisms by which they may have an impact – as an incentive or by reducing the commitment problem.

The article is arranged as follows: the next section lays out the theoretical framework on how amnesties can have an impact and develops the hypotheses; the subsequent sections discuss the data and methods used to analyse these questions and then the results; the final section concludes with the implications for academic debate and policy findings.

Theoretical Framework

Explanations for the duration and termination of civil wars is an open topic in the literature. Two recent shifts are particularly relevant to this study. Early research on civil war focused on the structural conditions of the country and the conditions arising out of the conflict. Structural explanations for civil war duration include the power of the state, the intervention of third parties, and the international context (Balch-Lindsay, Enterline, & Joyce, 2008; Mason & Fett, 1996; Mason et al., 1999). Recently there has been a shift in research interest to a more disaggregated level of study, with a focus on the configurations of the rebels (Buhaug et al., 2009; Cunningham et al., 2009; Cunningham, 2006) and a disaggregated view of the government (DeRouen & Sobek, 2004), along with a shift to the micro-level (Balcells & Justino, 2014).

Running parallel to this new turn to focus on actors has come a shift to more dynamic analysis. Some causes for changes in the dynamic of a conflict include the group's capabilities for mobilization, which can cause the rebel to switch tactics between civil war and terrorism (Bueno de Mesquita, 2013), and battlefield success, which can affect the

propensity of actors to accept mediation (Greig, 2015; Ruhe, 2015). Obayashi (2014) suggests that defections from rebel groups can affect the ongoing dynamic of a conflict due to the information defectors bring to the government. His study on defections during the recent civil war in Sri Lanka against the Tamil Tigers leads to the conclusion that you cannot explain duration just by looking at the initial conditions, but that you have to take into account the during war dynamics. For her part, Cunningham (2011) notes that typically outcome and process are treated as separate, however, in her work on concessions to separatist groups she sees so many concessions that have no hope of settling the conflict that she concludes the aim must be to change the process.

I argue that amnesty is explicitly used to influence the dynamic of conflict. In Paper 1 I looked at the different circumstances in which the government might grant amnesty, and found that its use is conditional on the perceived costs and benefits. Here, I turn to examine whether amnesty does actually have an effect and I suggest three mechanisms through which it can act – incentive, alleviating the commitment problem, or increasing the government’s military advantage.

Amnesty as incentive

I look first at what we know about incentives at the micro-level and I then look at what we know about incentives to leaders. I draw on three literatures to develop a framework for thinking about amnesties as an incentive: the terrorism, civil war and transition literatures. Scholars in the terrorism literature examine the individual incentives to defect from a group. Altier, Thoroughgood and Horgan (2014) develop a simple model of the push and pull factors that can influence an individual’s decision to leave a terrorist group where $\text{Commitment} = \text{Satisfaction} - \text{Alternatives} + \text{Investment}$. Even if satisfaction is low, you may not decommit if there are no alternatives and if you have heavy investments in staying. Thus changing the alternatives may shift the commitment equation and make leaving more attractive. They cite research suggesting that being pardoned may be “a critical pull factor” (della Porta, 2009; Mullins, 2010; Rabasa, Pettyjohn, Ghez, & Boucek, 2010).

However, other research suggests that incentives such as amnesty are not sufficient, but only make disengagement easier once an individual has already decided to leave (Alonso, 2011), and a comparative study on government policies aimed at combating terrorism found that amnesty has its greatest effects when the group already perceives that it is losing and seeks a way to end the campaign (Art & Richardson, 2007).

Incentives to individuals are also examined in the micro-level studies in the civil war literature. Gates (2002) rigorously models the use of incentives in principal-agent problems in the recruitment and maintenance of followers to a rebel organisation. Maintaining followers within a group (the compatibility constraint) requires higher incentives, for example, the promise of loot, when individuals are distanced from the leader geographically, ethnically or ideologically. Arjona and Kalyvas (2006) explore reasons for demobilization in a survey of ex-combatants in Colombia, and compare those who were ordered by their commanders to demobilize as a block and those individuals who independently defect. The two overwhelming reasons for the latter to leave is to reunite with their family and because they are tired of life as a combatant. They are also the ones most concerned with their personal safety and more critical of the handling of the amnesty arrangement. However, Arjona and Kalyvas do not develop any theoretical explanation of these differences.

Loyle and Binningsbø (2012) also consider micro-level decision-making when they suggest that amnesty might affect the motivation of combatants by promising freedom and a normal life. Again, the focus of these mechanisms is on the individual foot soldiers. Thus, one mechanism whereby amnesty may have an impact in ending civil war is through individual defections. We see this, for example, in the 2005 amnesty to the Taleban in Afghanistan, which was rejected by the leadership but taken up by 2,300 lower-level Taleban and other Islamic fighters.⁴⁵

However, looking at incentives that encourage individuals to defect can only take us so far. Most amnesties given in civil wars aim to get the whole group to demobilize. In Cambodia, the Khmer Rouge rebellion ended after its leaders had received “pardons and security guarantees” (Peou, 2002: 524). The amnesty was instrumental in convincing Ieng Sary to end conflict, and he defected to the government in 1996. Likewise, Driscoll (2012) finds conflict termination in the closing stages of the civil war in Tajikistan was a series of co-optations of rebel leaders, where each was given incentives to come over to the side of the government. Since such negotiation is essentially an elite pact (Kew & Wanis-St. John, 2008; Sisk, 1993), I turn for insights to the literature on transitions, which looks at the threat of prosecutions on the decision calculus of an autocratic leader.

The threat of prosecutions may deter repressive regimes from relinquishing power (Sutter, 1995), since prosecutions raise the cost of repression and so also the cost of leaving power. Escribà-Folch and Wright (2015: 346) examine how leaders’ “expectations about the

⁴⁵ Over 2,000 Rebels Take Afghan Amnesty Offer, AGENCE FRANCE PRESSE, Oct. 4, 2006 Quoted in Mallinder (2009).

ex post consequences of leaving power” will affect the leader’s decision to leave power. The preferred outcome for the leader is status quo, which is preferred to democracy with immunity, while the least favoured outcome is democracy with prosecution. The authors expect that the threat of accountability will make the cost of leaving power higher for leaders, and so makes transition less likely.

I take a similar logic for rebel elites, and I expect that amnesty will be an incentive that impacts on the rebel leader’s decision. Mason and Fett (1996) model a party’s decision to fight as:

$$EU_C = (p)EU_V + (1-p)EU_D - \sum K_F$$

where EU_C is the expected utility from continuing to fight, p is the probability of victory, EU_V is the expected utility of victory, $(1-p)$ is the probability of defeat, EU_D is the expected utility of defeat, and $\sum K_F$ is the summed costs of fighting.

Amnesty can have an effect by changing the utility of defeat, so that the leader ends the conflict. Humphreys and Weinstein (2007: 535) argue, following Stedman (1997), that generous terms of demobilization and reintegration programs can be a sufficient incentive for spoilers to dismantle their structures by changing their perception of the benefits of fighting. Although the rebel leaders may be affected by the stimuli discussed above with respect to foot soldiers, amnesty is likely to affect them differently. Firstly, leaders are more likely to be prosecuted, under the principle of ultimate responsibility, as a visible symbol, and as the persons most threatening to the leadership, particularly if there are limited resources for post-conflict justice. Secondly, leaders require freedom from prosecution if they are to take up government positions or share power. This was the case for the M-19 guerilla group in Colombia, who could only compete in elections and take political office because their crimes were recognized as political crimes and amnestied. This increases the value of amnesty to the elites.

Reiter (2014) examines amnesty and finds that amnesties given in peace settlements are more effective in bringing lasting peace. Amnesty may have a greater effect when it is part of a package, and so may act as a larger incentive when given during a process of negotiation.

To summarize, amnesty acts as an incentive that increases the utility of ending fighting either through reducing the costs of defeat or increasing the value of a settlement. This incentive increases if linked to a negotiation. The first hypothesis is therefore:

Hypothesis 1: Amnesties with conditions favourable to the rebel elites increase the likelihood of conflict reduction or termination.

Amnesty and the commitment problem

An alternative way in which amnesties might affect the decision calculation of the rebels is through changing their beliefs about the government. An amnesty may help to overcome the commitment problem, whereby civil wars last longer because the rebel group cannot trust the government not to renege on its promises in the future (Fearon, 2004; Kirschner, 2010; Walter, 2001). What Stedman calls the “fog of peacemaking” means that actors are uncertain of the sincerity of the other warring parties (1997: 17). Hartzell and Hoddie look at the post-conflict environment and consider that power-sharing or military concessions from the government act as costly signals that enable former adversaries to build trust (Hartzell et al., 2001; Hartzell & Hoddie, 2003, 2007; Hoddie & Hartzell, 2003). Thus, amnesties during conflict may be a costly signal from the government to the rebel group that the government is sincere about its intentions to make concessions and settle the conflict.

These effects can take place in a direct way, through recurring amnesties. This draws on the bargaining theory of war to predict that the government and rebels exchange information about their willingness to fight through recurrent episodes of fighting or amnesties. Through this way, each group understands the other’s “reserve price”, i.e. the bottom line deal below which a group will not drop. When beliefs about the utility of fighting have converged, the parties can make a deal and avoid further costly conflict (Fearon, 2013; Nilsson, 2008).

An alternative and more low cost way in which the rebel group can learn about the government’s commitment to peace is by the way it treats other groups in a conflict. In order to expose the causal mechanism at work here, I draw a parallel with the social mechanism of rational imitation developed by Hedström and Swedberg (1998) and widely used in analytical sociology. Rational imitation occurs when the actions of actor *i* affect the beliefs of actor *j*, who then changes his or her desires to want the same action. Thus, an amnesty to actor *i* changes the beliefs of actor *j*, who then may want an amnesty (the same action) or who may, with these changed beliefs, trust the government and want peace.

In summary, amnesty has an effect by giving costly signals of the government’s willingness to settle and to commit to terms agreed. This causes the rebels to update their

beliefs about the government's resolve and ability to fight. These considerations lead to the second hypothesis:

Hypothesis 2: Amnesty increases the likelihood of conflict reduction or termination through alleviating the commitment problem.

Amnesty as a weapon of war

An alternative way to look at amnesties is that they are not a concession to the rebels but rather a tool used by the government to increase its military or negotiation power. As discussed in paper 1, amnesties are a weapon that does not kill.

Above, I discussed how amnesty can be an incentive to individuals that encourages them to defect from a group. This may weaken the group and give the government a military advantage over the remaining fighters. This process of defection will suck away support within a group and gradually reduce the effectiveness of the rebel group, so that the group reaches a tipping point, is no longer sustainable and implodes (Granovetter, 1978).

Alternatively, the use of amnesty may fragment existing groups. We see this tactic in the conflict in Chad in 2002. An amnesty in January to the MDJT (Mouvement pour la démocratie et la justice au Tchad) split the group into those who accepted the amnesty and a hard-line faction that continued fighting. Here, the literature on rebel fragmentation is relevant. Bueno de Mesquita (2005) examines this through a game-theoretical model and considers how the government can fragment the opposition into moderates and extremists. Staniland (2012) draws on a study of Kashmir and Sri Lanka to develop a theory of “fratricidal flipping”, where elites defect to fight for the government side when they are under mortal threat from another rebel group. Similar to Alonso (2011), he argues that government policy was not decisive in initiating the shift. However, the state had an effect by “making itself permeable” (p. 18) and this may be “a necessary condition” (p. 36). Findlay and Rudloff (2012) find that rebel fragmentation can increase the likelihood of shorter wars that end in negotiated settlements in many circumstances, since certain of the resulting groups may not be so committed to conflict, and the other combatants are also weakened. This is similar to a dynamic for ending terrorism (Crenshaw, 1999). They argue that “sudden changes to the actors create incentives for co-operation” (p. 899).

Alternatively, this effect may be indirect. Amnesties may end or reduce fighting with other dyads, leaving the government stronger to tackle the target group. Recent research has

focused on the dynamics of multiple groups in a conflict. On the one hand, multiple rebel groups makes reaching a settlement more difficult, since the government may be unwilling to settle with one (ethnic) group for fear of encouraging other groups to rebel in the future (Walter, 2003, 2006). Also, the range of mutually acceptable solutions will be smaller, and any group may act as a veto point (Cunningham, 2006). However, this is applicable only if the groups must settle at the same time. On the other hand, a weak group is more likely to reach a settlement when there are multiple groups involved, since it is advantageous to make common cause with other groups to increase its bargaining power, and also to take any deal going since the costs are high for a weak group to be left isolated and still fighting (Nilsson, 2010). The military mechanisms lead to the following hypothesis:

Hypothesis 3: Amnesties that strengthen the military advantages of the government reduce the intensity of fighting and shorten civil wars.

Data and methods

The empirical analysis is carried out on the UCDP datasets as in the previous paper, covering the years from 1975 to 2011 (Gleditsch, Wallensteen, Eriksson, Sollenberg, & Strand, 2002; Harbom, Melander, & Wallensteen, 2008; Themner & Wallensteen, 2012). We can expect differential effects of amnesties on individual groups and on the conflict as a whole. The analysis on dyads allows a disaggregated focus on the characteristics of specific opposition groups and allows for finer tracking of the dynamics internal to a conflict. In a multi-group conflict, amnesty may end the dyadic conflict with smaller groups, yet have no effect on the dynamic of the bigger conflict. The analysis is therefore carried out first on the dyadic-level dataset and then supported in a second analysis at the conflict level (reported in the Appendix). Repeating the analysis on the second dataset allows for a contrast between processes driven by the characteristics of groups and the aggregate effects, letting us see the macro effects of amnesties, as well as serving as a robustness check. As before, I drop short conflicts in the database that last less than one week.

The dependent variables capture reduction in conflict in two ways, by changes in the intensity of the conflict, and by the likelihood of conflict termination. Firstly, a conflict may change from high intensity to low intensity. Using the UCDP coding of high (1,000+ deaths per year) and low (25-999 deaths per year) intensity, there are 86 cases where intensity

decreased in the dyadic dataset, and there are 75 cases where intensity decreased in the conflict dataset. Alternatively, the conflict may reduce from being present in the dataset to going out of the dataset because the death level falls below 25 deaths per year. The majority of conflicts do not end decisively but rather drift into low levels of activity. In the time period studied, 53% of dyadic endings and 52% of conflict endings were where the conflict went to low activity, i.e. less than 25 deaths per year (Kreutz, 2010). Thus, the government may “win” by reducing the conflict to an insignificant level. This is a phenomenon that has not been widely studied in the civil war literature. I merge these two concepts to create a variable that captures change in conflict level from one year to the next. The change variable marks whether intensity has increased or decreased, or has stayed the same. Looking at decrease in intensity is a way to capture more fine-grained changes and examine the dynamics internal to a conflict.

A second way to measure conflict reduction is by the likelihood of a conflict ending in a given year, which marks the end of that conflict episode. The coding for conflict termination is taken from the UCDP dataset and is included if the ending is followed by one or more years of conflict inactivity. There are 390 conflict endings in the dyadic dataset and 225 in the conflict dataset.

In order to test the different mechanisms by which amnesties to others have effects, i.e. whether these act by alleviating the commitment problem, or whether these act by allowing the government to settle with certain groups and then concentrate its forces on the remaining groups, I also exploit the information on outcomes in UCDP conflict termination dataset (Kreutz, 2010). If the mechanism is alleviating the commitment problem, I expect this to be followed by increased trust of the government, leading to a higher likelihood of peace agreements. If the mechanism is strengthening the military capabilities of the government, I expect a higher likelihood of government victory.

The independent variable of interest is, as previously, the granting of an amnesty law by the government. The choice of looking at enacted amnesty laws rather than offers is particularly relevant in this analysis, because laws require costs from the government since they have to be made public and may require the consent of a legislative house. From the government’s point of view, they represent a costly signal to the rebels. Since I want to test whether amnesties are influential during negotiations, I take the broader database of amnesties, including amnesties given in peace settlements. Nevertheless, amnesties are lagged, to ensure that the amnesty precedes any outcome and is not the consequence of a settlement.

Given that amnesties vary by conditions attached, and we saw in Paper 1 that this variation matters because it is used in different circumstances, we can use different forms of amnesties to understand different preferences. I therefore disaggregate the concept of amnesty in order to test the proposed mechanisms. Amnesty as an incentive hinges on changing the utility equation for the rebels and in particular changing utility of defeat. My theory of incentive focuses on elites, so I take only amnesties that include the rebel leaders (190 out of 230 amnesties in the dyadic dataset and 133 out of 158 amnesties in the conflict dataset).

I take two ways to measure incentive. The first is where elites are offered unconditional amnesties (62 amnesties in the dyadic dataset and 38 amnesties in the conflict dataset). As in Paper 1, the variable is created from information on conditions coded into the data and is a categorical variable where the base category is no amnesty and the other categories are unconditional amnesties and amnesties with conditions. As before, where I do not have information on conditions, the case is dropped. The second disaggregation is based on the idea that amnesty as an incentive is particularly pertinent in situations where the rebels have committed international crimes, i.e. war crimes, genocide or crimes against humanity. I therefore take unlimited amnesties that explicitly or implicitly cover international crimes (93 amnesties in the dyadic dataset and 69 amnesties in the conflict dataset), created as above.

I create these two different ways to capture incentive because what counts as an incentive will vary according to the circumstances and preferences of the actors in each conflict. Any proxy must therefore be a blunt instrument. However, both unconditional amnesties and unlimited amnesties are widely accepted to be generous and indeed are the ones that generate most controversy, because of their perceived lack of accountability.

Since we have reason to believe that amnesty is more effective during negotiations, I rerun the analysis interacting the generous amnesties with negotiations. The dummy variable that indicates negotiations are taking place comes from the UCDP dynamic dataset (UCDP, 2013). An amnesty may carry more weight during negotiations, particularly if it is a strong incentive granted in order to settle a conflict. The data only show me that an amnesty was granted and a negotiation happened in the same year.⁴⁶ They do not show me whether one came first. However, it is likely that this is not significant, since amnesties and negotiations are likely to have a mutually supporting role. Furthermore, researchers stress that actors are forward-looking and take into account their predictions of an action's consequences (Nilsson,

⁴⁶⁴⁶ Thus, negotiations are also lagged.

2008; Walter, 2006). In some cases amnesties are given before negotiations in order to facilitate meetings and build trust. Alternatively, amnesties may be given after negotiations as a positive outcome.

The second hypothesis considers that amnesty may act as a mechanism to overcome the commitment problem through direct or indirect means, i.e. to the group itself or to other groups in the same conflict. When we look at the direct effects, we cannot distinguish amnesty as incentive from amnesty as overcoming the commitment problem. I therefore use amnesties to other groups in the same conflict as a way to test the effect of amnesty as building trust between the rebels and the government. Thus, my argument is that group X will observe the amnesty to group Y and see how the government treats group Y and trust will increase between group X and the government. I use the same amnesties as above, i.e. unconditional and unlimited amnesties to elites. I also expect that this mechanism will be slow to capture since it requires the rebels to update their beliefs. It may take time for this effect to show, and the impacts might accumulate in the years after the amnesty is granted as group X receives more evidence of treatment of group Y. Therefore, I test time at two points and create a dummy variable that measures whether amnesty is granted in the previous three or five years.

The third hypothesis states that amnesty has its effect because it gives the government a military advantage. I test this in the same way as in the previous paper, using amnesties that are conditional on actions militarily advantageous to the government – disarmament, demobilization, oaths of allegiance and giving information on comrades. There are 131 amnesties with military conditions out of 230 (57%) in the dyadic dataset and 92 out of 158 (58%) in the conflict dataset. The variable is again created from information on conditions and is a categorical variable where the base category is no amnesty and the other categories are amnesties that have military conditions and amnesties that do not have military conditions. As previously, I drop the cases that do not have this information. I also examine such amnesties when granted in the past and to other groups.

I include the control variables for explaining the duration of conflict common in the civil war literature. These are the incompatibility (taken from the UCDP dataset), since conflicts over territory tend to be longer (Fearon, 2004). The presence of resources in the conflict area can also motivate rebels through “greed” to capture wealth and can also sustain rebels (Collier et al., 2004; Collier & Hoeffler, 2004). Resources are taken as the presence of gems, drug production or hydrocarbon production in the conflict area. These data are taken from Lujala (2010). The presence of mountains in a country can be associated with rebellions

that are harder to end, because the rebels can be strong defensively, even if they are weak offensively (logged) (Fearon & Laitin, 2003). The robust link between poverty and civil war is theorized to affect civil war termination by making a rebel “career” an attractive financial option or through reducing the opportunity costs of recruitment (Collier & Hoeffler, 2004; Collier, Hoeffler & Soderbom, 2004). I use logged and lagged GDP per capita taken from Maddison (Maddison-Project, 2013). I also include lagged regime taken from the Polity IV project (Marshall et al., 2013) along with the square term to distinguish any possible curvilinear effect, given problems in identifying autocracies (Gates et al., 2006). Due to missing information in some of these variables, principally the variable of poverty, I have 1,486 cases for analysis in the dyadic dataset and 1,142 cases in the conflict dataset.

The methods used depend on the specific analysis. I test change in intensity with a categorical dependent variable that has three categories – decrease in intensity, no change in intensity and increase in intensity. I reject treating these as ordered categories (and using an ordered logit), since I cannot assume that the distance between each category is equivalent, so I use multinomial logit accounting for duration dependence. The base category is no change, so I test whether certain variables, in particular granting amnesty, make a decrease in intensity more probable than the level of intensity staying the same. I report the results for decrease in intensity in the tables, and give the results for increase in intensity (compared to no change) in the Appendix.

To analyse conflict termination, I want to answer how certain conditions affect the probability of a conflict continuing or ending. I use discrete time analysis counted in years rather than creating sub-annual time. Although the dependent variable is not an annual phenomenon, the majority of conflicts last more than one year. Indeed, only 17% of the conflicts in the dataset end within the first year. Given that amnesties are rarely employed in extremely short wars, I consider that the use of discrete time is not a critical problem in this analysis. Also, most of my independent variables are only available on a yearly basis. Given that my data are discrete time, I use a logit analysis accounting for duration dependence, in order to be able to treat this as a survival analysis. Treating the analysis in this way allows me to deal with the right censoring of many of my cases (i.e. the conflict has not ended) and the non-normality distribution of the data. I treat the termination of that conflict episode as the end event and analyse the time duration until an end event (conflict termination), thus examining whether certain conditions, specifically the granting of an amnesty, increases the probability of that event.

My final test is on the outcomes of conflict episode endings and I use multinomial logit to compare the probability of each ending (government victory, rebel victory, peace agreement) against the base category of no ending. The data is a cross-sectional times-series data with data at yearly intervals. I time-set the data and create cubic functions to account for time dependence (Carter & Signorino, 2010). Since dyads are nested within conflict, I cluster errors on conflict-episode in all models.

Results

Amnesty as incentive

I firstly examine the use of generous amnesty as an incentive, using the two ways of measuring generous amnesties, i.e. unconditional and unlimited amnesties. I begin by looking at the likelihood of a decrease in fighting intensity and then the likelihood of conflict terminating. The dependent variable in change in fighting intensity is a multinomial variable that measures a decrease from the high to low category of death rates or an increase from low to high category of deaths. The base category is no change. The results for decrease in intensity and termination are shown in Table 2.1. For reasons of clarity, I include here only the results for a decrease in death rates in the table (results on increase are reported in Table A2.3 in the Appendix).

Table 2.1: Generous amnesties on decreases in intensity and termination at dyadic level

| DV | Model 1 Intensity decreases | Model 2 Intensity decreases | Model 3 Termination | Model 4 Termination |
|----------------------------|-----------------------------------|-----------------------------------|------------------------|------------------------|
| Unconditional amnesties | -0.053 (0.64) | | 0.287 (0.43) | |
| Unlimited amnesties | | 0.739* (0.35) | | -0.045 (0.40) |
| Conflict over terr. | 0.007 (0.18) | 0.020 (0.18) | 0.193 (0.17) | 0.192 (0.18) |
| Resources | -0.243 (0.17) | -0.280+ (0.17) | -0.068 (0.15) | -0.073 (0.16) |
| Mountains | 0.141 (0.09) | 0.140 (0.09) | -0.052 (0.06) | -0.052 (0.06) |
| Regime | -0.079 (0.08) | -0.080 (0.08) | 0.071 (0.06) | 0.085 (0.06) |
| Regime sq | 0.002 (0.00) | 0.002 (0.00) | -0.005 (0.00) | -0.005+ (0.00) |
| GDPpc | -0.179 (0.11) | -0.110 (0.11) | -0.029 (0.10) | -0.011 (0.10) |
| Duration | -0.064 (0.06) | -0.061 (0.07) | -0.224** (0.07) | -0.221** (0.07) |
| Duration sq | 0.003 (0.00) | 0.003 (0.00) | 0.012* (0.00) | 0.012* (0.01) |
| Duration cubed | -0.000 (0.00) | -0.000 (0.00) | -0.000* (0.00) | -0.000* (0.00) |
| Constant | 0.073 (0.97) | -0.431 (0.99) | -0.149 (0.78) | -0.353 (0.80) |
| Observations | 1486 | 1464 | 1486 | 1464 |
| Pseudologlikelihood | -1121.316 | -1089.352 | -766.357 | -753.758 |
| AIC | 2290.632 | 2226.704 | 1556.714 | 1531.515 |
| BIC | 2417.924 | 2353.638 | 1620.360 | 1594.983 |

Significance: + $p < 0.1$, * $p < 0.05$, ** $p < 0.01$. Standard errors clustered on conflict reported in brackets. Models 1 and 2 are multinomial logit regressions showing a decrease in battle intensity compared to no change. The multinomial logit results for increase in intensity are reported in the Appendix, Table A2.3. Models 3 and 4 are discrete logit regression showing conflict ending compared to conflict continuing.

Models 1 and 2 show the two ways of capturing generous amnesties to elites. The results are mixed: an unconditional amnesty has no significant effect, while an unlimited amnesty (which excuses the perpetrator from prosecution for international crimes) has a significant effect (at the 95% level) on reducing the intensity of fighting. The effect is substantive. I calculate the average marginal effect, and I find that the results change from a 10% probability of a decrease in battle intensity to a 24% probability of a decrease in battle intensity when an unlimited amnesty has been granted in the previous year. Thus, hypothesis 1, that amnesties that include an incentive to the recipients are effective, finds some support. Furthermore, both types of generous amnesty are significant and negative on an *increase* in intensity (Table A2.3 in the Appendix), which means they may help to contain a conflict. At the conflict level (Table A2.4 in the Appendix), again generous amnesties are negative and significant on an increase in intensity, i.e. they may help to contain a conflict, though neither are significant on a decrease in intensity. The control variables are mostly insignificant, though resources does make it less likely that a conflict will decrease in the model with unlimited amnesties. This significance for resources comes up in many of the subsequent models and is the only control that shows any stable impact. This is consistent with the widely researched impact whereby resources make conflicts harder to settle (Ross, 2004), and the need to offer a greater incentive to compete with resource income.

I turn to Models 3 and 4, which show the impact of these amnesties on civil war termination, and find that neither generous amnesty is significant. Even unlimited amnesty, which showed an effect on reducing battle intensity in Model 2 is not significant in Model 4. This lack of an effect goes against case study research that has found amnesty to be important in individual terminations. This suggests that this view is generated by the study of egregious cases and does not seem to generalize when tested in a rigorous way on all conflicts, including those where amnesty does not happen. Nor are any of the results significant at the conflict level (reported in Table A2.4 in the Appendix). Termination is a higher threshold for measuring impact, suggesting that amnesties are a weak instrument in ending fighting.

Amnesties as incentive during negotiations

However, it may be that these amnesties do not have an effect during an ongoing conflict but only when there is already a process to settle the conflict in place, as suggested by Reiter (2014). To test this further I now examine the generous amnesties when they are given in the same year as a negotiation. The results are reported in Table 2.2.

Table 2.2: Generous amnesties during negotiations on decrease in intensity and termination at dyadic level

| DV | Model 1 Intensity decreases | Model 2 Intensity decreases | Model 3 Termination | Model 4 Termination |
|---|-----------------------------------|-----------------------------------|------------------------|------------------------|
| Negotiations | 0.269 (0.24) | 0.244 (0.23) | -0.056 (0.24) | -0.095 (0.25) |
| Unconditional amnesties | 0.077 (0.55) | | 0.219 (0.41) | |
| Unconditional#neg | -0.476 (0.96) | | 0.222 (0.73) | |
| $\beta_{neg} +$ $\beta_{unconditional\#neg}$ | -0.206 (0.99) | | 0.166 (0.68) | |
| Unlimited amnesties | | 0.592 (0.38) | | -0.345 (0.46) |
| Unlimited #neg | | 0.404 (0.61) | | 0.857 (0.53) |
| $\beta_{neg} + \beta_{unlimited\#neg}$ | | 0.648 (0.61) | | 0.762+ (0.44) |
| Conflict over terr. | 0.042 (0.19) | 0.048 (0.19) | -0.153 (0.17) | 0.191 (0.17) |
| Resources | -0.242 (0.17) | -0.279+ (0.16) | -0.084 (0.16) | -0.070 (0.15) |
| Mountains | 0.147+ (0.08) | 0.146+ (0.08) | -0.051 (0.07) | -0.053 (0.06) |
| Regime | -0.095 (0.08) | -0.097 (0.08) | -0.024+ (0.01) | 0.073 (0.06) |
| Regime sq | 0.003 (0.00) | 0.003 (0.00) | -0.088 (0.09) | -0.005 (0.00) |
| GDPpc | -0.161 (0.11) | -0.094 (0.11) | 0.199 (0.20) | -0.029 (0.10) |
| Duration | -0.072 (0.07) | -0.064 (0.07) | 0.051 (0.08) | -0.222** (0.07) |
| Duration sq | 0.003 (0.00) | 0.003 (0.00) | -0.228** (0.07) | 0.012* (0.00) |
| Duration cubed | -0.000 (0.00) | -0.000 (0.00) | 0.012* (0.01) | -0.000* (0.00) |
| Constant | -0.042 (0.98) | -0.533 (0.98) | -0.000* (0.00) | -0.152 (0.78) |
| Observations | 1486 | 1464 | 1486 | 1464 |
| Pseudologlikelihood | -1101.664 | -1069.384 | -766.243 | -752.757 |
| AIC | 2263.327 | 2198.768 | 1562.486 | 1535.514 |
| BIC | 2422.443 | 2357.436 | 1642.044 | 1614.848 |

Significance: + $p < 0.1$, * $p < 0.05$, ** $p < 0.01$. Standard errors clustered on conflict reported in brackets. Models 1 and 2 are multinomial logit regressions showing a decrease in battle intensity compared to no change. The multinomial logit results for increase in intensity are reported in the Appendix, Table A2.5. Models 3 and 4 are discrete logit regression showing conflict ending compared to conflict continuing.

I predict that generous amnesties have an effect when coupled with negotiations. There is no significant effect on decrease of battle intensity (Models 1 and 2). However, when we turn to look at conflict termination (Models 3 and 4), there is some significance for unlimited amnesties during negotiations (Model 4). I calculate the linear combinations of the estimators

for the interaction term,⁴⁷ which shows me that the act of granting an unlimited amnesty during negotiations makes termination more likely, at the 90% level. Using the average marginal effect, I find that negotiations on their own lead to a 22% probability that the fighting will end the following year. If an unlimited amnesty is given alongside negotiations, there is a 31% probability that the fighting will end the following year. This is a substantive change, and gives support to hypothesis 1 and the ideas that amnesty is a “necessary evil” (Freeman, 2009), or what Olsen, Payne and Reiter (2012) call the “proponent approach”. This result shows us that timing is important and supports Reiter’s (2014) qualitative finding that mainly amnesties in peace negotiations have effects. I expect to see weaker results at the conflict level, since my expectation is that it is easier for the government to have an impact on individual groups than on the entire conflict, and indeed none of the results are significant (reported in the table A2.6 in the Appendix). As discussed above, incentive is a slippery concept to capture and one rebel’s incentive may leave another rebel indifferent. However, the significance of the limited amnesty does give us some support for hypothesis 1, albeit dependent on timing.

Amnesty and the commitment problem

The second proposed mechanism for amnesty to have an effect on civil war dynamics is as a costly signal from the government that changes the rebel perceptions, in particular creating increased willingness to settle. If we look at direct amnesties granted to elites it is impossible to distinguish between the direct incentive mechanism and the commitment problem mechanism. Therefore, this mechanism is tested by looking at the effects of amnesties to other dyads within the same conflict. As before, I use the two ways of measuring generous amnesties, i.e. unconditional and unlimited amnesties. I also use various ways to measure a delayed effect, on the basis that change in beliefs takes time to take effect. The results are displayed in Table 2.3, which looks at both the effect on decreasing intensity and on the duration. As before, the base category is no change.

⁴⁷ Using the `lincom` command in stata 12.

Table 2.3: Amnesties to other groups on change in intensity and termination at dyadic level

| | Model 1 Intensity decrease | Model 2 Intensity decrease | Model 3 Intensity decrease | Model 4 Intensity decrease | Model 5 Term- ination | Model 6 Term- ination | Model 7 Term- ination | Model 8 Term- ination |
|---|----------------------------------|----------------------------------|----------------------------------|----------------------------------|-----------------------------|-----------------------------|-----------------------------|-----------------------------|
| Unconditional am to others | 0.389 (0.39) | | | | -0.144 (0.45) | | | |
| Unconditional am to others previous 3 years | | 0.239 (0.46) | | | | 0.162 (0.50) | | |
| Unlimited am to others | | | 1.170** (0.36) | | | | 0.348 (0.40) | |
| Unlimited am to others previous 3 years | | | | 0.954+ (0.54) | | | | 0.581+ (0.34) |
| Conflict over terr. | -0.001 (0.18) | -0.002 (0.18) | 0.060 (0.18) | 0.057 (0.18) | 0.209 (0.18) | 0.215 (0.17) | 0.219 (0.18) | 0.240 (0.18) |
| Resources | -0.246 (0.16) | -0.246 (0.16) | -0.274+ (0.16) | -0.266+ (0.16) | -0.066 (0.16) | -0.070 (0.16) | -0.073 (0.16) | -0.062 (0.17) |
| Mountains | 0.142+ (0.09) | 0.140+ (0.09) | 0.144+ (0.08) | 0.145+ (0.08) | -0.055 (0.06) | -0.055 (0.06) | -0.052 (0.06) | -0.044 (0.06) |
| Regime | -0.081 (0.08) | -0.081 (0.08) | -0.081 (0.08) | -0.088 (0.08) | 0.072 (0.06) | 0.071 (0.06) | 0.083 (0.06) | 0.079 (0.06) |
| Regime sq | 0.003 (0.00) | 0.002 (0.00) | 0.002 (0.00) | 0.003 (0.00) | -0.005 (0.00) | -0.005 (0.00) | -0.005+ (0.00) | -0.005 (0.00) |
| GDPpc | -0.163 (0.11) | -0.168 (0.11) | -0.107 (0.11) | -0.113 (0.11) | -0.037 (0.10) | -0.033 (0.10) | -0.015 (0.10) | -0.009 (0.10) |
| Duration | -0.064 (0.06) | -0.064 (0.06) | -0.057 (0.07) | -0.060 (0.07) | -0.229** (0.07) | -0.230** (0.07) | -0.228** (0.07) | -0.225** (0.07) |
| Duration sq | 0.003 (0.00) | 0.003 (0.00) | 0.002 (0.00) | 0.003 (0.00) | 0.012* (0.00) | 0.013* (0.00) | 0.013* (0.01) | 0.012* (0.01) |
| Duration cubed | -0.000 (0.00) | -0.000 (0.00) | -0.000 (0.00) | -0.000 (0.00) | -0.000* (0.00) | -0.000* (0.00) | -0.000* (0.00) | -0.000* (0.00) |
| Constant | -0.018 (0.95) | 0.023 (0.95) | -0.509 (0.96) | -0.413 (0.96) | -0.100 (0.81) | -0.127 (0.78) | -0.342 (0.81) | -0.428 (0.81) |
| Observations | 1486 | 1486 | 1464 | 1464 | 1486 | 1486 | 1464 | 1464 |
| Pseudologlikelihood | -1133.59 | -1136.44 | -1100.01 | -1105.77 | -768.701 | -768.672 | -754.938 | -753.787 |
| AIC | 2311.191 | 2316.893 | 2244.025 | 2255.543 | 1559.402 | 1559.343 | 1531.876 | 1529.574 |
| BIC | 2427.876 | 2433.578 | 2360.381 | 2371.900 | 1617.744 | 1617.685 | 1590.054 | 1587.753 |

Significance: + $p < 0.1$, * $p < 0.05$, ** $p < 0.01$. Standard errors clustered on conflict reported in brackets. Models 1, 2, 3 and 4 are multinomial logit regressions showing a decrease in battle intensity compared to no change. The multinomial logit results for increase in intensity are reported in the Appendix, Table A2.7. Models 5, 6, 7 and 8 are discrete logit regression showing conflict ending compared to conflict continuing.

The argument is that elites of one group can see how those of another group have been treated and this acts as an indicator of whether the government can be trusted. This argument seems to find support in these results. Unconditional amnesty to others is not significant, but unlimited amnesty to others is significant at 99% in decreasing the intensity of a conflict.

This indicates that when an unlimited amnesty is given to group Y, the conflict with group X is likely to reduce. Since this effect may take some time to develop I also test the granting of amnesties within the last three years. For unlimited amnesty, the results show significance at 90% in reduction of conflict and on the likelihood of conflict terminating. Finding the average marginal effect, I see that a dyadic conflict is 11% more likely to end if there has been an amnesty to other dyads in the same conflict within the last three years.⁴⁸ Similarly strong results are also found at the conflict level, where I examine amnesties to other conflicts within the same country (reported in Table A2.9 in the Appendix). This is a noteworthy finding.

The second hypothesis proposes that these amnesties have effects through building trust. One example of this is the peace settlements that took place with various guerilla groups in Colombia in the early 1990s. The group M-19 made peace with the government in 1990 and an amnesty allowed the leaders to enter political life and play a role in drafting a new constitution. Further groups followed in 1991 and 1994 and leaders admit that the previous process with M-19 “created confidence and established a route”.⁴⁹

However, we know from research on group fragmentation that it is also possible the amnesty acts by allowing the government to settle with one group and concentrate its forces on the remaining group or groups. This is the logic of the third hypothesis. To distinguish between these two alternative mechanisms I devise the following test: if the amnesty to group Y works by alleviating the commitment problem, it is more likely to build trust between the parties and a negotiated settlement is more likely with group X. Alternatively, if amnesty to group Y works by increasing the government’s military might by freeing up forces, then a government victory against group X is more likely. I therefore test the amnesties to other groups on dyadic outcomes. The results are shown in Table 2.4, and in the interests of brevity I show the category of peace agreements plus ceasefires with concessions, and of government victory. The full table is shown in the Appendix (Table A2.10).

⁴⁸ As a sensitivity analysis, I also test from amnesty to others in the last five years. The results are still strong or stronger for unlimited amnesties, and the results are reported in Table A2.8 in the Appendix.

⁴⁹ Enrique Flores, ex-vice commander of the Revolutionary Workers’ Party (PRT), author interview, Bogota, 3 June 2015.

Table 2.4: Outcomes at dyadic level

| | Model 1 | Model 2 | Model 3 | Model 4 |
|---|--------------------|--------------------|--------------------|--------------------|
| <u>Negotiated settlement</u> | | | | |
| Unconditional am to others | -0.475 (0.85) | | | |
| Unconditional am to others previous 3 years | | 0.498 (0.55) | | |
| Unlimited am to others | | | -0.501 (0.84) | |
| Unlimited am to others previous 3 years | | | | -0.199 (0.66) |
| Conflict over terr. | -0.079 (0.27) | -0.057 (0.27) | -0.081 (0.28) | -0.085 (0.28) |
| Resources | 0.121 (0.26) | 0.114 (0.25) | 0.042 (0.27) | 0.039 (0.27) |
| Mountains | -0.290** (0.11) | -0.290** (0.11) | -0.295* (0.11) | -0.297** (0.11) |
| Regime | 0.432** (0.09) | 0.432** (0.09) | 0.455** (0.09) | 0.456** (0.09) |
| Regime sq | -0.020** (0.00) | -0.020** (0.00) | -0.021** (0.00) | -0.021** (0.00) |
| GDPpc | -0.100 (0.16) | -0.086 (0.16) | -0.062 (0.16) | -0.061 (0.16) |
| Duration | -0.165 (0.12) | -0.171 (0.11) | -0.174 (0.12) | -0.180 (0.12) |
| Duration sq | 0.012 (0.01) | 0.013 (0.01) | 0.014 (0.01) | 0.014 (0.01) |
| Duration cubed | -0.000 (0.00) | -0.000 (0.00) | -0.000 (0.00) | -0.000 (0.00) |
| Constant | -2.286* (1.16) | -2.400* (1.15) | -2.637* (1.17) | -2.632* (1.14) |
| <u>Government victory</u> | | | | |
| Unconditional am to others | N/A | | | |
| Unconditional am to others previous 3 years | | 1.749** (0.60) | | |
| Unlimited am to others | | | N/A | |
| Unlimited am to others previous 3 years | | | | 0.616 (0.71) |
| Conflict over terr. | -0.328 (0.41) | -0.264 (0.41) | -0.322 (0.41) | -0.288 (0.41) |
| Resources | 0.047 (0.37) | -0.021 (0.35) | 0.044 (0.37) | 0.056 (0.36) |
| Mountains | 0.247 (0.15) | 0.263+ (0.16) | 0.231 (0.15) | 0.251 (0.15) |
| Regime | -0.249+ (0.15) | -0.265+ (0.15) | -0.230 (0.14) | -0.239+ (0.14) |
| Regime sq | 0.009 | 0.009 | 0.008 | 0.008 |

| | | | | |
|---------------------|-----------|-----------|-----------|-----------|
| | (0.01) | (0.01) | (0.01) | (0.01) |
| GDPpc | 0.103 | 0.149 | 0.114 | 0.132 |
| | (0.23) | (0.22) | (0.23) | (0.23) |
| Duration | -0.817** | -0.850** | -0.795** | -0.806** |
| | (0.18) | (0.19) | (0.18) | (0.18) |
| Duration sq | 0.046** | 0.048** | 0.044** | 0.045** |
| | (0.01) | (0.01) | (0.01) | (0.01) |
| Duration cubed | -0.001** | -0.001** | -0.001** | -0.001** |
| | (0.00) | (0.00) | (0.00) | (0.00) |
| Constant | -1.362 | -1.657 | -1.473 | -1.673 |
| | (1.79) | (1.76) | (1.78) | (1.77) |
| Observations | 1486 | 1486 | 1464 | 1464 |
| Pseudologlikelihood | -1034.599 | -1032.979 | -1014.344 | -1012.404 |
| AIC | 2157.199 | 2153.957 | 2116.688 | 2112.808 |
| BIC | 2390.568 | 2387.327 | 2349.401 | 2345.521 |

Significance: + $p < 0.1$, * $p < 0.05$, ** $p < 0.01$. N/A = results unreliable due to insufficient cases. Standard errors clustered on conflict reported in brackets. Base category is No termination. Only the outcome of interest is reported and the results for rebel victory is reported in the appendix, Table A2.10.

I test both generous amnesties but none are significantly likely to lead to a negotiated settlement. By contrast, unconditional amnesty given to others within the last three years are significantly likely to predict a government victory, though not at the conflict level (Table A2.11). To express this result in another way, when an amnesty is given to group Y, within the next three years the conflict with group X is more likely to end in a government victory. From the average marginal effects, I see that the use of an unconditional amnesty to others increases the likelihood of government victory by 7%. Given the multitudinous factors impacting on conflict outcomes, this is not unimportant. It also offers support to the idea that amnesties are used by governments as a weapon of war, particularly in the context of multiple groups. These results support the findings in paper 1, where we saw that governments use amnesties instrumentally, and gives support to the third hypothesis.

Military amnesties

The third hypothesis proposes that amnesties have their effects through giving the government some military advantage, as discussed in paper 1. We have already seen that amnesties can give the government military advantages by indirect means. Further results are shown in Table 2.5.

Table 2.5: Amnesties with military conditions on change in intensity and termination at dyadic level

| DV | Model 1 Intensity decreases | Model 2 Intensity decreases | Model 3 Intensity decreases | Model 4 Termination | Model 5 Termination | Model 6 Termination |
|---|-----------------------------------|-----------------------------------|-----------------------------------|------------------------|------------------------|------------------------|
| Military conditions amnesties | 0.462+ | | | -0.763* | | |
| | (0.25) | | | (0.36) | | |
| Military conditions amnesties in previous 3 years | | 0.247 | | | -0.751** | |
| | | (0.25) | | | (0.27) | |
| Military conditions amnesties to others | | | 0.910** | | | -0.904* |
| | | | (0.32) | | | (0.37) |
| Conflict over terr. | 0.016 | 0.021 | 0.063 | 0.184 | 0.145 | 0.182 |
| | (0.18) | (0.19) | (0.19) | (0.17) | (0.17) | (0.18) |
| Resources | -0.236 | -0.236 | -0.260 | -0.073 | -0.088 | -0.062 |
| | (0.17) | (0.17) | (0.16) | (0.15) | (0.15) | (0.15) |
| Mountains | 0.136 | 0.140 | 0.139 | -0.052 | -0.051 | -0.053 |
| | (0.09) | (0.09) | (0.09) | (0.06) | (0.06) | (0.06) |
| Regime | -0.079 | -0.086 | -0.086 | 0.074 | 0.083 | 0.073 |
| | (0.08) | (0.08) | (0.08) | (0.06) | (0.06) | (0.06) |
| Regime sq | 0.002 | 0.003 | 0.003 | -0.005 | -0.005+ | -0.005 |
| | (0.00) | (0.00) | (0.00) | (0.00) | (0.00) | (0.00) |
| GDPpc | -0.181 | -0.180 | -0.192+ | -0.030 | -0.023 | -0.031 |
| | (0.11) | (0.11) | (0.11) | (0.10) | (0.09) | (0.10) |
| Duration | -0.067 | -0.071 | -0.065 | -0.222** | -0.204** | -0.225** |
| | (0.07) | (0.07) | (0.06) | (0.07) | (0.07) | (0.07) |
| Duration sq | 0.003 | 0.003 | 0.003 | 0.012* | 0.011* | 0.012* |
| | (0.00) | (0.00) | (0.00) | (0.00) | (0.00) | (0.00) |
| Duration cubed | -0.000 | -0.000 | -0.000 | -0.000* | -0.000* | -0.000* |
| | (0.00) | (0.00) | (0.00) | (0.00) | (0.00) | (0.00) |
| Constant | 0.122 | 0.119 | 0.184 | -0.157 | -0.238 | -0.148 |
| | (0.98) | (0.97) | (0.97) | (0.78) | (0.77) | (0.79) |
| Observations | 1486 | 1486 | 1486 | 1486 | 1486 | 1486 |
| Pseudologlikelihood | -1114.894 | -1133.152 | -1126.803 | -765.999 | -763.118 | -766.945 |
| AIC | 2277.788 | 2310.303 | 2297.605 | 1555.997 | 1548.236 | 1555.890 |
| BIC | 2405.081 | 2426.988 | 2414.290 | 1619.643 | 1606.578 | 1614.232 |

Significance: + $p < 0.1$, * $p < 0.05$, ** $p < 0.01$. Standard errors clustered on conflict reported in brackets. Models 1, 2 and 3 are multinomial logit regressions showing a decrease in battle intensity compared to no change. The multinomial logit results for increase in intensity are reported in the Appendix, Table A2.12. Models 4, 5, and 6 are discrete logit regressions showing conflict ending compared to conflict continuing.

Three mechanisms are explored here within the war aims theory of amnesties. The first is that amnesties act in a direct way to bring about a quick reduction or ending of the conflict. This mechanism is significant at the 90% level on reducing conflict (Model 1), though it makes conflict termination less likely at the 95% level (Model 4) and also at the conflict level (reported in Table A2.13 in the Appendix). The second mechanism is that war-aims amnesties work through individual fighters defecting, leaving the rebel group weak and

vulnerable. This may have increasing influence over a long time frame because the impact is not felt until sufficient fighters have defected, and is tested through the granting of amnesty in the previous three years. Here, there is no effect on reducing intensity, but, again, conflict is less likely to end, at the 99% level (Models 2 and 5), and the same results are found at the conflict level (Table A2.13). The third mechanism looks at the effects of amnesties to other groups. These are significant at the 99% level in reducing intensity, though again conflict is less likely to end at the 95% level (Models 3 and 6). These results are more positive at the conflict level where such amnesties are significant at the 99% level in decreasing intensity and insignificant on conflict termination. Looking generally at amnesties with military conditions, these amnesties are not successful at actually bringing a conflict to termination, and in fact they make it less likely. To some extent we should expect this. These amnesties are those with the conditions most disadvantageous to the rebels and thus are the ones they are least willing to accept. Rather, these amnesties seem to be used as weak instrument to control the conflict intensity. Taken with the findings from above that amnesties to others predicts government victory, there is support for the idea that governments can use amnesties instrumentally for military ends, as argued in Paper 1.

Conclusions

The use of amnesty, particularly amnesties that allow perpetrators to escape prosecution for the most heinous crimes, have long provoked controversy. Many scholars argue that prosecution is essential, and international law and the UN seem to be following this point of view. Other scholars take a more realist stance and argue that amnesty, while undesirable, may prevent further bloodshed by helping end conflicts earlier. In the midst of this debate, we have little cross-national information on the effects of amnesty specifically in civil war. This article contributes to this debate and to the author's knowledge it is the first cross-national analysis of the impact of amnesties given during conflict on reducing or ending conflict. As such, it talks to an important and relevant topical debate.

This research focuses on two possible ways in which amnesties can have an effect. The first is as an incentive and this is explored with respect to rebel elites. In keeping with the assumptions of the transitional justice literature, the results find consistently that more generous amnesties can have effects, particularly unlimited (the most generous) amnesties across a number of tests. These amnesties help reduce fighting when given directly, but also

can have an indirect effect (when given to others) and can have long-lasting effects (given to others within the last three years). I find also that amnesties during a negotiation process have a greater impact, and can even support termination, a higher threshold for testing effect. The research supports many of the findings from case studies – generous amnesties and those given during negotiation can help bring peace.

However, amnesties also work as a weapon of war used by the government. As well as the direct results discussed above, there is also an important mechanism exposed in the research here whereby amnesties work indirectly to enable government victory by allowing the government to be stronger in attacking other groups. This is an innovative result.

The results explored tie in with the cost-benefit analysis extensively explored in paper 1. The government's preference is to end with a group with as few costs and as much benefit as possible. Amnesties that carry the greatest benefits are those that impose military conditions on the rebel groups. However, this research shows that these are also the least likely to be effective. The government can grant amnesties as a way to separate groups, i.e. to test whether a group will be willing to settle at a lower cost. In this way the government avoids a worse option, i.e. negotiations. Alternatively, the government may need to give a greater incentive within the amnesty. As shown in this research, these amnesties are more likely to be effective. These amnesties, although not the government's preferred amnesty, do still enable them to settle some conflicts. Furthermore, these amnesties come with an additional advantage, which is that they can bring indirect military advantages later, through weakening rebel group coalitions and freeing up government resources to more effectively tackle other groups.

This research also makes a number of contributions to the study of civil war termination. It adds a novel dimension to studying conflict termination. To date, studies have focused on the impact of external interventions in ending conflicts, be they external military interventions, economic sanctions or the role of external actors in alleviating the commitment problem. This study examines an instrument that is within the hands of the government. I find strong support that amnesties can have an effect on both reducing and ending conflict. I also contribute to the conflict termination literature by focusing on actors and particularly the elite level calculus. This feeds in to recent research on disaggregated actors.

Finally, this research feeds into recent research on the dynamics of multiple groups in a conflict, and this article takes a step forward by examining how incentives can affect multiple groups. Findings in the literature are mixed over whether multiple groups make ending conflicts harder or easier. I contribute to this debate by examining a mechanism

whereby the government can influence such groups without military means. I find strong support for the indirect effects of amnesties and I propose that amnesty can be a form of pacification by proxy. Governments can exploit the presence of other groups in a conflict to create an upward spiral of peace.

These results have implications for policy. The mechanisms that target amnesties at other groups bring about reduced intensity by enabling the government to focus resources on the groups with which it is more difficult to settle. This suggests that “peace-bombing” a dyad, i.e. using an amnesty to settle with a group, even those considered less threatening, may have an effect on the overall dynamic of a conflict. From a policy point of view, this suggests that government should be supported in the use of amnesties. Amnesties as impunity are increasingly condemned. However, there are ways to ethically target amnesties in keeping with international law (Mallinder & Hadden, 2013). This article contributes to the arguments that a nuanced use of amnesties can have positive effects on reducing and ending civil wars.

Paper 3

The invisible seat at the table: Negotiating peace under the shadow of the International Criminal Court

“The ICC is a shadow at the negotiations: it threatens, it pressurizes. It’s like a hidden negotiator.” (Gonzalo Sanchez, Director of the National Centre for Historical Memory, Colombia)⁵⁰

Abstract

There is no doubt that the arrival of the International Criminal Court (ICC) has had a significant effect on international justice and security. What that impact is and whether it is positive or negative are still open academic questions, with some scholars saying the ICC deters atrocities and prevents a culture of impunity, while others say it causes worse human suffering since violence endures. One area of impact is on peace negotiations to end civil wars, and there has been much speculation that the judicial requirements of the ICC tie the hands of the parties. Are amnesties still an option? To date, we lack a theory of how the ICC affects the process of trying to reach a peace settlement. Where previously there were two actors, now there are three actors, all with different preferences. This article develops a model of the interaction between government, rebels and ICC. This model is then examined with respect to Colombia, where negotiations between the government and the Revolutionary Armed Forces of Colombia (FARC) have taken place in the shadow of the ICC, to examine how much room for manoeuvre the government has. The article argues that the ICC impacts on the negotiations not only by removing one of the incentives that a government can offer rebels, but moreover by dismissing the political trade-offs required. By doing so, the ICC risks jeopardizing a settlement that offers substantial transitional justice. However, I also find that the government has substantial room for manoeuvre. Furthermore, the article argues, somewhat counterintuitively, that not taking a hard-line stance allows the ICC to maximize justice.

Key words: International Criminal Court, amnesty, Colombia, negotiations, FARC

⁵⁰ Gonzalo Sanchez, author interview, Bogota, 25 May 2015 [author translation]

Introduction

In 1998, Foday Sankoh was famous for the brutal methods he authorized as rebel leader in an eight-year conflict in Sierra Leone. His followers often began their careers by murdering their own parents, and were infamous for their mutilations of civilians. Between 50,000 and 200,000 people died in the conflict (Conciliation Resources, 2000; Gberie, 2005; Reno, 1998). In 1999, in order to end the conflict, Sankoh was granted a peace agreement that included a general and unconditional amnesty for the worst international crimes.⁵¹ This agreement marked a turning point in international justice. As well as the blanket amnesty, the copy of the Special Representative of the United Nations Secretary General also included a handwritten note saying that his organization would not endorse the amnesty (Freeman, 2009: 89).

Fast forward seven years and another notoriously barbaric leader was also looking for an amnesty as part of peace negotiations. Yet Joseph Kony, rebel leader in the conflict in Northern Uganda, fell victim to changed times. By the time Kony was seeking an amnesty, he was already the first person under arrest warrant from the International Criminal Court.⁵² Rejecting amnesties for international crimes has become the standard UN position and mediators cannot endorse such amnesties (Orentlicher, 2005; UN High Commissioner for Human Rights, 2009; UN Mediation Support Unit, 2012; UN Secretary-General, 1999; van Boven, 2005). As Snyder and Vinjamuri (2003) describe it, the logic of “consequences” has shifted to a logic of “appropriateness”.

Civil wars are increasingly ended through peace settlements (Mason & Fett, 1996; Mason et al., 1999; Toft, 2009). These are “in essence elite pacts” (Zahar, 2003: 118), where an agreement is reached when the benefits offered outweigh those of the alternatives.⁵³ These benefits often include an explicit settlement on the legal status of the ex-combatants, where this might be an amnesty, provision for taking up of political posts, military integration of the rebel forces, or demobilization and reintegration (DeRouen, Lea, & Wallenstein, 2009; Glassmyer & Sambanis, 2008; Spear, 2002).

In recent years, negotiations take place within a new framework on international criminal justice. The most explicit expression of this was the establishment of the ICC in

⁵¹ International crimes are crimes against humanity, war crimes and genocide.

⁵² International Criminal Court (2005) Warrant of Arrest for Joseph Kony Issued on 8 July 2005 as amended on 27 September 2005, ICC-02/04-01/05, 27 September 2005.

⁵³ These alternatives themselves depend on the benefits and the probability of achieving them. There is a large literature on bargaining models of termination of civil war. See, for example, Fearon (1995, 2004, 2013).

2002. Many scholars have considered the impact of the ICC on changes of regime or from war to peace. Some scholars focus on the outcomes and consider that the ICC has positive effects because it strengthens international norms, decreases the likelihood of atrocities (Akhavan, 2009; Gilligan, 2006), and ratifying states show a credible commitment to international standards of justice (Simmons & Danner, 2010). Others argue that an insistence on justice shifts the priority from where it should more properly be – making peace and establishing solid institutions (Putnam, 2002; Snyder & Vinjamuri, 2003). Other scholars look at the effect on process, and argue that it makes a settlement or transition less likely by making it more costly for leaders to leave power (Escribà-Folch & Wright, 2015; Hashimoto, 2013; Krcmaric, 2014), however, the focus is on transitions and on the leader's calculation.

To date, we lack a model of how the ICC affects peace negotiations between government and rebels and filling this gap is important for our understanding of how to end civil wars effectively and also how to maximize justice. I first create a two-player model where the government and rebels negotiate on an issue space, based on the idea from studies of post-transitional countries that accountability is determined by elite preferences and strategic calculations of how the provision of justice will advance other political goals (Grotsky, 2008, 2011; Pion-Berlin, 1994). I then introduce the idea that this model is nested inside another game with the ICC (Putnam, 1988; Tsebelis, 1990). The government's preferences for its strategic political goals must be balanced against the ICC's preference for criminal justice. However, this game is influenced by the credibility of the ICC.

The model generates three predictions. In the absence of a third actor, the government will give amnesty to avoid making political concessions. In the presence of a third actor, the government will exploit a continuum model of justice to grant as much impunity as possible (in order to avoid political concessions); while the ICC will attempt to increase the level of penal justice and increase their credibility as an organisation. I then test the predictions of the model in Colombia. This case is a rich choice for a number of reasons - it has a long-running conflict, which allows me to compare treatment of rebels prior to and post-ICC. Also, Colombia has been under preliminary examination by the ICC since 2004, i.e. during the period of the negotiations between the government and the FARC. I find that the use of a nested model illuminates the process of negotiations in Colombia; I also find that the government has substantial room for manoeuvre; and I find support for the counter-intuitive finding that the ICC achieves more justice when it is vague about justice requirements.

The article is developed as follows: in the first section I lay out the model that predicts how the ICC impacts on peace negotiations. In the following section I explain the case

selection and the methodology. I follow with a description of the case with reference to the model, looking at past and current peace negotiations in Colombia. The article concludes by assessing the ongoing impact of the ICC and with policy advice.

Pre-ICC negotiations

Two-player negotiations

I begin with a game of two players - the government (G) and the rebel group (R) – who are negotiating a peace settlement. Negotiations open when the two sides are in a mutually-hurting stalemate (Stedman, 1997; Zartman, 2000), and when the expected utility from the settlement outweighs the anticipated costs of fighting to victory (Mason et al., 1999).⁵⁴ This is similar to the cost-benefit analysis explored in paper 1 for the government to grant an amnesty. I assume at this point that the players have reached a point where outright victory is not feasible, though this would be each player's best preference since they would be sole victor.

To come to a settlement, the government must make concessions to the rebels, where each player's preference is to have the maximum control possible (Fearon, 2004). The settlement has a value of c for the rebels and $1-c$ for the government. The value of c depends on the varying bargaining strength of the two players. Control may take the form of political power-sharing: for example, Burundi has tried to control its ethnic tensions by including cross-ethnic political parties, and incorporating the rebels into interim governments.⁵⁵ Control may be over territory, as in the peace agreement of 2005 that led to the independence of South Sudan.⁵⁶ Alternatively, control may be concessions on policy areas that motivate the rebels, for example, the introduction of sharia law in the peace settlement for Aceh in 2005.⁵⁷ I also consider separately a further benefit to the rebels, which is amnesty: “an extraordinary legal measure whose primary functions is to remove the prospect and consequences of

⁵⁴ A stalemate can arise when the rebels are strong and so the government sees little possibility of outright victory and anticipates high costs if it fights to win, compared with what it expects to pay in a settlement. Alternatively, the rebels may be weak. The government has a high probability of winning, but the costs to finish the rebel group off and win decisively are considered too high, again, compared with what it expects to pay in a settlement. Costs and hurts may of course be multifaceted, including military costs, domestic support, or international reputation.

⁵⁵ See the Arusha Peace and Reconciliation Agreement for Burundi, 2000; The Global Ceasefire, 2003; and the Agreement of Principles Towards Lasting Peace, Security and Stability, 2006 (<http://peacemaker.un.org>, accessed 6 May 2013)

⁵⁶ Comprehensive Peace Agreement, 2005 (<http://peacemaker.un.org>, accessed 6 May 2013)

⁵⁷ Memorandum of Understanding between the Government of the Republic of Indonesia and the Free Aceh Movement, 2005 (<http://peacemaker.un.org>, accessed 6 May 2013)

criminal liability” (Freeman, 2009: 13). Amnesty is necessary to exercise control effectively, since it removes the threat of imprisonment and ensures the ability to enter political life. Therefore, the rebel leadership has also a preference for amnesty.⁵⁸

The government’s preferences are therefore:

$$P + (1-c) > SQ$$

where P is the expected utility from peace, c is concessions,⁵⁹ and SQ is status quo.

The rebel’s preferences are:

$$c+a > c > SQ$$

where c is concessions, a is amnesty, and SQ is status quo.

This can be represented in Figure 3.1.

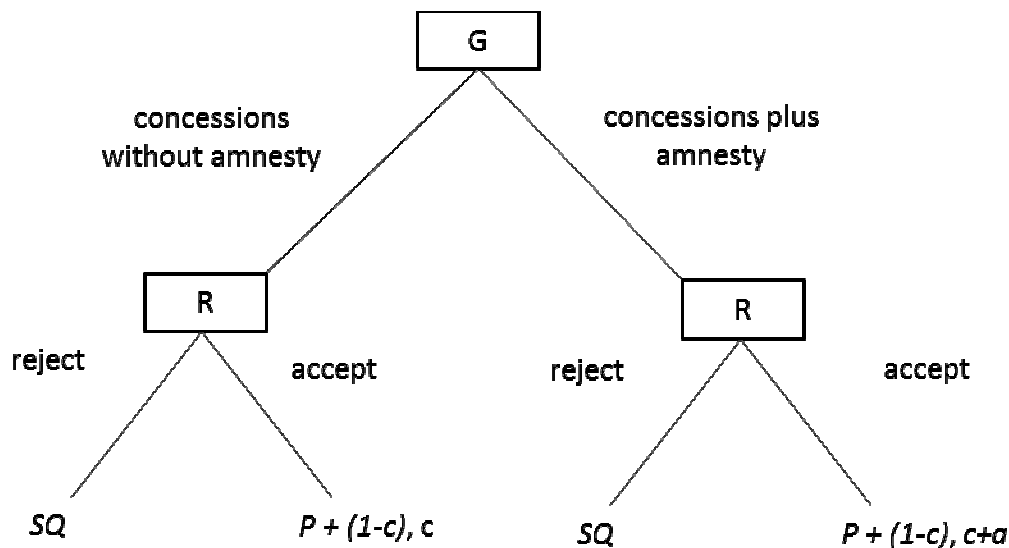


Figure 3.1: Two-player game

I propose that in negotiations these two dimensions can be negotiated together, i.e. the issues can be linked. Issue linkage is a concept that dates back to early work on negotiations (Haas, 1980; Zartman & Berman, 1982; Zartman, 2007). For example, Zartman and Berman state “It is better to group, package or exchange concessions rather than fight it out over separate

⁵⁸ The issue of post-conflict punishment may also be relevant in situations where atrocities have not been committed and this issue is explored by Lie, Binningsbø, & Gates (2007); Olsen, Payne, & Reiter (2010); Sikkink & Walling (2007); and Sikkink (2011), amongst others.

⁵⁹ As discussed, concessions may represent many different areas, such as political power-sharing, the establishment of an interim government, military power-sharing, territorial concessions, etc, depending on the context of each conflict.

issues taken individually.” (1982: 199) Pion-Berlin (1994) finds that the choice of justice measures in Argentina, Chile and Uruguay is a trade-off with other political and economic priorities, while Grodsky (2008) finds similarly in Poland and Serbia that the choice of justice is driven by the predicted effect on the ability to provide other political goods. The negotiations therefore can be visually displayed as two issue lines (Figure 3.2).

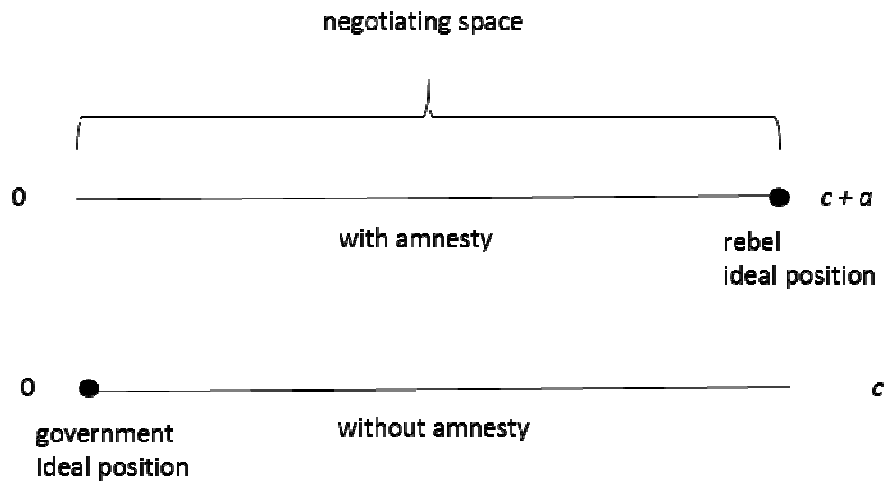


Figure 3.2: Double issue lines

The two lines represent concessions (c), and the parties bargain both their position within the issue line, but also whether they are within the upper line or the lower line. The granting of amnesty in order to be able to exercise the political concessions is negotiated alongside concessions. The rebel’s ideal position, in fact rebel victory, is all concessions plus amnesty. The government’s ideal position, government victory, is no concessions and no amnesty. The government may be indifferent between whether they negotiate on the upper line or the lower line, or amnesty may be a salient issue for the government. For example, domestic opposition may try to make political mileage out of an amnesty, portraying the government as weak.

Post-ICC negotiations

Nested negotiations: a three-player game with the ICC

The focus of this article is to look at how negotiations change in a world where the ICC can act following a peace settlement. The purpose of the ICC is to provide a court of last resort for the most atrocious crimes. Its founding document, the Rome Statute (UN General Assembly, 1998: Art. 1), establishes the court as having jurisdiction over “the most serious

crimes of international concern” - war crimes, crimes against humanity and genocide. It has jurisdiction over any state that has ratified the Rome Statute (at the time of writing, 123 countries are state parties) and over crimes committed after 1 July 2002.⁶⁰ As the ICC Prosecutor, Luis Moreno Ocampo, stated, “The issue is no longer about whether we agree or disagree with the pursuit of justice in moral or practical terms. It is the law.” (2009: 10-11)

The ICC has three paths to intervention. It can investigate international crimes if invited to do so by one of the state parties (on that state’s territory).⁶¹ It can also act without the consent of the state in two circumstances. The first is if it is mandated by the UN Security Council, in which case it can act in any country.⁶² The second is when the court itself sees *proprio motu* to act within the territory of a state party.⁶³ This last authority was one of the most hotly debated issues in the founding of the court (Moreno Ocampo, 2009), and the powers are covered in Articles 13(c), 15, and 53(1) of the Rome Statute. Two further principles condition whether the ICC acts. The first is complementarity, whereby the ICC will not act if the state is investigating or prosecuting a case, unless the state is seen to be “unwilling or unable genuinely to carry out the investigation or prosecution” (UN General Assembly, 1998: art. 17). The second is that the case should be of “sufficient gravity” for the ICC to act (UN General Assembly, 1998: art. 17).

The legal position between the ICC and amnesties is not entirely black and white (Freeman & Pensky, 2012; Mallinder, 2007; Pensky, 2008). The Rome Statute is silent on whether other transitional justice measures can replace criminal accountability from the ICC point of view, but there is a “clear and strong presumption” that signing up to the treaty entails effective criminal punishment (Seils & Wierda, 2005: 14).⁶⁴ Furthermore, “[the] institutional *raison d’être* [of the Office of the Prosecutor (OTP)] is to investigate and prosecute crime.”⁶⁵ (Freeman, 2009: 77) The OTP stated at the 2007 Nuremberg Conference on Peace and Justice that states can develop their own solutions for transitional justice, including amnesties, but “the ICC will not be bound by any such amnesty or amnesty-type arrangements” (Paul Seils, cited in Freeman, 2009: 75), and that national proceedings and other accountability mechanisms “are not alternative but complementary processes” (Moreno

⁶⁰ Or the (later) date applicable to that state party.

⁶¹ Uganda, Democratic Republic of Congo, the Central African Republic, and Mali have referred situations to the court.

⁶² The UN Security Council has referred situations in Sudan (Darfur) and Libya.

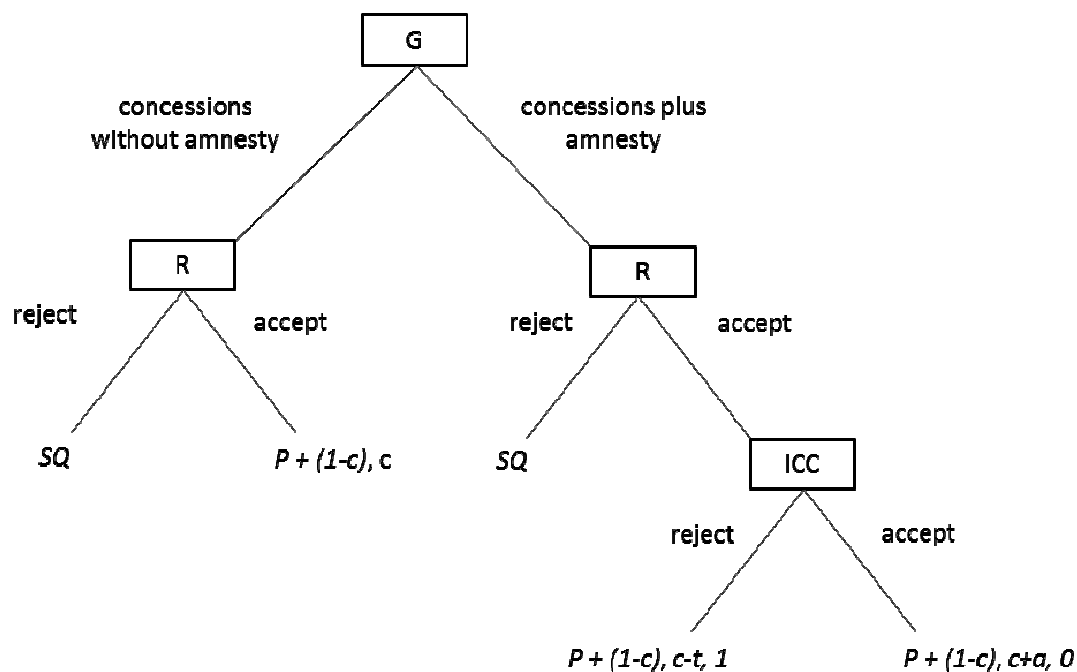
⁶³ The court itself has opened trials in Kenya (2010) and Côte d’Ivoire (2011).

⁶⁴ The *travaux préparatoires*, often used to help interpret treaties, also do not help clarify this point (Seils & Wierda, 2005: 13)

⁶⁵ The OTP is the organ of the ICC charged with receiving referrals and information, examining them, and conducting investigations and prosecutions before the court.

Ocampo, 2009: 12). The ICC as an institution came into being in order to prosecute individual perpetrators of atrocious crimes and has interpreted its mandate in this way (Freeman, 2009; Sikkink, 2012). Therefore, we can consider the institutional preference of the ICC to have trials.⁶⁶

We can view the arrival of the ICC as a larger game, within which the negotiations between the rebels and the government are nested (Putnam, 1988; Tsebelis, 1990). Nested games occur when there are games in multiple arenas (Tsebelis, 1990: 7). These are linked, so that the moves of other players in other arenas can affect the payoff that a player receives. Payoffs cannot be calculated just for the arena of interest, but vary with events or actions happening in other arenas. As such, this is a way of measuring context. In this model, in the event of a peace settlement, the ICC enters and the two-player game changes to a three-player game (Figure 3.3). As detailed above, the ICC preference is that perpetrators of international crimes are prosecuted. Although preference is given to domestic prosecutions, should the state be perceived to be unwilling or unable genuinely to carry out the investigation or prosecution, then the ICC can act. Observers note that the ICC is independent and may intervene even with an amnesty adopted “in good faith under extreme exigency” (Freeman & Pensky, 2012: 62).



⁶⁶ When I talk about trials in the model I refer to trials with penal sanctions. Article 77 of the Rome Statute establishes that punishment for these crimes must be imprisonment. As we will see in the case study below, this distinction is important.

Figure 3.3: Three-player game

With the ICC in the background, the government therefore cannot offer a credible commitment to the rebels that it can follow through on any amnesty it chooses to offer. This is no longer a decision within the control of the government.⁶⁷ Thus, a plausible commitment from the ICC that it will intervene to enforce trials puts the government and rebels on a third issue line, where the rebels receive the payoff $c - t$.⁶⁸ It may be that the rebels prefer the status quo to any settlement with trials (i.e. $SQ > c - t$), in which case even entering negotiations is less rational for the rebels in a post-ICC world.⁶⁹

Yet there are peace negotiations, and amnesties granted, in the shadow of the ICC.⁷⁰ For example, some scholars claim the number of amnesties has increased in recent years (Mallinder, 2008; Olsen et al., 2010b). Therefore, we should consider the idea that talk of an ICC intervention lacks credibility. In other words, the probability of it acting is less than 1. The recent case of Sudan's president, Omar Hassan al Bashir, freely leaving South Africa, even though there is an ICC warrant for his arrest and South Africa is a state party of the ICC and therefore obliged to ensure that arrest, is just one example of how difficult it is for the ICC to enforce its mandate.

This difficulty has long been recognized in the academic literature (Gilligan, 2006; Ginsburg, 2009). Freeman and Pensky (2012), discussing a hypothetical case where conditional individualized amnesty is traded for public confession, similar to South Africa's Truth and Reconciliation Commission, consider that an ICC intervention would be "too high a price for its role as a 'backstop' source of criminal justice" and that it risks being "seen as the spoiler" of genuine efforts at transitional justice (p. 63).

This reflects the debate in transitional justice has in recent years has moved beyond a bipolar debate of peace versus justice to a recognition of different forms of transitional justice, such as different sequences or different forms. There is no single model of post-

⁶⁷ For the purposes of this discussion I am focusing on the ICC. However, these points apply not only to the ICC as an institution, but to the international criminal regime. This can encompass the principle of universal jurisdiction, where national courts can try the gravest crimes against humanity, even if these crimes are not committed in the national territory. It can also encompass the vaguer notion of an international norm, which can empower domestic actors. Keck and Sikkink (1998) describe this in their "boomerang effect", where domestic actors who are blocked with respect to their national government may appeal to stronger international actors to create powerful transnational alliances.

⁶⁸ Note that it is irrelevant whether the trials would be carried out by the national government or the ICC. All that is required is that the ICC gives a plausible commitment that it will act in the absence of the national government acting.

⁶⁹ This assumes maximalist justice, with imprisonment. I consider below the situation where there is justice short of imprisonment.

⁷⁰ For example, an agreement on transitional justice was reached in Colombia on 23 September 2015.

context justice. Transitional justice is seen as a palette of justice measures that should be appropriate to the local circumstances (Cobban, 2007; Elster, 2004; Lambourne, 2008; Lutz, 2006; Olsen et al., 2010b; Roht-Arriaza, 2006). The ground-breaking example was the Truth and Reconciliation Commission in South Africa in 1996, which mixed truth and reparations with amnesties. Other examples have made use of local reconciliation measures,⁷¹ while recent examples of transitional justice include many that are mixed or sequenced.⁷² Sriram (2004: 5) argues that accountability is a continuum, and there are trade-offs that can be used by domestic and international actors. This continuum between amnesty and accountability is similar to the continuum proposed by Olsen, Payne and Reiter (2012: 348) on the balance between retaining amnesties or replacing them with trials in post-transition or post-conflict situations. Thus, in the presence of the ICC, the issue of amnesty/trials is activated as a salient issue for the rebels, and also for the government since it must fulfil international requirements. Furthermore, this aspect of the negotiations is a continuum, which allows for more flexible negotiations. I represent this as a two-dimensional issue space in Figure 3.4.

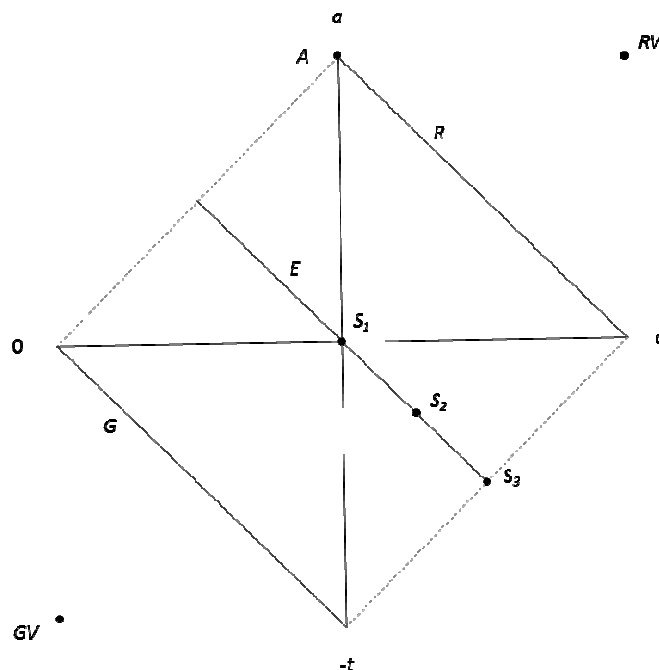


Figure 3.4: Two-dimensional issue space

⁷¹ For example, the Magamba reconciliation activities in Mozambique from 1992 onwards, gacaca courts in Rwanda from 1994, the Community Reconciliation Procedures in East Timor from 2002.

⁷² For example, Sierra Leone - Truth and Reconciliation Commission (2002) and Special Court (2004); East Timor - Commission for Truth, Reception and Reconciliation (2002) and Special Panels for Serious Crimes (2000-06); Argentina - the truth commission (1983-84) preceded trials; Chad - the truth commission (1991-92) preceded trials; Yugoslavia - trials first and then truth commission (2002-03) (Roht-Arriaza, 2006).

In Figure 3.4, I lay out a model of a two-dimensional issue space that graphically represents how issues can be linked. The vertical axis represents amnesty-trials, where the maximum represents full amnesty (a), and the minimum represents trials, which is allocated a negative value ($-t$).⁷³ As before, the horizontal axis represents concessions (c). The extremes of each axis represent outright victory, with rebel victory being point RV and government victory being point GV .

The settlement that gives maximum benefit to the rebels is line R (a on the impunity axis and c on concessions) and the settlement that gives maximum benefit to the government is line G ($-t$ on the amnesty-trials axis and 0 on concessions). The area within these two diagonals is the potential space for negotiation. A mutually-equitable solution is line E , where there are a range of solution points depending on the balance between the degree of concessions and the degree of amnesty/trials.

The government can use this continuum of transitional justice to find mutually-acceptable solution points. For example, at point S_1 , the government is offering 0.5 concessions, balanced with 0.5 impunity, whereas at point S_2 , the government is offering 0.75 concessions, balanced with 0.25 impunity. Opening up the possibility of combinations of transitional justice has interesting consequences for the model. The ICC position may be seen as a function of contextual factors such as UN Security Council support, along with ICC desire to “take a stand”. Under the principle of complementarity, the government can offer sufficient justice to ensure that the ICC does not intervene. This could be S_3 , which is a mutually-equitable solution that goes a significant way in the direction of trials. For example, this might be requirements that the rebels contribute to a truth commission or pay reparations to victims. However, as Mark Freeman states, “Transitional justice is flexible. But it’s not infinitely flexible or elastic”.⁷⁴ Knowing that the alternative is for the ICC to impose trials, the government is driven to impose the maximum justice necessary to avoid an ICC intervention. Meanwhile, the rebels, knowing this pressure on the government, and also aware that the alternative is trials, have an incentive to accept transitional justice measures short of trials.

Extension of the model

⁷³ The government forces may also have committed atrocities and so want amnesty but here I consider it in relation to the rebels because amnesty is within the hands of the government and is part of the total concessions package to the rebels. An extension of the model is when the government forces have committed atrocities in a post-ICC world and this is considered below.

⁷⁴ Mark Freeman, author interview, Barcelona, 15 June 2015

A further extension of the model is to consider the situation if the government forces have also committed atrocities. In this case, the payoff to the government in the post-ICC world would be $P + (1-c) - t$, should the ICC decide to intervene. The government therefore has an incentive to impose justice (short of penal sanctions) against their own forces, sufficient to vaccinate against an ICC intervention.

Expectations arising from the model

If the model is correct, what outcomes would we expect to see? In the two-player game, we can expect the government to give amnesty, to avoid concessions in areas that are more important to it. Therefore, we expect to see evidence of issue linkage and trade-offs giving rise to low political concessions and amnesty.

Hypothesis 1: Prior to the ICC regime, the government will give low political concessions coupled with amnesty.

In the three-player game, the government has the same preferences, but is limited in its use of amnesty. One way around this is to use alternative transitional justice mechanisms, exploiting the principle of complementarity, and based on ideas of nationally appropriate solutions rather than absolute international norms. Therefore, we expect low political concessions and attempts to use transitional justice mechanisms that impose minimal accountability.

Hypothesis 2: Post-ICC regime, the government will use alternative transitional justice measures to try to impose minimal accountability.

I predict that the ICC will try to force the government to move higher up the ladder of a transitional justice continuum. For example, it may argue that justice cannot be diluted at all, argue that a certain minimum must be observed, or refer to international norms that cannot be transgressed. Ginsberg (2009) describes this as the “clash of commitments” between what the government wants, i.e. amnesties, and what the ICC’s legal and political imperative require it to demand, i.e. prosecution. Moving the government up the ladder of transitional justice, not only ensures more justice, but also reinforces ICC credibility. These considerations lead to the third expectation:

Hypothesis 3: The ICC will attempt to increase accountability.

Case selection and methodology

I test the predictions from the theoretical model using a case study. While a case study alone can be criticized for being “atheoretical and ideographical” (Bennett & Elman, 2007: 172), using a case to test theoretical predictions ensures that the analysis stays focused. As Gerring clarifies, when selecting a case in order to examine a causal relationship, we use different selection criteria from choosing a case that is typical or representative of the phenomenon under examination (2007: 92-3).⁷⁵ Essentially, we choose a case based on its perceived satisfaction of the causal relationship, here between the ICC and the government. Case study is justified here because to date we have few examples of the impact of the ICC during peace negotiations. International criminal justice originated to look at post-conflict or post-transitional justice.⁷⁶ However, the ICC has become involved in ongoing conflicts by opening investigations or keeping situations under preliminary examinations.⁷⁷ The ICC opened a preliminary examination of Colombia in 2004, which makes Colombia one of the earliest and longest-running cases. This provides a rich body of examples of government initiatives and ICC responses, and allows us to track the evolution of the ICC position. A further reason why Colombia is a rich case is that the conflict in Colombia has been ongoing for many decades. During the conflict there have been many attempts by the Colombian government to settle with different groups, and this allows us to look at the pre-ICC regime.

Colombia is an unusual case within conflict resolution because it is a long-standing democracy with a solid rule of law, deeply integrated into networks of international and regional governance. However, it is also a useful case with which to test the expectations from the model for precisely the same reasons. The ICC has no independent enforcement powers and much of its effect is through moral traction. Colombia has a long-standing support for international norms. For example, Colombia jealously promotes its reputation for signing international treaties and following international norms - “Colombia has always taken its international obligations very seriously: we are not some pariah”.⁷⁸ Also, Colombia has a

⁷⁵ The latter example of a typical case would be used inductively to develop theory (Gerring, 2007: 91-2)

⁷⁶ The Nuremburg trials are the most well-known of these, and recent international criminal activism arguably started with the International Criminal Tribunal for the former Yugoslavia (established 1993) and the International Criminal Tribunal for Rwanda (established 1995).

⁷⁷ The ICC has opened investigations during six active conflicts - the Democratic Republic of Congo (2004), Uganda (2004), Darfur (2005), Libya (2011), Mali (2013), and Central African Republic (2014). The ICC is conducting or has conducted preliminary examinations with respect to civil wars in Afghanistan (made public in 2007), Colombia (2004), Georgia (2008), and Nigeria (2010). The dates refer to when the ICC action began.

⁷⁸ Representative of the Ministry of Justice, Bogota, 10 June 2015. Also the representative of the International Center for Transitional Justice, Bogota, 3 June 2015

strong track record of conforming with rulings against it at the Inter-American Court of Human Rights. Therefore we can expect the international norms of the ICC to carry weight. To put it another way, Colombia represents a low hurdle for the ICC credibility to surmount. Therefore, if we see evidence that suggests a lack of credibility in Colombia, we can expect that these findings would be valid in other less promising situations. A further advantage of Colombia as a case is that the justice system is strong. It has shown that it is effective, by successfully imprisoning paramilitary and rebel leaders, and that it is independent of the government, by acting against the military. These features of Colombia remove noise that would be present in another case. At a practical level, Colombia has an independent press, which means that much information on the negotiations is publicly available.

Given the uniqueness of the case, however, it also means there are limitations in how far the findings can be applied. For example, in other countries, it may be unlikely that the state would hand over any culprits demanded by the ICC.⁷⁹ Moreover, unlike an authoritarian case, the government is not a unitary actor. The judiciary are independent and have ruled against the government, and the opposition can overturn government policies.

This research draws on in-depth semi-structured interviews with 25 respondents in Bogota and Cali, Colombia; The Hague; and in Barcelona.⁸⁰ These interviews were carried out with key stakeholders and covered the Colombian situation analyst for the ICC; a representative from the Ministry of Justice; a Senator; two retired members of the army, one of whom is director for the Centre for Military Historical Memory; the director of the Centre for Historical Memory; the director and the head of Judicial Office of the Colombian Agency for Reintegration (ACR); a researcher at the National Institute for Legal Medicine in the Attorney-General's Office; the ex-leader of the Popular Liberation Army (EPL); the ex-leader of the Socialist Renovation Movement (CRS); a representative of M-19; ex-commander of FARC; ex-second-in-command of the Workers' Revolutionary Party (PRT); ex-combatant from the United Self-Defence Units of Colombia (AUC); the director of the Colombian Commission of Jurists and Independent Expert on human rights to the UN; a representative from the national human rights NGO de Justicia; a researcher with the Military Legal Defence Office; the Secretary-General of the trade union for teachers; a specialized researcher from the International Centre of Transitional Justice; the director of the Institute for Integrated Transitions who is also independent expert advisor to the government

⁷⁹ This can be seen as evidence of variation in the ICC's credibility in different contexts.

⁸⁰ Twenty face-to-face interviews were carried out in Bogota and Cali from 21 May-11 June 2015, along with two interviews by phone, one by skype, and two by correspondence.

delegation to the peace talks; a representative from the Transitional Justice Fund; the head of peace building in the support mission to the peace process for the Organisation of American States (MAPP-OEA); and two academics specializing in the FARC peace talks.⁸¹ I support this information with a range of primary sources - press releases, autobiographies and written testimonies – and secondary sources – press coverage and third party assessments – in to order to test the predictions, using triangulation to strengthen the interpretation of evidence.

Case study: Colombia

I start by giving an overview of the armed conflict and the use of amnesty in Colombia. I then examine and assess evidence with reference to the expectations previously discussed. I look both at resolutions with groups prior to the ICC regime and in the negotiations that have taken place in Colombia under the ICC regime.

The current conflict began in 1964, but violence has long been a feature of Colombian political action, and armed struggle has been used through a century and a half to achieve that which “could not be solved by other means”.⁸² Amnesty and pardon also have a long history, with their use authorized for political crimes in the Constitution of 1886.⁸³ Amnesty was used by the government in an instrumental way, and the recipients, conditions and requirements of the amnesty or pardon varied according to the needs of the situation. For example, in the 19th century, amnesty was granted between parties who considered themselves equals, and was used to incorporate the losing side into society and to restore them their rights (Orozco Abad, 1992; Waldman, 2007).⁸⁴

During the current conflict, the use of amnesty or pardon has been varied. Some have been broad and generous and used to encourage rebels into negotiations. For example, the release of political prisoners in Law 35 of 1982 was agreed in early negotiations between M-19 and the government and was seen as a first step towards peace.⁸⁵ Others have been

⁸¹ See the Appendix for details.

⁸² Navarro Wolff, Antonio, 2012, cited in *El Espectador*, 14 Oct 2012, *Experiencias de paz*, <http://www.elespectador.com/noticias/paz/experiencias-de-paz-articulo-381197> [accessed 27.5.2015] [author translation]

⁸³ Amnesty or pardon were permitted with the approval of two-thirds of both houses (Congress and Senate) in the case of serious public necessity [“graves motives de convivencia pública”]. Constitution 1886 (Article 76.21) Downloaded from [https:// repository.eafit.edu.co](https://repository.eafit.edu.co) [accessed 31.5.2015]. It is important to note that these provisions excluded amnesty for acts of ferocity and barbarity, so it has never been legally acceptable in Colombia to offer a blanket amnesty.

⁸⁴ Orozco Abad (1992) describes these amnesties as having “moral symmetry and judicial asymmetry”. [author translation]

⁸⁵ Representative of M-19, author interview, Bogota, 27 May 2015

conditional on demobilization and a return to civilian life, for example, Law 77 of 1989, which accommodated the demobilization of M-19. Alternatively, others have been linked to a military push to try to force rebels to negotiate - President Julio César Turbay used amnesty in 1981 alongside a strong military response (Waldman, 2007: 235). Some amnesties have excluded acts of ferocity and barbarity,⁸⁶ while others, despite the 1886 Constitution, did not.⁸⁷

Two-player game: Pre-ICC peace settlements

During the early 1990s, peace was made with four rebel groups – M-19, the Popular Liberation Army (EPL), two smaller organizations: Quintín Lame and the Workers’ Revolutionary Party (PRT) – along with a breakaway section of the National Liberation Army (ELN) called the Socialist Renovation Movement (CRS). Various causes are given for conflict ending with these dyads, including the end of the Cold War and the decline in radical ideology, and internal mistakes, amongst others.⁸⁸ Amnesty, pardon and cessation of legal proceedings were included in all the peace settlements, and were seen by the actors as important for many varied reasons - to avoid prison, to exercise politics, to be restored as a citizen, to close the armed phase and open a new stage, and also as an act by the government to build trust.⁸⁹

It is noticeable that the peace agreements allowed political participation but few actual political concessions. The largest concession was a new constitution, but rebels only had influence on this if they were successful in elections held after the peace settlement.⁹⁰ As Flores, ex-vice-commander of PRT said, “The negotiations [with PRT in 1990] came out cheap for the state, especially compared to today’s negotiations, because there were few political concessions”.⁹¹ In this period, therefore, we find that the Colombian government coupled impunity with low political concessions, and this coincides with the predictions from the model.

⁸⁶ For example, Law 37 of 1981

⁸⁷ For example, Law 35 of 1982

⁸⁸ See Berquist, Peñaranda, & Sánchez G. (2001); Human Rights Watch/Americas (1993); Narvaez Gomez (2009); and Waldman (2007) for more detail on this period.

⁸⁹ Representative of M-19, author interview, Bogota, 27 May 2015; Jose Aristizabal (ex-CRS), author interview, Bogota, 28 May 2015; Enrique Flores (ex-PRT), author interview, Bogota, 3 June 2015; Alvaro Villarraga (ex-EPL), author interview, Bogota, 10 June 2015.

⁹⁰ The Alianza Democrática, which was the political party that emerged from M-19, took 27% of the vote and came second in the elections for the Constitutional Assembly.

⁹¹ Enrique Flores, author interview, Bogota, 3 June 2015 [author translation]

Nested three-player game: Post-ICC settlements

The Colombian government signed the Rome Statute in 1998 and ratified this document on 5 August 2002. From this time onwards, the ICC has had jurisdiction over crimes against humanity and genocide. Colombia made use of an option, under Article 124 of the Rome Statute, that the court would not have jurisdiction over war crimes for 7 years, so ICC jurisdiction over war crimes began on 1 November 2009. I start by briefly looking at some examples of interactions between the ICC and the Colombian government related to the settlement with the United Self-Defence Units of Colombia (AUC). Although these negotiations are not a central part of the analysis,⁹² they expose reactions that we expect from the model, and provide a background and a legal framework to any settlement with the FARC.

Negotiations with AUC

In 2002, the government of Alvaro Uribe was in negotiations with the AUC, paramilitary self-defence groups that set up in many parts of Colombia to defend against the guerrillas and who went on to control the drug trade and committed many human rights abuses. Early laws provided amnesty for the AUC,⁹³ and, following the Colombian constitution, these amnesties did not cover atrocious crimes.⁹⁴

However, in August 2003 the government attempted to bring in a replacement law called the Law of Alternative Punishment. Colombia by this stage had ratified the Rome Statute and was under the jurisdiction of the ICC. Despite this, the proposed law included three particularly controversial points – it did not mention international law, even though this was now part of Colombian domestic law; it did not recognize or punish international crimes; and it proposed that those convicted of crimes could serve their sentences in their own homes (Carrillo, 2009). The proposals gave rise to internal and international disgust. Following this, the OTP opened its preliminary examination into Colombia in June 2004,⁹⁵ and some observers consider that these actions were linked. According to a national human rights

⁹² The model is based on divergent preferences between the government and rebels. By contrast, we can expect the government to favour political concessions to a paramilitary group (though it is arguable whether the AUC pursued political goals, but see Ronderos (2014) for an alternative point of view).

⁹³ Law 782 in 2002 and Decree 128 of 2003

⁹⁴ Amnesties could not be granted for atrocious acts, kidnapping, terrorism, genocide, and murder outside combat or against defenceless victims.

⁹⁵ A preliminary examination is the step before opening an investigation.

NGO, the decision was definitely linked, “to send a message about [the proposed] law”.⁹⁶ This was the first action of the ICC with respect to Colombia, and we see an example of the government trying to allow amnesty and the ICC reacting with threats of further involvement.

The government then proposed a replacement law - the Justice and Peace Law of 2005.⁹⁷ Commentators argue that explicit references to international norms and the inclusion of prison for most responsible leaders of AUC show that the ICC had an impact (Carrillo, 2009).⁹⁸ The law included reduced sentences for the most serious crimes, though legal benefits are contingent on truth telling, reparations, and a promise against returning to lawlessness. Here we see the government is increasing accountability in reaction to the ICC. However, we see that the government is also attempting to fulfil accountability with alternative transitional justice measures. Despite the controversy raised by domestic and international critics and the success in making amendments to the law, the final judicial impact was small. In the end, 90% of demobilized fighters received the less demanding amnesty under the previous amnesty, Law 418 of 1997. Only 10% passed through the Justice and Peace Law, and lower-ranking soldiers were amnestied completely, while higher-ranking actors were subject to shorter punishments of 5-8 years for crimes that would normally have been punished with 30-40 years in prison. As of September 2014, there were 37 convictions, from the more than 30,000 who demobilized and confessed crimes under the Justice and Peace Law (Human Rights Watch, 2015).

Negotiations with FARC

The Colombian government opened formal negotiations with the FARC in September 2012 after seven months of secret talks about talks. These gave rise to a General Agreement that provides a road map for the future talks and lays out five points for negotiation: reform of political participation, land policy, drug policy, the human rights of victims and their access to truth, and how to end the conflict.⁹⁹

⁹⁶ Camilo Sanchez, author interview, Bogota, 3 June 2015 [author translation]

⁹⁷ Law 975 of 2005, 25 July 2005. This did not originate solely with Uribe, and in fact some parts came from the opposition (Palau van Hissenhoven, 2006).

⁹⁸ Also, representative of Transitional Justice Fund, author interview, Bogota, 22 May 2015

⁹⁹ General Agreement for the ending the conflict and the construction of a stable and durable peace, 26 August 2012, <https://www.mesadeconversaciones.com.co/sites/default/files/AcuerdoGeneralTerminacionConflicto.pdf> [accessed 14 July 2015]

On 27 December 2012, the government passed the Legislative Act 01 of 2012, known as the Framework for Peace Law.¹⁰⁰ With this legislation, the government tried to clarify the many pieces of legislation around transitional justice by proposing an amendment to the constitution that would put alternative transitional justice measures into the constitution. The law takes a generous approach to accountability. Firstly, it declares that transitional justice measures are justified by the overriding aim [“finalidad prevalente”] of ending conflict. Secondly, it states that only the most responsible for only the most heinous crimes should be targeted for criminal proceedings (i.e. crimes that ought to be tried under international law might not be prosecuted if those committing them were not the most responsible). Thirdly, cases can be prioritized (i.e. other cases that break international law may be relinquished). Furthermore, and most controversially from the ICC point of view, sentences can be suspended.

The opening of peace negotiations with FARC sharpened the discourse over transitional justice. The OTP responded to the Framework for Peace Law in July 2013 with a letter that stated that inadequate punishment would “invalidate the authenticity of a national transitional justice process” and activate ICC intervention (Semana, 2013). A *reduced* sentence may be considered acceptable if a perpetrator disarms, demobilizes, gives a guarantee of non-recidivism, contributes to a truth process, and recognizes his or her penal responsibility, along with a prohibition to be involved in public life, so long as the original sentence reflects the gravity of the crime. A further letter from the OTP in August 2013 criticized the aim to select for trial only certain actors (justified in Colombia by saying that this was how the ICC and the International Criminal Tribunal for the former Yugoslavia also acted) (Semana, 2013). The OTP stated that these examples were not to set a precedent for how national governments should act.

What is particularly striking is that these letters were originally sent privately to the Colombian government (though they were later made public). These statements are not just a rhetorical position adopted by the ICC in public to try to take a stance, but are a direct and individualized comment to the Colombian government. As Freeman notes, “The ICC letter on the Legal Framework for Peace obviously was meant to influence. Although the content of the letter could have been rejected, there was no way that the letter itself could be ignored”.¹⁰¹ The OTP’s inclusion of a prohibition on involvement in public life (not even just political

¹⁰⁰ ICTJ, Legislative Act 01 of 2012, https://www.ictj.org/colombia-timeline/index_eng.html, accessed 10 July 2015

¹⁰¹ Mark Freeman, author interview, Barcelona, 15 June 2015

participation) is controversial as this is an important issue for the FARC. The OTP later claims this intervention was timed to be prior to this issue being opened in the negotiations with the FARC, so that the government could negotiate “a peace agreement that was compatible with the Statute” (Stewart, 2015: 11). This incident is an example of the ICC reacting to perceived government reduction of accountability with a push for increased accountability, even including proposed intervention, and with statements that are “too black and white”.¹⁰²

The peace negotiations with the FARC began to bear fruit in 2013, with an announcement on a settlement on political participation announced on 6 November 2013.¹⁰³ This was followed by agreement on dealing with illicit drugs on 16 May 2014,¹⁰⁴ on rural reform on 6 June 2014,¹⁰⁵ and, most relevant with respect to the ICC, an agreement on transitional justice, announced on 23 September 2015.¹⁰⁶ This final agreement provides different levels of justice. Amnesty is provided for all non-serious crimes and connected crimes. As yet, connected crimes are unspecified, but will probably include drug trafficking. For serious crimes,¹⁰⁷ those who take admit to their crimes will receive between five and eight years of alternative punishment, those who delay in admitting responsibility will receive between five and eight years of normal imprisonment, while those who do not cooperate will receive 20 years in a normal prison. These provisions supplement a commitment to a post-conflict Truth Commission, announced on 4 June 2015.¹⁰⁸

Two-player game

We see that the government’s actions in the negotiations do not follow a logic of giving as low concessions as possible, which, *ceteris paribus*, is their preference. In the words of one observer, “[The FARC] have a concession on agrarian reform, and they can’t get a better

¹⁰² Representative of the Ministry of Justice, author interview, Bogota, 10 June 2015 [author translation]

¹⁰³ Borrador conjunto: Participación política, 6 November 2013, downloaded from UN Peacemaker <http://peacemaker.un.org/colombia-politicalparticipation2013/>, accessed 8 November 2015.

¹⁰⁴ Borrador conjunto: Solución al Problema de las Drogas Ilícitas, 16 May 2014, UN Peacemaker <http://peacemaker.un.org/colombia-drogasilicidas2014>, accessed 8 November 2015.

¹⁰⁵ Borrador conjunto: Hacia un Nuevo Campo Colombiano: Reforma rural Integral, 6 June 2014, UN Peacemaker <http://peacemaker.un.org/colombia-reformarural2014>, accessed 8 November 2015.

¹⁰⁶ This agreement has not been published. A joint press statement was delivered, Comunicado conjunto #60 sobre el Acuerdo de creación de una Jurisdicción Especial para la Paz, 23 September 2015, downloaded from Colombia Reports <http://colombiareports.com/colombias-peace-deals-in-depth-transitional-justice/>, accessed 8 November 2015.

¹⁰⁷ Defined in Article 4 of the Comunicado conjunto #60 as crimes against humanity, genocide, serious war crimes, other serious crimes such as hostage taking or other serious deprivation of liberty, torture, forced displacement, forced disappearance, extrajudicial execution, and sexual violence.

¹⁰⁸ BBC, 4 June 2015, Colombia and FARC announce truth commission, downloaded from <http://www.bbc.com/news/world-latin-america-33017258>, accessed 8 November 2015.

deal... The drugs agreement can't get any better. On victims, they can't get any better deal".¹⁰⁹ As argued by Tsebelis (1990) such seemingly sub-optimal choices only make sense if we consider the broader context of the nested game. The settlement cannot be explained by issue linkage in isolation – observers note “the transitional justice negotiations do not spill over into other negotiation themes”,¹¹⁰ and “there is no spillover between issues”.¹¹¹ The shadow of the ICC lies over the negotiations, setting parameters on what is possible.

Three-player game: Government and ICC divergent preferences

The government is in a parallel play with the ICC where the ICC's priority is to insist on penal sanctions. The government's priority is a negotiated solution, as the government has staked its reputation on bringing peace to Colombia. One observer states “[Peace] talks were always very politicized and were a vote-winner.”¹¹² In this, the government is in a further game with the right-wing opposition within the country, which is keen to bring down a peace settlement - “the big spoilers are the right wing, because they will lose their economic and political power”.¹¹³

The government strategy

Let us consider the various actors' strategies within these nested games. The government wants to make peace with the rebels while ensuring that it sufficiently fulfils its requirements under international law to prevent an ICC intervention and while ensuring that does not give the right-wing opposition so much ammunition that it loses office. We see the government has included differential treatment for serious crimes in the transitional justice agreement of 23 September 2015, with prison sentences of up to 20 years. No serious crime will receive amnesty. However, the settlement is also generous to the rebels. In particular, sentences may be between five and eight years, and there is provision for alternative punishments, such that the FARC may not go to prison. The government is in a grey area here with respect to the ICC, since the Vice-Prosecutor said that the OTP would not speculate on alternative punishments (Stewart, 2015: 13). A representative of the OTP added that “what is clear, is that in evaluating a sentence, the OTP would consider a number of factors”.¹¹⁴

¹⁰⁹ Anonymous academic, author interview, Bogota, 9 June 2015 [author translation]

¹¹⁰ Representative of the International Center for Transitional Justice, author interview, Bogota, 3 June 2015 [author translation]

¹¹¹ Anonymous academic, author interview, Bogota, 9 June 2015 [author translation]

¹¹² Representative of the Transitional Justice Fund, author interview, Bogota, 22 May 2015 [author translation]

¹¹³ Anonymous academic, author interview, Bogota, 9 June 2015 [author translation]

¹¹⁴ Representative of OTP, author interview, The Hague, 2 November 2015

However, it is also likely that the government uses the ICC against the rebels. As Cuellar Boada (2005: 325-6 [author translation]) states, “Paradoxically, the government becomes a more efficient negotiator as its negotiating power becomes reduced, whether that is due to the North American government, or due to the ICC.” The national courts have already tried a number of the FARC leadership in absentia for crimes that would come under the jurisdiction of the ICC, with national sentences that range up to 40 years. By contrast, the proposed sentences under the transitional justice settlement are five to eight years. The ICC has stated that its reaction is “subject to the appropriate execution of sentences” (OTP, 2012: 5). The government is the only actor who can grant a sentence reduction or pardon to the rebels, and this sentence reduction would have to be acceptable to the ICC. Thus, the government can use the threat of the ICC to keep the rebels at the talks where they can accept domestic justice and avoid an ICC reaction. Mark Freeman, an independent expert advisor to the government delegation to the peace talks, describes how “broadly speaking on issues of justice, the government is very clear that it is not unlimited terrain. There are legal realities and you have to work with those as much as possible”.¹¹⁵

In fact, the greatest threat to the government may not be the ICC, but the internal opposition along with international non-governmental organizations (NGOs). Again, the government can use ICC acceptance of a settlement against these internal and external critics of the deal. Furthermore, for the public, ICC approval is a heuristic device that indicates acceptability. The government therefore, is facing multiple veto players. In both the game with the rebels and with internal or external opposition, it has an incentive to make the ICC appear as credible as possible.

The OTP strategy

The OTP strategy is to threaten to intervene in order to push the government as high up the ladder of accountability as possible. The OTP accepted sentences of 5-8 years under the Justice and Peace Law, and the Vice-Prosecutor accepted that “states have wide discretion [in sentencing]” (Stewart, 2015:10). However, the OTP has made clear that it expects Colombia to “improve upon [the Justice and Peace Law], going forward” (Stewart, 2015: 12), and he also made clear the ICC red line that suspended sentences are unacceptable in any circumstances, since these would be “shielding the persons concerned from criminal responsibility” (p. 11). Plus, the OTP would assess critically any alternative sentence, based

¹¹⁵ Mark Freeman, author interview, Barcelona, 15 June 2015

on the “proportionality of the sentence in relation to the gravity of the crime and the degree of responsibility of the offender” (p. 13). A representative from the Ministry of Justice considers “Colombia has become the victim of its own success, because it set the standard too high with the Justice and Peace Law. The ICC thinks that Colombia did it once, so why can they not do it again. They do not realize that...the actors are completely different”.¹¹⁶

Thus we see a certain degree of threat of trials from the OTP. However, this cannot be a certain outcome as in that instance the FARC would not continue to negotiate. I argue that the OTP is also constrained by its credibility. A number of observers note “the ICC is losing its shine”,¹¹⁷ and “ten years ago it would have been unthinkable to criticize the ICC; now people call it a paper tiger”.¹¹⁸ The question is whether the ICC could credibly threaten to intervene. Not only would the Colombian government have to agree to hand over any defendants, there is also a risk that conflict could restart. As a government representative said, “What happens if it falls through? Colombia has to return to war because Bensouda has put her honour and prestige in play?”¹¹⁹ A further possibility is that the OTP may be using the lack of clarity over what exactly is acceptable in order to hide its lack of credibility. It cannot put red lines. Furthermore, given its perceived weakness internationally due to a lack of enforcement power, and the criticisms of its perceived focus on Africa, a success in Colombia strengthens it as an institution. This need makes it more open to compromise.

The rebel strategy

The rebels have been aware of their power, through the outside possibility of returning to violence. Remember that their preferences may be $SQ > c - t$, and their strategy has been to threaten to withdraw from the peace process if the accountability demands are too high. FARC peace negotiator Pablo Catatumba (cited in FARC-EP, 2015 [author translation]) stated “If you review all successful recent armed conflict resolutions, there is not one that has resulted in the incarceration of rebels. Why should Colombia become the first nation to do such a thing?” Observers also comment “Preventing [the FARC] from political participation would make the process unviable, since it would eliminate perhaps the most important incentive that the guerillas have to demobilize”.¹²⁰

¹¹⁶ Representative of the Ministry of Justice, author interview, Bogota, 10 June 2015 [author translation]

¹¹⁷ Anonymous individual, author interview, Bogota, 3 June 2015 [author translation]

¹¹⁸ Camilo Terreros, author interview, Bogota, 10 June 2015 [author translation]

¹¹⁹ Representative of the Ministry of Justice, author interview, Bogota, 10 June 2015 [author translation]

¹²⁰ Claudia Lopez, author correspondence, Bogota, 28 May 2015 [author translation]

Their second strategy is to seek domestic justice rather than international justice. Commentators note that at the beginning of the negotiation process, FARC rejected the whole underpinning ideas of transitional justice, with its emphasis on individual criminal accountability, saying it was “an invention of the United States”.¹²¹ Now that they are aware of the potential for intervention that the ICC has, alongside the possibility of extradition to the USA and the consequences of universal jurisdiction, “they recognise the importance of “judicial security”, i.e. that the legal situation is well tied up and that they will not be chased in the future”.¹²² An ICC approved agreement with domestic trials, with terms that they have agreed to in a negotiation, gives them more control and security than international trials.

Extension to the model

Finally, I turn to the extension to the model, where government forces have committed atrocities. The model predicted that the government would try to shield its forces. Contrary to this expectation, in Colombia, there is evidence that the state forces have been treated more strictly than rebels. For example, state actors who acted against the M-19 group received sentences of up to 50 years, while members of the rebel group received an amnesty. Many respondents noted these and other examples, though they offered varying explanations, ranging from lawyers trying to make money to biased judges. The government may even tacitly support these sentences, to show that justice in Colombia is impartial. What is certain is that the courts are (relatively) independent in Colombia and, since it is within a democratic system, the government cannot be seen to challenge egregiously the court’s decisions. Thus, the findings from Colombia do not support my model. In fact, representatives of the army are now pushing for the army to be submitted to justice, but for it to be the same as that applied to the rebels (seen as more generous).

In sum, over the last thirteen years there have been examples of the government trying to give maximum impunity in the form of redefining crimes so that they can be amnestied or allowing alternative, reduced or suspended sentences. Concurrently, the government has increased the importance of other transitional justice measures, attempting to balance the lack of sanctions with measures that meet the rights of victims. Thus, we see many examples that concur the second expectation arising from the model, that the Colombian government will use the concept of a continuum of measures in order to fulfil the minimum requirements. As one commentator observes, “What we call transitional justice is an amnesty. An amnesty that

¹²¹ Camilo Sanchez, author interview, Bogota, 3 June 2015 [author translation]

¹²² Anonymous academic, author interview, Bogota, 9 June 2015 [author translation]

is conditional on telling the truth and other things, but still an amnesty”.¹²³ At the same time, we see repeated interventions from the ICC in the form of letters and visits to Colombia reiterating that the rights of victims are not satisfied without perpetrators taking criminal responsibility. So, we also see the third expectation fulfilled, that the ICC tries to push the government higher up the ladder of maximum justice with penal sanctions.

Conclusion

The ICC has been an influence on international justice since 1998. States that have ratified the Rome Statute pass their judicial sovereignty to the ICC, while even non-state parties are affected, since the ICC can take jurisdiction under a UN Security Council mandate. To date the ICC has acted mostly in post-conflict and post-transition situations, but obviously the arrival of an ultimate enforcer of international criminal justice also has an influence on ongoing situations. This article develops a model that maps how this influence has an effect on peace negotiations. The model nests a negotiation between the government and the rebels, where the government trades political concessions for amnesty, inside a game with the ICC. The argument is that the ICC limits the options available to the negotiating parties. The government’s strategy is to disaggregate justice in order to offer measures that lie towards the amnesty end of a justice continuum, while also using the ICC to pressure the rebels and its domestic opponents.

One implication of this is that the move to put victims at the heart of the solution to a conflict is not driven by changing norms, as is often argued, or at least not solely. The use of victim-centred transitional justice measures, such as truth commissions, reparations and admittance of guilt, is rather (or also) a response to the government’s own preferences to offer as much amnesty as possible by using other transitional justice mechanisms. This reflects other studies that consider truth commissions to be a way for government to avoid trials (Grotsky, 2009). In some ways this is positive for advocates of international justice, since they do not have to rely on only a norm to do all the heavy lifting. Rather, it is in the government’s own self-interest to put these policies into practice.

A further implication is that the ICC will achieve most justice where the justice requirements are undefined. Let us assume that the ICC has a level of amnesty that it will accept, where $i = i'$. If the government offers $>i'$, then the ICC will open an investigation. For

¹²³ Camilo Torroeros, author interview, Bogota, 10 June 2015 [author translation]

example, in Colombia the OTP has argued that it accepted the Justice and Peace Law because there were penal sanctions (although with reduced sentences) and because the reduced sentences were balanced with other transitional justice measures, and furthermore that compatibility with the Rome Statute would depend upon “the particular circumstances of the case”. (Stewart, 2015: 11). Let us consider what will happen if the government does not know the value of *i'*. If it judges wrong and grants too much amnesty, then trials will be triggered. Therefore, an offer of too much amnesty is not a credible commitment from the rebels' point of view. Rather, the government must err on the side of caution (and be seen by the rebels to err on the side of caution) i.e. offer less amnesty. In this way, by not revealing its true bargaining position, the ICC can achieve more than its minimum level of acceptable justice.

The final consideration is whether the ICC influence is one that is constructive in peace processes. The ICC constrains actors and limits the government's choices. It “puts a perceived floor on what can be negotiated”.¹²⁴ Whereas before there were two actors at the negotiating table, now there are three. This limits the government's ability to make the finely-tuned decisions on what compromises are necessary for peace. The ICC has made clear that it separates political and legal considerations and considers only the latter. The Colombian Constitutional Court passed judgement on the proposed Legal Framework for Peace in 2013, and ruled that the right to peace establishes an overriding duty on the state and justifies compromises on justice. The OTP responded that “[the Prosecutor] is not driven by considerations of peace or security” (Stewart, 2015: 17-18). This reflects the OTP position in their policy paper that the interests of justice are not the same as the interests of peace, and that the ICC is driven by the former, whereas the latter “falls within the mandate of institutions other than the [OTP]” (ICC Office of the Prosecutor, 2007: 1). Some see this as positive “to the degree that it makes clear that justice is an independent variable, the interests of which can neither be entirely subsumed within the needs of peace, nor avoided on the accurate, but limited, premise that negotiated peace is ultimately a political matter”.¹²⁵ However others argue that making peace is ultimately a political, not a technical, negotiation. “If we have to cross this [red] line [that the ICC has specified], we end up in politics... It is not a technical exercise, it is politics.”¹²⁶ By denying political manoeuvring, the ICC may be standing in the way of a peace settlement where justice is included, albeit a less accountable form of justice. If the ICC blocks such a peace agreement, it loses, along with the country

¹²⁴ Mark Freeman, author interview, Barcelona, 15 June 2015

¹²⁵ Mark Freeman, author interview, Barcelona, 15 June 2015

¹²⁶ Representative from Ministry of Justice, author interview, Bogota, 10 June 2015 [author translation]

involved. Freeman and Pensky (2012) predict a new role for the ICC, whereby the ICC presents itself as the protector of international justice as a whole. One manifestation of this would be “more principled peace deals” (p. 63). Based on the evidence from Colombia, this is as far as the ICC can go. In this way, it also maintains its credibility. Shlomo Ben Ami, Israeli ex-chancellor, author of the Camp David peace accords and advisor to the Colombian government on the peace talks, claims that the day Colombia signs the peace agreement, nobody will question it.¹²⁷

¹²⁷ Quoted by Gonzalo Sanchez, author interview, Bogota, 25 May 2015

Conclusions

General conclusions

The main purpose of this dissertation has been to take a comprehensive look at amnesties during civil wars. The aim of the dissertation was to develop a theoretical framework and empirical understandings of their uses and effects, both across time and within the new context of international law. I ground the work in the civil war literature, also drawing on ideas from transitional justice, terrorism studies, democratization studies, and sociology.

I propose a framework for the use of amnesties during civil war that is developed across the three papers. One underpinning feature of the framework is that it is placed within a rational choice context and is focused on the cost-benefit analysis that drives actors' decision-making. This proves to be a fruitful way to examine the use of amnesties as I find in paper 1 that the government chooses the option most likely to bring the highest benefit at the lowest cost. Benefits to the government, such as gaining military advantages through amnesties, are shown to make the selection of amnesties more likely, while costs, such as displaying weakness, are significant in making amnesty less likely. These assumptions also strongly underpin the modelling in the third paper, where governments weigh the potential balance of different transitional justice measures.

A second underpinning feature is the focus on actors as I account for the characteristics of the actors and their preferences. The theoretical framework for amnesties encompasses the government, rebel groups, and external third parties. I argue in detail in the papers how the actions and expected actions of these actors impact on both the choices available to the other actors and the value of those choices. The use of an actor-centred model is justified as the balance of the actors is seen to be important in the choice and effectiveness of amnesty. The strength of the players is shown to be significant in the selection of amnesties in the first paper. These assumptions also underpin the second paper, where I find that the effectiveness of amnesty depends to some extent on the characteristics of the rebels. In the third paper, the actions of actors, particularly the external third party, constrain the options available to the other actors.

One of the most innovative findings of the thesis is the first element of my theoretical framework of amnesties, which is that amnesty can be used by the government as a weapon of war. In essence, the government will use amnesty in order to strategically improve its own position in the conflict, driven by a cost-benefit calculus. In Paper 1, I examine whether amnesty is a concession determined by strong rebel groups or a mechanism of war and control determined by a strong government. I find that amnesties are more likely when the opposition as a whole is weak and against individual weaker groups, particularly in conflicts where there are many groups fighting. Giving amnesty is useful for the government if it brings the government military advantage. For example, the government might be able to suck support away from rebel groups; split rebel groups into factions that accept the amnesty and those that do not; or settle with certain groups in a multi-group conflict, freeing up resources to concentrate on defeating the remaining groups. Decreasing or ending conflict, even just with smaller groups, ensures that all military strength can be reserved for the more threatening group.

Granting amnesty can be useful if it allows the government to avoid more costly alternatives, namely continued fighting, formal negotiations or political concessions. *Continued fighting* may be a worse option when it is a drain on resources and reduces the government's capacity to demonstrate that it controls the security of its people. An amnesty enables the government to settle quickly while controlling the benefits it gives to the rebels. Essentially, it can mean a quick ending now with no further concessions beyond the amnesty, thus avoiding formal negotiations. *Negotiations* can be a worse option for the government because these open the possibility of unknown outcomes, elevate the rebels to bargaining partners, and require that the government concede to rebel demands on the format of the talks, e.g. inviting third party mediators. Taken together, these represent a loss of control for the government.

Even within negotiations, the government may use amnesty instrumentally to avoid the worse option of *political concessions*. If the government is already within a process of negotiation, amnesty can be used as a trading piece, again with the logic of establishing at what price the rebels are willing to settle, and potentially avoiding political concessions that have a higher value for the government. I explore this idea in more depth in the third paper and I develop a model of a two-dimensional issue space using theories of issue linkage.

The second part of the framework focuses on the rebels' calculus and examines in what way amnesty can act as an incentive that helps reduce or end civil war. I take the idea from the civil war literature that opponents continue fighting because of the expected benefits

of victory and the expected costs of defeat. Amnesty has effects by changing those expected costs of defeat because it removes the threat of trials and guarantees security, freedom and rights to social standing. Amnesty thus acts as an incentive to cease fighting. I find in Paper 2 repeated support for the idea that when the amnesty is more generous, conflicts are more likely to reduce in intensity or end. This is also the case when there is already a process of negotiation, where the amnesty may be part of a bigger package. These incentives act in a direct way. However, I also expose an important mechanism whereby governments use amnesties in multi-actor conflicts to remove actors from the conflict, which enables the government to focus its forces on the remaining actors.

The third part of the framework looks at the impact of external actors. I zoom in on the moment of negotiations and look at settlement dynamics under the new context of international law. Previously, there were two actors in a negotiation, whereas now there are three. In Paper 3, I develop a model that examines the interaction of these three actors and looks at how they impact on each other. I then look in depth at the impact of the ICC on the current peace negotiations in Colombia. My argument is that the ICC limits the options available to the negotiating parties, and that the government must give greater political concessions now that offering amnesty is not an option. Simultaneously, the government will disaggregate justice, to offer measures that lie towards the amnesty end of a justice-amnesty continuum. Essentially, I propose that the incentive to tip the rebel calculus has to remain the same size, so if the amnesty component of it has to be reduced, a substitute must be found. By looking at the case study of Colombia, I find that the ICC constrains the actors. The government is in a complex dance, balancing the ICC and the rebels, and trying to calibrate what combination of transitional justice measures will be acceptable. By limiting too much the government's room for manoeuvre, the ICC risks jeopardizing a peace process that includes substantial transitional justice.

Taken together these elements add up to a comprehensive theoretical framework for amnesties. To summarize my framework, the government has incentives to use amnesty to improve its position and the choice of granting amnesty depends on the costs and benefits to the government of doing so. The improvements in position may be to gain military advantage within the conflict or to avoid more unattractive options such as formal negotiations or political concessions. The government uses amnesty to pick off the individuals, factions or groups with whom it is less costly to settle. Amnesties will have an effect if the amnesty is sufficient to act as an incentive to the rebel group to quit fighting. Amnesty is advantageous to the government, both through direct effects, but also in an indirect way by freeing up

government resources to focus on remaining groups. When using amnesties as an incentive, however, the government can avoid giving broader political concessions. Third party interventions or threats of intervention over amnesty reduce the government's range for manoeuvre and so it must offer increased political concessions.

Contributions

The dissertation is innovative in its topic as it moves beyond most of the transitional justice literature, where much of the theorizing is based on processes of democratization, and also focuses on post-transition and post-conflict justice. Instead, the spotlight in this thesis shines on when and how amnesties are used during civil wars. This dissertation makes a number of contributions to both the transitional justice literature and the civil war literature.

I make two particular contributions to the transitional justice literature. The first is a deeper empirical understanding of a previously understudied topic – the use of amnesties during civil war. In this, I focus on the empirical evidence for the use of amnesty, and I contribute to the growing literature on the effectiveness of transitional justice. As van der Merwe, Baxter and Chapman note (2009: 4), much of the current debate is driven by “romanticized notions of ... achievements”. While the legalist scholars are concerned with debates about absolute principles and universal rights, focusing on empirical results requires that we should not study amnesty in isolation from the context in which it is given and from the characteristics of the actors involved. For example, I show that to understand amnesty we should not treat it as a unitary concept but should disaggregate it into different content, different recipients, or different conditions. Thus, this thesis is a contribution to an increasing body of empirical findings in the transitional justice literature, using rigorous methods taken from political science.

The findings themselves are a step forward in the understanding of the use of amnesty, and I next highlight the findings that are particularly novel for the field of transitional justice. The first is that governments target amnesty against weaker groups and in coalitions. This is innovative, since amnesties to date have been seen as a necessary evil given to otherwise intransigent opponents. The second finding is that unconditional and unlimited amnesties have little generalizable impact on reducing conflict intensity or on terminating conflict. Again, this challenges current assumptions that amnesty is a crucial

piece of the jigsaw. Rather, the impact of amnesty is highly context specific: certain types of amnesties have an impact under certain types of conditions.

The second contribution to the transitional justice literature is a theoretical framework for the use of amnesties during civil wars. I draw on many diverse literatures to inform this model – economics, sociology, terrorism and democratization studies, and political science – and I create a model that is sufficiently comprehensive to explain why amnesties might be granted that have a low hope of acceptance (the government is using amnesty to pick out groups with which it can settle at low costs); why amnesties do not always have effects (the incentive is not sufficient for the rebel group); and why governments are still keen to use amnesty today (it releases them from having to grant political concessions that are worth more to them). A particular contribution of the model is that in Paper 3 I include a way to understand the impact of the ICC or another external third party in peace negotiations. Although the normative literature has talked extensively about this topic, here I provide a model for understanding the interplay between expected actions and choices and how choices can be constrained or facilitated.

I also contribute to the civil war literature. One original contribution is to go beyond those interventions in civil war already studied to date – military actions, third party interventions, or negotiations – and show that we should also include legal actions. Similar to studies on “lawfare” (Dunlap, 2008; Meierhenrich, n.d.), I show that legal actions can be used as an instrument of war by the government, and that furthermore they can be effective in changing the dynamic of civil war.

A further contribution is to add to the recent work in the civil war literature on the importance of actors, an area that is ripe for further exploration (Blattman & Miguel, 2010; Gleditsch et al., 2014). In Paper 2, I examine the use of incentives to tip the utility calculus of the rebels on whether to continue fighting. In Papers 1 and 3, I put the spotlight on the role of the government within a conflict, an actor that is often treated by default. By focusing on an action that is solely within the control of the government - the legal step of granting an amnesty - I show that the government’s agency has a crucial impact on the dynamics of a conflict or negotiation. This is innovative because much previous research has focused on international interventions, such as military actions, peacekeeping, and economic sanctions.

This dissertation is also important in the real world, as King, Keohane and Verba (1994) urge. Amnesty is a highly-charged topic because of the international norms against amnesty that bars prosecution for international crimes. It is crucial to assess more rigorously the actual empirical effects of amnesty, taking into account the context in which the amnesty

has been given. It is also valuable to examine the full universe of amnesties, without restricting the conclusions to only those amnesties for the most atrocious crimes. Finally, the thesis is important for its contributions to understanding how civil wars end. Sadly, there are still many intractable conflicts and understanding the dynamics of conflict termination is still important.

Policy recommendations

The first policy recommendation is to endorse the use of non-controversial amnesties. There are ways to ethically target amnesties in keeping with international law (Mallinder & Hadden, 2013). Such amnesties can be a low-cost way for the government to end a conflict quickly. I also find that amnesty can have indirect effects, and using amnesty to “peace-bomb” a dyad, even those considered less threatening, can have an effect on the overall dynamic of a conflict. Thus, amnesty is a useful instrument in the government’s armoury, and can help reduce the intensity of fighting and, in some instances, even end conflicts.

However, controversial amnesties, in other words amnesties that bar prosecution for international crimes are now normatively more unacceptable. Yet, eradicating this mechanism limits the government’s strategic choices: specifically it eradicates one way of ending a conflict. If we look at government’s choices during conflict, the government’s two alternative options are to fight for military victory or initiate negotiations. However, should the government be unwilling to implement a military surge to ensure victory or alternatively start negotiations, these wars will drag on as intractable conflicts. The ending will come only when one side gets lucky and wins, or when the rebels become strong enough to force the government to start negotiations. In the meantime, there could be more years of conflict. As many commentators stress, prosecution “risks making today’s living the dead of tomorrow.... The pursuit of criminals is one thing. Making peace is another” (Anonymous, 1996: 258).

If we look at the moment of bargaining a settlement, amnesties can also play a role as part of a settlement package. Amnesties were once seen as an automatic part of a peace agreement, often granted early in negotiations and with little controversy between the parties.¹²⁸ Without the option of including amnesty as an incentive within the package, the government must increase political concessions. We should be aware of a disjuncture in

¹²⁸ Kristian Herbolzheimer, negotiator with Conciliation Resources to the peace processes in Colombia and the Mindanao conflict in the Philippines, author interview, Barcelona, 2 June 2013.

benefits. The increase in political concessions is a price that will be paid by the government domestically. For example, it may have to concede greater power than it would otherwise do. Additionally, the requirement for prosecutions puts an economic cost on the government that may compromise other important development goals that are necessary in the post-conflict period and that may do more to reduce the risk of a return to conflict. Furthermore, in some cases, trials can be destabilizing in a newly post-conflict society. “The examination of the legacy of past human rights violations and collective violence risks reopening deep wounds and may exacerbate societal division” (van der Merwe, Baxter, & Chapman, 2009: 3).

Yet the benefits of prohibiting an unlimited amnesty will be felt in large part by the international community in terms of deterrence of future atrocities. The balance of whether these alternative options constitute a price worth paying in order to remove impunity, particularly for atrocious crimes, may be different when seen from the domestic level, particularly from the government’s eyes but perhaps also from the general society and from victims, than when seen from the international community. The international community, therefore, should be aware of the price it is asking the government to pay, and if it is truly opposed to amnesty for atrocious crime, it may need to help the government in the military surges, or compensate the government for the increased political concessions or economic compromises it must make. “There are no obvious or cost-free answers to the amnesty dilemma” (Freeman, 2009: 7).

A further policy recommendation refers to the role of the ICC. The ICC is present as a shadow at the negotiating table and constrains the choices available. To a certain extent, this is now beyond discussion. It is the law. However, there is also room for flexibility. A rigid insistence on prosecution and punitive sentences possibly acts as a deterrent to future atrocities but definitely impacts on the ability of the government and rebels to reach a mutually satisfactory peace deal. Such an insistence risks jeopardizing peace deals, even those that go a long way along the continuum of transitional justice by including reparations to victims, truth commissions, etc. The granting of amnesty was once a political action within the exclusive and sovereign domain of the state. Now it has become a technical and legal matter under the mandate of an international institution.

Again and again we see domestic rulings that peace justifies compromises on justice. The South Africa Constitutional Court ruled in favour of the amnesties used there, with the words “The erstwhile adversaries... have to live with each other and work with each other and the state concerned is best equipped to determine what measures may be most conducive

for the facilitation of such reconciliation and reconstruction”.¹²⁹ The Colombian Constitutional Court ruled “the right to peace establishes an overriding duty on the state and justifies compromises on justice”.¹³⁰ I recommend that the government is best placed to understand the difficult compromises that need to be made in order to achieve peace and that a black and white insistence on immutable standards of justice risk the larger prize, which is peace.

There has been a pendulum swing against amnesties that has taken place remarkably quickly in the last decades. However, much of the impetus for the swing came from the transitions to democracy in Latin America, which framed the first generation of debate and mobilization on transitional justice. However, now states are pushing back against this pendulum swing. Protocol II of the Geneva Conventions is clear “At the end of hostilities, the authorities in power shall endeavour to grant the broadest possible amnesty to persons who have participated in the armed conflict, or those deprived of their liberty for reasons related to the armed conflict, whether they are interned or detained”.¹³¹ The commentary by the International Committee of the Red Cross (ICRC) states “Amnesty is a matter within the competence of the authorities”.¹³² As Freeman argues, there is a need to nuance the debate about amnesty. It is important to stress that amnesty is not inconsistent with international *law* but with an international *norm* (Freeman & Pensky, 2012; Freeman, 2009; Pensky, 2008).

At a practical level, mediators recognise the importance of flexibility in negotiations to end atrocities. Amnesty scholars and legal specialists Louise Mallinder and Tom Hadden have drawn up guidelines for how to grant amnesties and stay within the law (Mallinder & Hadden, 2013). The use of conditional and limited amnesty is widely seen as acceptable, and furthermore the research presented here shows how such amnesties can also be effective. Other strategies such as using alternative forms of justice, such as truth commissions, reparations and alternative punishments, can create the spaces necessary to find a solution that is mutually satisfactory for government and rebels. The resolution reached in Colombia at the time of writing, which includes prosecutions and sentences but calls for alternative punishments, which may mean community work in the rebel’s home location, represents an

¹²⁹ *AZAPO v. South Africa*, 1996, quoted in Hadden (2004: 210).

¹³⁰ Decision No. C-579, Constitutional Court, 28 August 2013, Sentencia C-579/13, Demanda de inconstitucionalidad contra el artículo 1º del Acto Legislativo 01 de 2012 (parcial), available at <http://www.corteconstitucional.gov.co/relatoria/2013/C-579-13.htm> [last accessed on 30 July 2014] [author translation]

¹³¹ Additional Protocol II 1977 art 6(5)

¹³² ICRC, Commentary 1987, para. 4617, available at <https://www.icrc.org/applic/ihl/ihl.nsf/Comment.xsp?action=openDocument&documentId=C6692EB184B56F56C12563CD0043A476> [accessed 11 November 2015]

innovative possible solution. The domestic audience should be the ones who decide if this is a compromise that they, as citizens of the country affected, are willing to accept.

In sum, this thesis contributes to the arguments that a nuanced use of amnesties can have positive effects on reducing and ending civil wars.

Limitations, caveats and future research

Research such as this on a relatively unexplored topic obviously raises more questions than it answers and exposes more gaps than it fills. I have attempted to develop a political theory of when amnesties are used and what effects they have, particularly in the current context of international law. Due to the limitations of data, I treat amnesties as a stand-alone category rather than examining its relationship with other transitional justice measures.¹³³ Other projects have explored the interactions between the different transitional justice mechanisms (Binningsbø et al., 2012; Lie et al., 2007; Olsen et al., 2010a) and this is clearly a fruitful avenue of research.

However, a focus on solely amnesties also has much to offer. Firstly, I argue, following Teitel (2003), that amnesty is to a certain extent *sui generis*. It stands apart from other transitional justice measures in that it is not concerned with dealing with the past or with the rights of victims. Further, the study of amnesty lacks a political theory about the use and effects of amnesty, particularly in the current context of international law. At this initial stage of theory development, there is much to learn in focusing on a single measure (Freeman, 2009; Mallinder, 2008). However, these theories could now be considered in the light of the other transitional justice measures occurring at the same time and I look forward to the release of data on these measures (Peace Research Institute Oslo, 2015). Equally, the use of amnesty as incentive could also be analysed in the light of other measures by the government, such as military surges and negotiations. Research is moving in the direction of this fine-tuned analysis of the dynamics of conflict with increasingly detailed data.

An important area of future research is to look at the role of victims towards amnesty during conflict. The new international framework against heinous crimes is based on protecting the rights of the victims. Yet, we have paradoxical instances where many victims

¹³³ The During Conflict Justice Database is a large project collecting information on all transitional justice mechanisms used in civil wars, but at the time of writing it has not been released (Peace Research Institute Oslo, 2015).

support amnesties, even for heinous crimes, if these bring about peace. Examples include Mozambique, Uganda and Algeria. Future research could look at when, why and to what effect such demand emerges, and also how this demand shapes (or not) rational calculations by the government, rebel and international actors.

A further area of research is to link the analysis of amnesty during conflict with the effects post-conflict. Olsen, Payne and Reiter (2010b) find amnesty is not good at sustaining peace, but they do not develop this finding. Much of the research on the impacts of amnesties post-conflict has taken their presence as a given, without due consideration for the fact that these amnesties arise because of the conditions of the conflict. If amnesty is a way of strengthening the government's position, we should see that having effects in the post-conflict environment. Likewise, if amnesty is successful in ending a civil war because it works as an incentive, that will have spill-over impacts on the post-conflict dynamics.

A further area of research is to analyse the effects of amnesties on societal and political reconciliation, particularly looking at different types of amnesties. Much of the normative writings consider the effects on victims of amnesties for atrocious crimes. However, what about the effects of amnesties that would be considered acceptable, i.e. those amnesties for the use of political violence that are within international law. What are the longer-term implications of these amnesties?

Overall, this thesis takes a step by developing a new theory of the use of amnesty in civil war. Taken together, the three papers attempt to better expose the phenomenon of amnesty during civil war and create a framework for the determinants and the effects of amnesty, alongside the impact of third parties. The papers make a special effort to identify the causal mechanisms at work. As is the case with any new framework, many questions still remain unanswered. What is certain, however, is that this offers an innovative way of looking at amnesties and also the implications for the new, post-amnesty, world.

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Appendices

History of amnesty

Sikkink (2012) traces how human rights actions shortly after the Second World War were solely concerned with the state as the responsible actor. For example, in the Universal Declaration of Human Rights of 1948, the state as a whole is responsible for protecting the human rights of its citizens and is culpable if these are infringed, even though they may be infringed by individual state representatives. A key step in switching the focus to individual criminal accountability was the adoption of the 1975 UN “Torture Declaration”,¹³⁴ along with domestic trials against individual military officers in Greece in 1975. This led to the Convention Against Torture (1984),¹³⁵ which enshrined individual responsibility.¹³⁶

Crimes committed during war, including civil war, are covered by the Geneva Conventions, along with three additional protocols,¹³⁷ and also impose individual criminal accountability. Additional Protocol II was introduced in 1977 to directly address internal conflicts: “all armed conflicts ... which take place in the territory of a High Contracting Party between its armed forces and dissident armed forces or other organized armed groups which, under responsible command, exercise such control over a part of its territory as to enable them to carry out sustained and concerted military operations”.¹³⁸

¹³⁴ In full, the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. res. 3452 (XXX), annex, 30 U.N. GAOR Supp. (No. 34) at 91, U.N. Doc. A/10034 (1975), <https://www1.umn.edu/humanrts/instree/h1dpast.htm> [accessed 14 November 2015]

¹³⁵ UN General Assembly, *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment : resolution / adopted by the General Assembly.*, 10 December 1984, A/RES/39/46, available at: <http://www.refworld.org/docid/3b00f2224.html> [accessed 14 November 2015]

¹³⁶ It also included the first instance of universal jurisdiction, since any signatory can act against a torturer of a third country if they are in the signatory’s country.

¹³⁷ International Committee of the Red Cross (ICRC), *Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Geneva Convention)*, 12 August 1949, 75 UNTS 31, <http://www.refworld.org/docid/3ae6b3694.htm>; *Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Geneva Convention)*, 12 August 1949, 75 UNTS 85, available at: <http://www.refworld.org/docid/3ae6b37927.html>; *Geneva Convention Relative to the Treatment of Prisoners of War (Third Geneva Convention)*, 12 August 1949, 75 UNTS 135, available at: <http://www.refworld.org/docid/3ae6b36c8.html>; *Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention)*, 12 August 1949, 75 UNTS 287, available at: <http://www.refworld.org/docid/3ae6b36d2.htm>; *Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I)*, 8 June 1977, 1125 UNTS 3, available at: <http://www.refworld.org/docid/3ae6b36b4.html>; *Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II)*, 8 June 1977, 1125 UNTS 609, available at: <http://www.refworld.org/docid/3ae6b37f40.html>; *Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III)*, 8 December 2005, available at: <http://www.refworld.org/docid/43de21774.html> [all accessed 14 November 2015]

¹³⁸ Additional Protocol II 1977 art 1(1)

Within this Additional Protocol II is a clause on amnesty: “at the end of hostilities, the authorities in power shall endeavour to grant the broadest possible amnesty to persons who have participated in the armed conflict, or those deprived of their liberty for reasons related to the armed conflict, whether they are interned or detained”.¹³⁹ Conformity with the Conventions and Protocols was originally monitored by the International Committee of the Red Cross (ICRC), which has interpreted this article as excluding those offences defined as grave breaches (Hadden, 2004: 201).

Sikkink (2012) tracks how human rights groups such as Human Rights Watch (HRW) took it upon themselves in the 1980s to monitor behaviour in war alongside the ICRC. They looked at actions by both the state and rebel groups. For example, HRW criticized actions by the Farabundo Martí National Liberation Front (FMLN) in El Salvador and the Contras in Nicaragua (Sikkink, 2012: 30). The following years marked domestic prosecutions in 23 different states and at least three uses of universal jurisdiction (Sikkink, 2012: 31).

Around this time, transitional justice began to develop as a field of debate and of research. The initial debate was framed by the transitions in Latin America and East Europe, transitions from long dictatorships. In Latin America, the previous regimes still held the potential power to destroy the fragile new democracies, and so trials were deemed too threatening and often truth commissions were adopted as an intermediary solution. Truth commissions were also deemed helpful in these transitions because much of the repression had been hidden and denied. Also “there was a huge gap between knowledge and acknowledgement” (Roht-Arriaza, 2006: 3). The Truth and Reconciliation Commission of 1995 in South Africa was the apogee of this process and linked an amnesty to truth. However, there were criticisms – including that it did not lead to reconciliation, and that many high-ranking perpetrators did not use it and so avoided any acknowledgement of their role (Roht-Arriaza, 2006).

Through the 1990s, the question of impunity constantly cropped up in processes of democratization and peace negotiations for civil wars, and the international community “realized the importance of combating impunity” (Joinet, 1997: 3). The next major shift was the establishment by the United Nations of the first international criminal tribunal charged with prosecuting war crimes, the International Criminal Tribunal for the Former Yugoslavia set up in 1993. This was followed by the International Criminal Tribunal for Rwanda, which opened in 1995. The Yugoslav and the Rwandan experiences led to international criminal

¹³⁹ Additional Protocol II 1977 art 6(5)

tribunals in part because the dynamics of the conflict were not so black and white as the previous situations, where state forces attacked the enemies of the state. Rather, these were murky ethnic conflicts that had swung back and forth through centuries. Therefore trials were deemed necessary to create an “unimpeachable factual record” and “adequately individualize responsibility, holding the guilty parties liable without stigmatizing entire ethnic or religious groups” (Roht-Arriaza, 2006: 6). These ad hoc tribunals were limited by time and place and so inspired and spurred work towards a permanent international criminal court. Through a process of negotiations and advocacy by like-minded states and NGOs (Keck & Sikkink, 1998; Sikkink, 2011, 2012), the Rome Statute establishing the ICC was signed in 1998 and entered into force on 1 July 2002. A parallel process was the development of transnational trials, the apogee of which was the arrest of Pinochet in London in 1998 on the request of Spanish prosecutors, leading to what Roht-Arriaza describes as the “Pinochet effect”, i.e. transnational intervention into national justice (Roht-Arriaza, 2005). This has led to an undermining of the reliability of amnesty and has led governments to sacrifice amnesties in order to maintain control over their nationals, so that their nationals do not run the risk of being extradited and/or tried abroad (Lutz & Sikkink, 2001).

Sikkink (2012: 36) credits much of the momentum for the creation of the ICC to the resilience of amnesties that blocked prosecution in domestic courts. Thus, the rise of the ICC must be seen along with a corresponding ideological turn against amnesties. Freeman (2009) traces how the official UN position turned against amnesties, rising from the debates around the creation of the Rome Statute. In 1999, the UN Secretary-General Kofi Annan sent *Guidelines for United Nations Representatives on Certain Aspects of Negotiations for Conflict Resolution* to all UN representatives, in which he set out the position that the UN could not condone amnesty for the crimes included in the Rome Statute. This had its first practical effect with the Lomé peace agreement with the Revolutionary United Front (RUF) signed 7 July 1999 in the Sierra Leone civil war, a key turning point in the use of amnesty. The Lomé Peace Agreement included provision for unconditional amnesty to all parties. Twelve copies of the peace agreement were circulated for signature and on one the Special Representative of the UN Secretary-General (Francis Okelo) added a hand-written note that “the UN...[understands] that the amnesty ... shall not apply to the international crimes of genocide, crimes against humanity, war crimes and other serious violations of international humanitarian law” (Freeman, 2009: 89). The legal basis of this particular amnesty is controversial, because this disclaimer was not discussed or announced, and furthermore, each

of the peace agreements is “equally authentic” (according to the text of the peace agreement). □

Regardless of the status of those documents, this act became the public turning point in the UN position. The amnesty given in the Lomé agreement was deemed to not be a bar to prosecution in the Report of the Secretary-General on the establishment of a Special Court for Sierra Leone in 2000. The UN then produced a statement of the position that extended to all conflicts in the report *The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies* in 2004,¹⁴⁰ and in the *UN Updated Principles to Combat Impunity* (Orentlicher, 2005), which expanded the crimes that could not be amnestied. In 2005, the United Nations boycotted the Commission on Truth and Friendship following the conflict in Timor-Leste, because its mandate included giving amnesty to perpetrators of human rights violations who made a full confession (Freeman, 2009: 90). In 2009, the UN issued explicit instructions to all staff, including negotiators, that they “must never encourage or condone amnesties that prevent prosecution [for the most serious crimes] or that impair a victim’s right to a remedy ... or a victim’s or societies’ right to truth” (UN High Commissioner for Human Rights, 2009: 27),¹⁴¹ followed by the *Guidance for Effective Mediation* for all UN mediators.¹⁴² The significance of these documents is that the UN cannot mediate an agreement that includes amnesty.

However, the legal position on amnesties is not so clear-cut (Mallinder, 2007), as examined extensively by Freeman (2009). He notes that “what stands out most is the absence of an explicit prohibition of amnesty in any human rights, humanitarian, or criminal law treaty” (Freeman, 2009: 32). Not only that, but there is not even any explicit discouragement of amnesty, which he finds remarkable. The only treaty in which amnesty is mentioned is Article 6(5) of Protocol II of the Geneva Conventions, which calls for “the broadest possible amnesty”.¹⁴³ Many opponents of amnesty find support for their position from other

¹⁴⁰ UN Security Council, *The rule of law and transitional justice in conflict and post-conflict societies: report of the Secretary-General*, 23 August 2004, S/2004/616, available at: <http://www.refworld.org/docid/45069c434.html> [accessed 14 November 2015]

¹⁴¹ The crimes included are “serious crimes under international law, such as war crimes, genocide and crimes against humanity, or gross violations of human rights, such as extrajudicial, summary or arbitrary executions; torture or similar cruel, inhuman or degrading treatment; slavery; and enforced disappearance, including gender-specific instances of these offences” (UN High Commissioner for Human Rights, 2009: 27).

¹⁴² Strengthening the role of mediation in the peaceful settlement of disputes, conflict prevention and resolution (A/66/811, 25 June 2012), available at <http://peacemaker.un.org/guidance-effective-mediation> [accessed 14 November 2015]

¹⁴³ International Committee of the Red Cross (ICRC), *Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II)*, 8 June 1977, 1125 UNTS 609, available at: <http://www.refworld.org/docid/3ae6b37f40.html> [accessed 14 November 2015]

international treaties that put positive obligations on state parties to pursue individual criminal accountability, which would seem to be inconsistent with amnesties. Principal among these are the Genocide Convention;¹⁴⁴ the articles covering grave breaches in the Geneva Conventions and Protocol I; the Convention Against Torture;¹⁴⁵ the Convention Against Enforced Disappearance;¹⁴⁶ along with various treaties against terrorism. All these talk of a duty to prosecute, though in many cases this is not a mandatory requirement, but rather a duty. Alongside these, are the rights to remedy provisions in many human rights treaties, including the Universal Declaration of Human Rights,¹⁴⁷ repeated in the many regional human rights treaties. However, this is a right of the individual, but the individual cannot force the state to act. The ultimate decision over whether to act is the state's to make. Furthermore, the state's requirement is only to investigate. This can be fulfilled by a truth commission, which is often used alongside an amnesty. Thus, while most discussion of amnesties is condemnatory, including in the rulings from international jurisprudence, there is as yet no explicit legal treaty against them. What is more, existing state practice also paints a different picture, with recent compilers of databases of transitional justice measures claiming that amnesty is still a popular practice (Mallinder, 2008; Olsen et al., 2010b).

¹⁴⁴ UN General Assembly, *Convention on the Prevention and Punishment of the Crime of Genocide*, 9 December 1948, United Nations, Treaty Series, vol. 78, p. 277, available at: <http://www.refworld.org/docid/3ae6b3ac0.html> [accessed 14 November 2015]: Articles I and IV.

¹⁴⁵ UN General Assembly, *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: resolution / adopted by the General Assembly.*, 10 December 1984, A/RES/39/46, available at: <http://www.refworld.org/docid/3b00f2224.html> [accessed 14 November 2015]: Article 7.

¹⁴⁶ UN General Assembly, *International Convention for the protection of all persons from enforced disappearance: resolution / adopted by the General Assembly.*, 20 December 2006, A/61/448, available at: https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-16&chapter=4&lang=en [accessed 14 November 2015]: Article 3.

¹⁴⁷ UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III), available at: <http://www.refworld.org/docid/3ae6b3712c.html> [accessed 14 November 2015]

Paper 1

Table A1.1: Descriptive statistics of core variables in the models, conflict level

| Variable | Observations | Mean | Std. Dev. | Min | Max |
|--|--------------|----------|-----------|----------|----------|
| Amnesty for international crimes | 1331 | .1014275 | .4466309 | 0 | 2 |
| Amnesty with military conditions | 1348 | .115727 | .4671436 | 0 | 2 |
| Government relative strength (logged) | 1201 | 3.508792 | 2.008606 | .0645385 | 10.59666 |
| Government relative strength squared (logged) | 1201 | 16.34276 | 17.4769 | .0041652 | 112.2892 |
| Number of rebel groups (logged) | 1369 | .8117234 | .2428745 | .6931472 | 2.197225 |
| Previous amnesty | 1369 | .8758218 | 1.580882 | 0 | 8 |
| Regime (lagged) | 1328 | 9.955572 | 6.610283 | 0 | 20 |
| Post-2002 | 1369 | .2118335 | .4087568 | 0 | 1 |
| Conflict over government | 1369 | .4864865 | .5 | 0 | 1 |
| Death intensity (lagged) | 1369 | 1.06282 | .6180742 | 0 | 2 |
| Duration | 1369 | 15.07962 | 12.15802 | 1 | 60 |
| Duration squared | 1369 | 375.1045 | 562.8037 | 1 | 3600 |
| Duration cubed | 1369 | 12093.78 | 26848.35 | 1 | 216000 |
| GDP per capita (logged, lagged) | 1204 | 7.529316 | .8935287 | 5.383005 | 9.826967 |

Table A1.2: Descriptive statistics of core variables in the models, dyad level

| Variable | Observations | Mean | Std. Dev. | Min | Max |
|--|--------------|----------|-----------|----------|----------|
| Amnesty for international crimes | 1799 | .1128405 | .4833682 | 0 | 2 |
| Amnesty with military conditions | 1821 | .1257551 | .4984603 | 0 | 2 |
| Government relative strength (logged) | 1515 | 3.603073 | 1.963356 | .1251632 | 10.59666 |
| Government relative strength squared (logged) | 1515 | 16.83436 | 16.9325 | .0156658 | 112.2892 |
| Number of rebel groups (logged) | 1826 | 1.778204 | 1.314445 | 1 | 8 |
| Previous amnesty | 1842 | .4549403 | 1.197671 | 0 | 10 |
| Regime (lagged) | 1710 | 10.13041 | 6.611687 | 0 | 20 |
| Post-2002 | 1842 | .2122693 | .4090255 | 0 | 1 |
| Conflict over government | 1842 | .5548317 | .4971193 | 0 | 1 |
| Death intensity (lagged) | 1842 | .9359392 | .6485855 | 0 | 2 |
| Duration | 1842 | 8.254615 | 8.176409 | 1 | 45 |
| Duration squared | 1842 | 134.956 | 264.0338 | 1 | 2025 |
| Duration cubed | 1842 | 3126.802 | 9208.229 | 1 | 91125 |
| GDP per capita (logged, lagged) | 1637 | 7.507742 | .9490405 | 5.383005 | 10.3532 |

Table A1.3: Determinants of amnesty using un-extrapolated measures of strength

| DV | Model 1 | | Model 2 | |
|---------------------------|-----------------------------|-------------------------|-------------------------|---------------------|
| | Unconditional (generous) | Conditional (strict) | Unlimited (generous) | Limited (strict) |
| Gov. relative strength | 1.079 (1.21) | 1.124* (0.51) | 0.932 (0.75) | 1.311** (0.48) |
| Gov. relative strength sq | -0.313 (0.24) | -0.177* (0.07) | -0.185 (0.13) | -0.206** (0.06) |
| No. rebel groups | 1.267 (0.95) | 1.613** (0.54) | 0.945 (0.76) | 3.594** (0.84) |
| Previous amnesty | 0.502 (0.44) | 0.559** (0.15) | 0.499* (0.25) | 0.614** (0.21) |
| Regime | 0.006 (0.04) | 0.007 (0.02) | -0.065* (0.03) | 0.169** (0.05) |
| Post-2002 | -0.724 (1.11) | 0.676* (0.32) | 0.522 (0.36) | 1.097+ (0.59) |
| Conflict over gov. | 1.291 (0.87) | 0.261 (0.30) | 0.275 (0.39) | 1.134+ (0.64) |
| Death intensity | 0.638* (0.29) | 0.351 (0.24) | 0.437+ (0.26) | 0.269 (0.41) |
| Duration | -0.333 (0.21) | 0.082 (0.12) | 0.096 (0.12) | 0.174 (0.14) |
| Duration sq | 0.020 (0.01) | -0.009 (0.01) | -0.009 (0.01) | -0.014+ (0.01) |
| Duration cubed | -0.000 (0.00) | 0.000 (0.00) | 0.000 (0.00) | 0.000 (0.00) |
| GDPpc | -0.163 (0.52) | 0.110 (0.23) | -0.121 (0.23) | 0.183 (0.48) |
| Constant | -4.490 (3.55) | -7.061** (1.86) | -3.996+ (2.05) | -13.641** (3.39) |
| Observations | 925 | 925 | 914 | 914 |
| Pseudologlikelihood | -272.333 | -272.333 | -238.180 | -238.180 |
| AIC | 596.666 | 596.666 | 528.361 | 528.361 |
| BIC | 722.241 | 722.241 | 653.624 | 653.624 |

Significance: + $p < 0.1$, * $p < 0.05$, ** $p < 0.01$. Standard errors clustered on the conflict episode reported in brackets. Models are multinomial logit regressions showing the granting of types of amnesty in a conflict-year compared to no amnesty.

Table A1.4: Determinants of amnesty at dyadic level

| DV | Model 1 | | Model 2 | |
|---------------------------|-----------------------------|-------------------------|-------------------------|---------------------|
| | Unconditional (generous) | Conditional (strict) | Unlimited (generous) | Limited (strict) |
| Gov. relative strength | 0.084 (0.84) | 1.206** (0.46) | 0.321 (0.70) | 1.875** (0.63) |
| Gov. relative strength sq | -0.110 (0.14) | -0.175** (0.06) | -0.092 (0.10) | -0.271** (0.08) |
| No. rebel groups | 0.618 (0.74) | 0.729 (0.52) | 0.252 (0.79) | 1.881** (0.53) |
| Previous amnesty | 0.959** (0.26) | 0.786** (0.15) | 0.952** (0.22) | 0.605** (0.19) |
| Regime | -0.003 (0.04) | -0.001 (0.02) | -0.074* (0.03) | 0.100+ (0.06) |
| Post-2002 | -0.853 (1.05) | 0.456+ (0.24) | 0.718* (0.35) | 0.217 (0.39) |
| Conflict over gov. | 0.547 (0.64) | 0.386 (0.30) | 0.484 (0.35) | 1.137+ (0.61) |
| Death intensity | 0.366 (0.25) | 0.540** (0.21) | 0.425+ (0.22) | 0.583+ (0.30) |
| Duration | -0.161 (0.17) | -0.285** (0.10) | -0.262* (0.12) | -0.200 (0.13) |
| Duration sq | 0.005 (0.01) | 0.014* (0.01) | 0.014+ (0.01) | 0.008 (0.01) |
| Duration cubed | -0.000 (0.00) | -0.000** (0.00) | -0.000* (0.00) | -0.000 (0.00) |
| GDPpc | -0.052 (0.37) | 0.135 (0.22) | -0.038 (0.24) | 0.056 (0.40) |
| Constant | -3.326 (2.96) | -6.073** (1.55) | -2.563 (1.76) | -10.248** (2.94) |
| Observations | 1230 | 1230 | 1213 | 1213 |
| Pseudologlikelihood | -373.851 | -373.851 | -324.278 | -324.278 |
| AIC | 799.702 | 799.702 | 700.557 | 700.557 |
| BIC | 932.686 | 932.686 | 833.179 | 833.179 |

Significance: + $p < 0.1$, * $p < 0.05$, ** $p < 0.01$. Standard errors clustered on the conflict episode reported in brackets. Models are multinomial logit regressions showing the granting of types of amnesty in a conflict-year compared to no amnesty.

Table A1.5: Determinants of amnesty at dyadic level using alternative measure of strength

| DV | Model 1 | | Model 2 | |
|---------------------------|-----------------------------|-------------------------|-------------------------|---------------------|
| | Unconditional (generous) | Conditional (strict) | Unlimited (generous) | Limited (strict) |
| Gov. relative strength | -1.312 (0.99) | 9.682* (4.25) | 1.917 (2.91) | 1.264 (1.07) |
| Gov. relative strength sq | 0.129 (0.16) | -1.134* (0.48) | -0.287 (0.36) | -0.150 (0.14) |
| No. rebel groups | 1.130 (0.78) | 0.560 (0.56) | -0.539 (0.92) | 2.218** (0.61) |
| Previous amnesty | 1.039** (0.25) | 0.661** (0.13) | 0.893** (0.24) | 0.564** (0.13) |
| Regime | -0.033 (0.04) | -0.014 (0.02) | -0.091** (0.03) | 0.077 (0.05) |
| Post-2002 | -11.671** (0.42) | 1.142* (0.51) | 1.576+ (0.87) | 0.656 (0.71) |
| Conflict over gov. | 0.520 (0.61) | 0.536 (0.38) | 0.536 (0.36) | 1.414+ (0.74) |
| Death intensity | 0.882* (0.35) | 0.254 (0.23) | 0.327 (0.28) | 0.611 (0.42) |
| Duration | -0.266 (0.17) | -0.216+ (0.13) | -0.311* (0.15) | -0.082 (0.17) |
| Duration sq | 0.013 (0.01) | 0.012 (0.01) | 0.019+ (0.01) | -0.001 (0.01) |
| Duration cubed | -0.000 (0.00) | -0.000 (0.00) | -0.000* (0.00) | 0.000 (0.00) |
| GDPpc | -0.050 (0.36) | 0.164 (0.19) | -0.222 (0.21) | 0.320 (0.36) |
| Constant | -1.601 (2.38) | -24.709** (9.51) | -3.203 (6.13) | -12.985** (3.51) |
| Observations | 1031 | 1031 | 1015 | 1015 |
| Pseudologlikelihood | -322.654 | -322.654 | -269.426 | -269.426 |
| AIC | 697.307 | 697.307 | 590.852 | 590.852 |
| BIC | 825.703 | 825.703 | 718.841 | 718.841 |

Significance: + $p < 0.1$, * $p < 0.05$, ** $p < 0.01$. Standard errors clustered on the conflict episode reported in brackets. Models are multinomial logit regressions showing the granting of types of amnesty in a conflict-year compared to no amnesty.

Table A1.6: Determinants of amnesty including non-monotonic regime.

| DV | Model 1 | | Model 2 | |
|---------------------------|-----------------------------|-------------------------|-------------------------|---------------------|
| | Unconditional (generous) | Conditional (strict) | Unlimited (generous) | Limited (strict) |
| Gov. relative strength | 1.151 (1.15) | 1.250* (0.54) | 1.049 (0.84) | 1.777** (0.55) |
| Gov. relative strength sq | -0.322 (0.23) | -0.196* (0.08) | -0.222 (0.16) | -0.265** (0.08) |
| No. rebel groups | 1.304 (0.90) | 1.362* (0.54) | 0.656 (0.70) | 3.589** (0.54) |
| Previous amnesty | 0.503 (0.31) | 0.540** (0.14) | 0.531* (0.24) | 0.538** (0.17) |
| Regime | 0.467* (0.17) | 0.164 (0.10) | 0.409** (0.13) | 0.461 (0.29) |
| Regime sq | -0.024* (0.01) | -0.007 (0.01) | -0.027** (0.01) | -0.014 (0.01) |
| Post-2002 | -1.136 (1.13) | 0.663* (0.32) | 0.377 (0.36) | 1.008+ (0.60) |
| Conflict over gov. | 0.842 (0.66) | 0.224 (0.31) | 0.101 (0.42) | 1.060 (0.69) |
| Death intensity | 0.523* (0.27) | 0.396+ (0.24) | 0.410 (0.25) | 0.434 (0.41) |
| Duration | -0.136 (0.19) | 0.091 (0.11) | 0.104 (0.12) | 0.172 (0.12) |
| Duration sq | 0.007 (0.01) | -0.009 (0.01) | -0.009 (0.01) | -0.013+ (0.01) |
| Duration cubed | -0.000 (0.00) | 0.000 (0.00) | 0.000 (0.00) | 0.000+ (0.00) |
| GDPpc | 0.250 (0.46) | 0.068 (0.26) | 0.089 (0.25) | 0.101 (0.55) |
| Constant | -8.974* (3.79) | -7.305** (2.06) | -6.747** (2.60) | -14.979** (3.39) |
| Observations | 1011 | 1011 | 999 | 999 |
| Pseudologlikelihood | -291.428 | -291.428 | -248.424 | -248.424 |
| AIC | 638.856 | 638.856 | 552.849 | 552.849 |
| BIC | 776.579 | 776.579 | 690.238 | 690.238 |

Significance: + $p < 0.1$, * $p < 0.05$, ** $p < 0.01$. Standard errors clustered on the conflict episode reported in brackets. Models are multinomial logit regressions showing the granting of types of amnesty in a conflict-year compared to no amnesty.

Table A1.7: Determinants of amnesty including UN Peace-Keeping Operation

| DV | Model 1 | | Model 2 | |
|---------------------------|-----------------------------|-------------------------|-------------------------|---------------------|
| | Unconditional (generous) | Conditional (strict) | Unlimited (generous) | Limited (strict) |
| UN PKO | 1.706 (1.18) | 0.099 (0.45) | -0.073 (0.45) | -0.091 (0.61) |
| Gov. relative strength | 0.822 (1.13) | 1.272* (0.54) | 0.965 (0.75) | 1.742** (0.56) |
| Gov. relative strength sq | -0.259 (0.21) | -0.201* (0.08) | -0.197 (0.13) | -0.264** (0.08) |
| No. rebel groups | 0.869 (0.85) | 1.335* (0.57) | 0.669 (0.74) | 3.493** (0.68) |
| Previous amnesty | 0.504 (0.40) | 0.540** (0.14) | 0.519* (0.25) | 0.595** (0.19) |
| Regime | -0.000 (0.04) | 0.011 (0.02) | -0.065* (0.03) | 0.165** (0.06) |
| Post-2002 | -0.526 (1.15) | 0.794* (0.31) | 0.630+ (0.34) | 1.200* (0.61) |
| Conflict over gov. | 0.964 (0.75) | 0.300 (0.30) | 0.254 (0.41) | 1.204+ (0.63) |
| Death intensity | 0.194 (0.35) | 0.370 (0.26) | 0.451 (0.29) | 0.436 (0.38) |
| Duration | -0.220 (0.22) | 0.097 (0.12) | 0.121 (0.12) | 0.174 (0.12) |
| Duration sq | 0.013 (0.01) | -0.009 (0.01) | -0.010+ (0.01) | -0.014* (0.01) |
| Duration cubed | -0.000 (0.00) | 0.000 (0.00) | 0.000 (0.00) | 0.000+ (0.00) |
| GDPpc | -0.096 (0.47) | 0.005 (0.24) | -0.155 (0.23) | 0.076 (0.52) |
| Constant | -5.363 (3.35) | -6.522** (1.98) | -3.690+ (2.20) | -13.443** (3.49) |
| Observations | 1011 | 1011 | 999 | 999 |
| Pseudologlikelihood | -291.428 | -291.428 | -248.424 | -248.424 |
| AIC | 638.856 | 638.856 | 552.849 | 552.849 |
| BIC | 776.579 | 776.579 | 690.238 | 690.238 |

Significance: + p< 0.1, * p< 0.05, **p< 0.01. Standard errors clustered on the conflict episode reported in brackets. Models are multinomial logit regressions showing the granting of types of amnesty in a conflict-year compared to no amnesty.

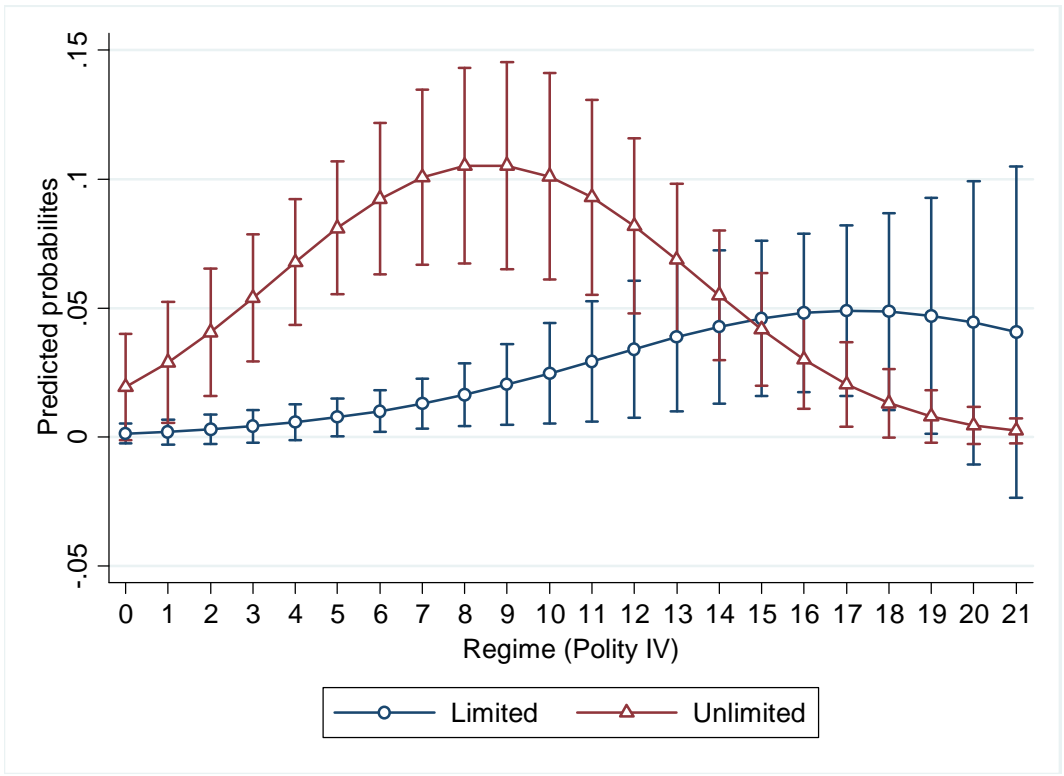


Figure A1.1: Impact of regime on the predicted probability of limited (strict) and unlimited (generous) amnesty

Paper 2

Table A2.1: DYADIC - Descriptive statistics of variables in the dyadic models

| Variable | Obs | Mean | Std. Dev. | Min | Max |
|---|------|----------|-----------|----------|----------|
| Change in intensity | 1842 | .1851249 | .5986915 | -1 | 1 |
| Termination | 1842 | .2068404 | .40515 | 0 | 1 |
| Amnesties no conditions | 1813 | .0204082 | .1414309 | 0 | 1 |
| Amnesties conditions | 1813 | .0606729 | .2387952 | 0 | 1 |
| Amnesties international crimes | 1789 | .039128 | .1939537 | 0 | 1 |
| Amnesties no international crimes | 1789 | .0424818 | .2017421 | 0 | 1 |
| Negotiation | 1842 | .1313789 | .337906 | 0 | 1 |
| Amnesties no conditions to others | 1813 | .0148924 | .1211559 | 0 | 1 |
| Amnesties no conditions to others previous 3 years | 1813 | .0303365 | .1715587 | 0 | 1 |
| Amnesties international crimes to others | 1789 | .0240358 | .1532031 | 0 | 1 |
| Amnesties international crimes to others previous 3 years | 1789 | .0486305 | .2151545 | 0 | 1 |
| Amnesties with military conditions | 1813 | .0584666 | .2346884 | 0 | 1 |
| Amnesties with no military conditions | 1813 | .0364038 | .1873443 | 0 | 1 |
| Amnesties with military conditions in previous 3 years | 1813 | .1428571 | .3500237 | 0 | 1 |
| Amnesties with military conditions to others | 1813 | .0353006 | .1845895 | 0 | 1 |
| Intensity | 1842 | .9359392 | .6485855 | 0 | 2 |
| Incompatibility over gov. | 1842 | .5548317 | .4971193 | 0 | 1 |
| Resources | 1842 | .4712269 | .499307 | 0 | 1 |
| Mountains (logged) | 1838 | 2.773264 | 1.177335 | 0 | 4.421247 |
| Regime (lagged) | 1710 | 10.13041 | 6.611687 | 0 | 20 |
| GDPpc (logged, lagged) | 1637 | 7.507742 | .9490405 | 5.383005 | 10.3532 |
| Post-2002 | 1842 | .2122693 | .4090255 | 0 | 1 |
| Duration | 1842 | 8.254615 | 8.176409 | 1 | 45 |
| Duration sq | 1842 | 134.956 | 264.0338 | 1 | 2025 |
| Duration cubed | 1842 | 3126.802 | 9208.229 | 1 | 91125 |

Table A2.2: CONFLICT - Descriptive statistics of variables in the conflict models

| Variable | Obs | Mean | Std. Dev. | Min | Max |
|---|------|----------|-----------|----------|----------|
| Change in intensity | 1369 | .1124909 | .56109 | -1 | 1 |
| Termination | 1369 | .1533966 | .3605011 | 0 | 1 |
| Amnesties no conditions | 1344 | .0208333 | .1428793 | 0 | 1 |
| Amnesties conditions | 1344 | .0669643 | .2500532 | 0 | 1 |
| Amnesties international crimes | 1327 | .0437076 | .2045208 | 0 | 1 |
| Amnesties no international crimes | 1327 | .0444612 | .2061951 | 0 | 1 |
| Negotiation | 1369 | .2052593 | .4040386 | 0 | 1 |
| Amnesties no conditions to others | 1344 | .0044643 | .0666908 | 0 | 1 |
| Amnesties no conditions to others previous 3 years | 1344 | .0141369 | .1180992 | 0 | 1 |
| Amnesties international crimes to others | 1327 | .0067822 | .0821054 | 0 | 1 |
| Amnesties international crimes to others previous 3 years | 1327 | .0301432 | .1710457 | 0 | 1 |
| Amnesties with military conditions | 1344 | .061756 | .2408014 | 0 | 1 |
| Amnesties with no military conditions | 1344 | .0386905 | .192928 | 0 | 1 |
| Amnesties with military conditions in previous 3 years | 1344 | .1607143 | .3674039 | 0 | 1 |
| Amnesties with military conditions to others | 1344 | .0178571 | .1324814 | 0 | 1 |
| Intensity | 1369 | 1.06282 | .6180742 | 0 | 2 |
| Incompatibility over gov. | 1369 | .4864865 | .5 | 0 | 1 |
| Resources | 1369 | .4368152 | .4961729 | 0 | 1 |
| Mountains (logged) | 1366 | 2.778966 | 1.149464 | 0 | 4.421247 |
| Regime (lagged) | 1328 | 9.955572 | 6.610283 | 0 | 20 |
| GDPpc (logged, lagged) | 1204 | 7.529316 | .8935287 | 5.383005 | 9.826967 |
| Post-2002 | 1369 | .2118335 | .4087568 | 0 | 1 |
| Duration | 1369 | 15.07962 | 12.15802 | 1 | 60 |
| Duration sq | 1369 | 375.1045 | 562.8037 | 1 | 3600 |
| Duration cubed | 1369 | 12093.78 | 26848.35 | 1 | 216000 |

Table A2.3: Generous amnesties on changes in intensity and termination at dyadic level

| DV | Model 1 Intensity changes | Model 2 Intensity changes | Model 3 Termination | Model 4 Termination |
|----------------------------------|---------------------------------|---------------------------------|------------------------|------------------------|
| <u>Intensity decreases</u> | | | | |
| Unconditional amnesties | -0.053 (0.64) | | 0.287 (0.43) | |
| Unlimited amnesties | | 0.739* (0.35) | | -0.045 (0.40) |
| Limited amnesties | | -0.324 (0.40) | | -0.625+ (0.34) |
| Conflict over terr. | 0.007 (0.18) | 0.020 (0.18) | 0.193 (0.17) | 0.192 (0.18) |
| Resources | -0.243 (0.17) | -0.280+ (0.17) | -0.068 (0.15) | -0.073 (0.16) |
| Mountains | 0.141 (0.09) | 0.140 (0.09) | -0.052 (0.06) | -0.052 (0.06) |
| Regime | -0.079 (0.08) | -0.080 (0.08) | 0.071 (0.06) | 0.085 (0.06) |
| Regime sq | 0.002 (0.00) | 0.002 (0.00) | -0.005 (0.00) | -0.005+ (0.00) |
| GDPpc | -0.179 (0.11) | -0.110 (0.11) | -0.029 (0.10) | -0.011 (0.10) |
| Duration | -0.064 (0.06) | -0.061 (0.07) | -0.224** (0.07) | -0.221** (0.07) |
| Duration sq | 0.003 (0.00) | 0.003 (0.00) | 0.012* (0.00) | 0.012* (0.01) |
| Duration cubed | -0.000 (0.00) | -0.000 (0.00) | -0.000* (0.00) | -0.000* (0.00) |
| Constant | 0.073 (0.97) | -0.431 (0.99) | -0.149 (0.78) | -0.353 (0.80) |
| <u>Intensity increases</u> | | | | |
| Unconditional amnesties | -2.305* (1.16) | | | |
| Unlimited amnesties | | | | |
| Limited amnesties | | | | |
| Military conditions amnesties | | | | |
| Conflict over terr. | 0.225 (0.18) | | | |
| Resources | -0.202 (0.17) | | | |
| Mountains | 0.065 (0.07) | | | |
| Regime | -0.025 (0.07) | | | |

| | |
|----------------|--------------------|
| Regime sq | 0.000 (0.00) |
| GDPpc | 0.017 (0.09) |
| Duration | -0.877** (0.10) |
| Duration sq | 0.051** (0.01) |
| Duration cubed | -0.001** (0.00) |
| Constant | 1.830* (0.82) |

| | | | | |
|---------------------|-----------|-----------|----------|----------|
| Observations | 1486 | 1464 | 1486 | 1464 |
| Pseudologlikelihood | -1121.316 | -1089.352 | -766.357 | -753.758 |
| AIC | 2290.632 | 2226.704 | 1556.714 | 1531.515 |
| BIC | 2417.924 | 2353.638 | 1620.360 | 1594.983 |

Significance: + $p < 0.1$, * $p < 0.05$, ** $p < 0.01$. Standard errors clustered on conflict reported in brackets. Models 1 and 2 are multinomial logit regressions showing an increase in battle intensity compared to no change. Models 3 and 4 are discrete logit regressions showing conflict ending compared to conflict continuing.

Table A2.4: Amnesties as incentive on change in intensity and termination at conflict level

| DV | Model 1 Intensity change | Model 2 Intensity change | Model 3 Termination | Model 4 Termination |
|----------------------------|--------------------------------|--------------------------------|------------------------|------------------------|
| <u>Intensity decreases</u> | | | | |
| Unconditional amnesties | -0.723 (0.70) | | -0.401 (0.53) | |
| Unlimited amnesties | | 0.478 (0.34) | | -0.556 (0.41) |
| Limited amnesties | | -0.201 (0.38) | | -0.604 (0.46) |
| Conflict over terr. | -0.003 (0.23) | 0.026 (0.23) | 0.335 (0.24) | 0.342 (0.25) |
| Resources | -0.480* (0.19) | -0.549** (0.20) | -0.537* (0.24) | -0.572* (0.25) |
| Mountains | 0.055 (0.10) | 0.045 (0.10) | -0.046 (0.10) | -0.051 (0.10) |
| Regime | 0.023 (0.09) | 0.016 (0.10) | 0.086 (0.08) | 0.093 (0.08) |
| Regime sq | -0.003 (0.00) | -0.003 (0.00) | -0.006 (0.00) | -0.006 (0.00) |
| GDPpc | -0.071 (0.13) | 0.021 (0.13) | -0.018 (0.12) | 0.008 (0.12) |
| Duration | -0.061 (0.05) | -0.056 (0.06) | -0.146** (0.04) | -0.139** (0.04) |
| Duration sq | 0.003 (0.00) | 0.003 (0.00) | 0.006** (0.00) | 0.005* (0.00) |
| Duration cubed | -0.000 (0.00) | -0.000 (0.00) | -0.000* (0.00) | -0.000* (0.00) |
| Constant | -0.784 (1.23) | -1.432 (1.22) | -0.565 (1.03) | -0.776 (1.04) |
| <u>Intensity increases</u> | | | | |
| Unconditional amnesties | -2.185+ (1.17) | | | |
| Unlimited amnesties | | -1.434+ (0.74) | | |
| Limited amnesties | | -1.744* (0.78) | | |
| Conflict over terr. | -0.212 | -0.264 | | |

| | | |
|----------------|----------|----------|
| | (0.20) | (0.21) |
| Resources | -0.377+ | -0.436* |
| | (0.22) | (0.22) |
| Mountains | 0.072 | 0.072 |
| | (0.09) | (0.09) |
| Regime | 0.010 | 0.000 |
| | (0.07) | (0.07) |
| Regime sq | -0.002 | -0.002 |
| | (0.00) | (0.00) |
| GDPpc | -0.083 | -0.070 |
| | (0.11) | (0.12) |
| Duration | -0.427** | -0.439** |
| | (0.05) | (0.05) |
| Duration sq | 0.018** | 0.018** |
| | (0.00) | (0.00) |
| Duration cubed | -0.000** | -0.000** |
| | (0.00) | (0.00) |
| Constant | 1.890+ | 1.960+ |
| | (1.04) | (1.06) |

| | | | | |
|---------------------|----------|----------|----------|----------|
| Observations | 1142 | 1129 | 1142 | 1129 |
| Pseudologlikelihood | -871.909 | -853.894 | -479.659 | -472.287 |
| AIC | 1791.818 | 1755.788 | 983.318 | 968.573 |
| BIC | 1912.790 | 1876.486 | 1043.804 | 1028.922 |

Significance: + $p < 0.1$, * $p < 0.05$, ** $p < 0.01$. Standard errors clustered on conflict reported in brackets. Models 1 and 2 are multinomial logit regressions showing a decrease in battle intensity compared to no change. Models 3 and 4 are discrete logit regressions showing conflict ending compared to conflict continuing.

Table A2.5: Amnesties as incentives during negotiations on change in intensity and termination at dyadic level

| | Model 1 Intensity change | Model 2 Intensity change | Model 3 Termination | Model 4 Termination |
|----------------------------|--------------------------------|--------------------------------|------------------------|------------------------|
| <u>Intensity decreases</u> | | | | |
| Negotiations | 0.269 (0.24) | 0.244 (0.23) | -0.056 (0.24) | -0.095 (0.25) |
| Unconditional amnesties | 0.077 (0.55) | | 0.219 (0.41) | |
| Conditional amnesties | -0.646 (0.58) | | -0.495 (0.38) | |
| Unconditional#neg | -0.476 (0.96) | | 0.222 (0.73) | |
| Conditional#neg | 0.965+ (0.52) | | 0.305 (0.53) | |
| Unlimited amnesties | | 0.592 (0.38) | | -0.345 (0.46) |
| Limited amnesties | | -0.646 (0.58) | | -0.495 (0.38) |
| Unlimited #neg | | 0.404 (0.61) | | 0.857 (0.53) |
| Limited#neg | | 1.041 (0.85) | | -0.734 (1.09) |
| Conflict over terr. | 0.042 (0.19) | 0.048 (0.19) | 0.191 (0.17) | 0.185 (0.18) |
| Resources | -0.242 (0.17) | -0.279+ (0.16) | -0.070 (0.15) | -0.071 (0.16) |
| Mountains | 0.147+ (0.08) | 0.146+ (0.08) | -0.053 (0.06) | -0.053 (0.06) |
| Regime | -0.095 (0.08) | -0.097 (0.08) | 0.073 (0.06) | 0.089 (0.06) |
| Regime sq | 0.003 (0.00) | 0.003 (0.00) | -0.005 (0.00) | -0.005+ (0.00) |
| GDPpc | -0.161 (0.11) | -0.094 (0.11) | -0.029 (0.10) | -0.015 (0.10) |
| Duration | -0.072 (0.07) | -0.064 (0.07) | -0.222** (0.07) | -0.218** (0.07) |
| Duration sq | 0.003 (0.00) | 0.003 (0.00) | 0.012* (0.00) | 0.012* (0.01) |
| Duration cubed | -0.000 (0.00) | -0.000 (0.00) | -0.000* (0.00) | -0.000* (0.00) |

| | | | | |
|----------------------------|-----------|-----------|--------|--------|
| Constant | -0.042 | -0.533 | -0.152 | -0.332 |
| | (0.98) | (0.98) | (0.78) | (0.81) |
| <u>Intensity increases</u> | | | | |
| Negotiations | -1.227** | -1.207** | | |
| | (0.30) | (0.31) | | |
| Unconditional amnesties | -15.822** | | | |
| | (0.36) | | | |
| Conditional amnesties | -3.141** | | | |
| | (0.92) | | | |
| Unconditional#neg | 17.220** | | | |
| | (0.80) | | | |
| Conditional#neg | 2.586 | | | |
| | (1.63) | | | |
| Unlimited amnesties | | -15.822** | | |
| | | (0.36) | | |
| Limited amnesties | | -3.141** | | |
| | | (0.92) | | |
| Unlimited #neg | | 17.220** | | |
| | | (0.80) | | |
| Limited#neg | | 2.586 | | |
| | | (1.63) | | |
| Conflict over terr. | 0.153 | 0.153 | | |
| | (0.18) | (0.18) | | |
| Resources | -0.247 | -0.247 | | |
| | (0.18) | (0.18) | | |
| Mountains | 0.054 | 0.054 | | |
| | (0.07) | (0.07) | | |
| Regime | 0.011 | 0.011 | | |
| | (0.08) | (0.08) | | |
| Regime sq | -0.001 | -0.001 | | |
| | (0.00) | (0.00) | | |
| GDPpc | 0.014 | 0.014 | | |
| | (0.10) | (0.10) | | |
| Duration | -0.848** | -0.848** | | |
| | (0.10) | (0.10) | | |
| Duration sq | 0.049** | 0.049** | | |
| | (0.01) | (0.01) | | |
| Duration cubed | -0.001** | -0.001** | | |
| | (0.00) | (0.00) | | |

| | | | | |
|---------------------|-----------|-----------|----------|----------|
| Constant | 1.870* | 1.870* | | |
| | (0.88) | (0.88) | | |
| Observations | 1464 | 1464 | 1464 | 1486 |
| Pseudologlikelihood | -1069.384 | -1069.384 | -752.757 | -766.357 |
| AIC | 2198.768 | 2198.768 | 1535.514 | 1556.714 |
| BIC | 2357.436 | 2357.436 | 1614.848 | 1620.360 |

Significance: + $p < 0.1$, * $p < 0.05$, ** $p < 0.01$. Standard errors clustered on conflict reported in brackets. Models 1 and 2 are multinomial logit regressions showing a change in battle intensity compared to no change. Models 3 and 4 are discrete logit regressions showing conflict ending compared to conflict continuing.

Table A2.6: Amnesty as incentive during negotiation on change in intensity and termination at conflict level

| | Model 1 Intensity change | Model 2 Intensity change | Model 3 Termination | Model 4 Termination |
|----------------------------|--------------------------------|--------------------------------|------------------------|------------------------|
| <u>Intensity decreases</u> | | | | |
| Negotiations | 0.245 (0.26) | 0.243 (0.27) | -0.052 (0.23) | -0.071 (0.24) |
| Unconditional amnesties | -0.641 (0.75) | | -0.788 (0.74) | |
| Conditional amnesties | 0.054 (0.40) | | -0.792 (0.53) | |
| Unconditional#neg | -0.227 (1.34) | | 0.699 (1.02) | |
| Conditional#neg | 0.581 (0.71) | | 0.370 (0.90) | |
| Unlimited amnesties | | 0.506 (0.40) | | -0.467 (0.52) |
| Limited amnesties | | -0.861 (0.69) | | -1.128 (0.70) |
| Unlimited #neg | | -0.137 (0.76) | | -0.168 (0.87) |
| Limited#neg | | 1.250 (0.94) | | 1.173 (0.97) |
| Conflict over terr. | 0.024 (0.23) | 0.059 (0.24) | 0.334 (0.24) | 0.344 (0.25) |
| Resources | -0.451* (0.19) | -0.530** (0.20) | -0.533* (0.24) | -0.570* (0.25) |
| Mountains | 0.058 (0.10) | 0.042 (0.10) | -0.046 (0.10) | -0.054 (0.10) |
| Regime | 0.003 (0.09) | -0.002 (0.09) | 0.087 (0.08) | 0.095 (0.08) |
| Regime sq | -0.002 (0.00) | -0.002 (0.00) | -0.006 (0.00) | -0.006 (0.00) |
| GDPpc | -0.054 (0.13) | 0.047 (0.13) | -0.014 (0.12) | 0.013 (0.12) |
| Duration | -0.069 (0.05) | -0.055 (0.06) | -0.145** (0.04) | -0.136** (0.04) |
| Duration sq | 0.003 (0.00) | 0.003 (0.00) | 0.006** (0.00) | 0.005* (0.00) |

| | | | | |
|----------------------------|-----------|-----------|---------|---------|
| Duration cubed | -0.000 | -0.000 | -0.000* | -0.000+ |
| | (0.00) | (0.00) | (0.00) | (0.00) |
| Constant | -0.869 | -1.624 | -0.584 | -0.819 |
| | (1.25) | (1.23) | (1.04) | (1.04) |
| <u>Intensity increases</u> | | | | |
| Negotiations | -0.901** | -0.860** | | |
| | (0.25) | (0.25) | | |
| Unconditional amnesties | -15.818** | | | |
| | (0.49) | | | |
| Conditional amnesties | -1.718* | | | |
| | (0.74) | | | |
| Unconditional#neg | 15.058** | | | |
| | (1.27) | | | |
| Conditional#neg | 1.896+ | | | |
| | (1.11) | | | |
| Unlimited amnesties | | -15.148** | | |
| | | (0.41) | | |
| Limited amnesties | | -1.855+ | | |
| | | (1.08) | | |
| Unlimited #neg | | 15.588** | | |
| | | (0.76) | | |
| Limited#neg | | 0.774 | | |
| | | (1.63) | | |
| Conflict over terr. | -0.224 | -0.283 | | |
| | (0.20) | (0.21) | | |
| Resources | -0.384+ | -0.449* | | |
| | (0.22) | (0.22) | | |
| Mountains | 0.073 | 0.076 | | |
| | (0.09) | (0.09) | | |
| Regime | 0.058 | 0.041 | | |
| | (0.07) | (0.07) | | |
| Regime sq | -0.004 | -0.003 | | |
| | (0.00) | (0.00) | | |
| GDPpc | -0.087 | -0.074 | | |
| | (0.11) | (0.12) | | |
| Duration | -0.416** | -0.432** | | |
| | (0.05) | (0.05) | | |
| Duration sq | 0.017** | 0.018** | | |
| | (0.00) | (0.00) | | |

| | | | | |
|---------------------|----------|----------|----------|----------|
| Duration cubed | -0.000** | -0.000** | | |
| | (0.00) | (0.00) | | |
| Constant | 1.837+ | 1.941+ | | |
| | (1.04) | (1.06) | | |
| Observations | 1142 | 1129 | 1142 | 1129 |
| Pseudologlikelihood | -861.177 | -840.979 | -479.429 | -471.561 |
| AIC | 1782.355 | 1741.958 | 988.858 | 973.122 |
| BIC | 1933.571 | 1892.830 | 1064.466 | 1048.558 |

Significance: + $p < 0.1$, * $p < 0.05$, ** $p < 0.01$. Standard errors clustered on conflict reported in brackets. Models 1 and 2 are multinomial logit regressions showing a change in battle intensity compared to no change. Models 3 and 4 are discrete logit regressions showing conflict ending compared to conflict continuing.

Table A2.7: Amnesty to others at dyadic level

| DV | Model 1 Intensity change | Model 2 Intensity change | Model 3 Intensity change | Model 4 Intensity change |
|---|--------------------------------|--------------------------------|--------------------------------|--------------------------------|
| <u>Intensity increases</u> | | | | |
| Unconditional am to others | -1.866+ | | | |
| | (1.06) | | | |
| Unconditional am to others previous 3 years | | 0.092 | | |
| | | (0.54) | | |
| Unlimited am to others | | | -2.034+ | |
| | | | (1.05) | |
| Unlimited am to others previous 3 years | | | | 0.614 |
| | | | | (0.45) |
| Conflict over terr. | 0.288 | 0.302+ | 0.248 | 0.294 |
| | (0.18) | (0.18) | (0.18) | (0.18) |
| Resources | -0.177 | -0.185 | -0.191 | -0.181 |
| | (0.17) | (0.17) | (0.17) | (0.18) |
| Mountains | 0.065 | 0.070 | 0.061 | 0.075 |
| | (0.06) | (0.06) | (0.06) | (0.06) |
| Regime | -0.030 | -0.033 | -0.045 | -0.046 |
| | (0.07) | (0.07) | (0.07) | (0.07) |
| Regime sq | 0.001 | 0.001 | 0.002 | 0.002 |
| | (0.00) | (0.00) | (0.00) | (0.00) |
| GDPpc | -0.008 | 0.001 | -0.010 | 0.007 |
| | (0.09) | (0.09) | (0.09) | (0.09) |
| Duration | -0.889** | -0.894** | -0.892** | -0.898** |
| | (0.10) | (0.10) | (0.10) | (0.10) |
| Duration sq | 0.051** | 0.052** | 0.051** | 0.051** |
| | (0.01) | (0.01) | (0.01) | (0.01) |
| Duration cubed | -0.001** | -0.001** | -0.001** | -0.001** |
| | (0.00) | (0.00) | (0.00) | (0.00) |
| Constant | 1.958* | 1.870* | 2.089* | 1.874* |
| | (0.83) | (0.82) | (0.84) | (0.84) |
| Observations | 1486 | 1486 | 1464 | 1464 |
| Pseudologlikelihood | -1133.59 | -1136.44 | -1100.01 | -1105.77 |
| AIC | 2311.191 | 2316.893 | 2244.025 | 2255.543 |
| BIC | 2427.876 | 2433.578 | 2360.381 | 2371.900 |

Significance: + $p < 0.1$, * $p < 0.05$, ** $p < 0.01$. Standard errors clustered on conflict reported in brackets. Models 1, 2, 3 and 4 are multinomial logit regressions showing an increase in battle intensity compared to no change.

Table A2.8: Amnesty to others at dyadic level

| DV | Model 1 Intensity change | Model 2 Intensity change | Model 3 Termination | Model 4 Termination |
|---|--------------------------------|--------------------------------|------------------------|------------------------|
| <u>Intensity decreases</u> | | | | |
| Unconditional am to others previous 5 years | 0.017 (0.49) | | 0.160 (0.41) | |
| Unlimited am to others previous 5 years | | 0.949* (0.41) | | 0.561+ (0.30) |
| Conflict over terr. | -0.017 (0.18) | 0.044 (0.18) | 0.218 (0.17) | 0.245 (0.18) |
| Resources | -0.262 (0.17) | -0.227 (0.16) | -0.068 (0.16) | -0.049 (0.16) |
| Mountains | 0.147+ (0.09) | 0.171* (0.09) | -0.057 (0.06) | -0.045 (0.07) |
| Regime | -0.075 (0.08) | -0.081 (0.08) | 0.083 (0.06) | 0.081 (0.06) |
| Regime sq | 0.002 (0.00) | 0.003 (0.00) | -0.005+ (0.00) | -0.005 (0.00) |
| GDPpc | -0.159 (0.11) | -0.148 (0.11) | -0.035 (0.10) | -0.030 (0.10) |
| Duration | -0.063 (0.06) | -0.069 (0.07) | -0.222** (0.07) | -0.222** (0.07) |
| Duration sq | 0.003 (0.00) | 0.003 (0.00) | 0.012* (0.00) | 0.012* (0.00) |
| Duration cubed | -0.000 (0.00) | -0.000 (0.00) | -0.000* (0.00) | -0.000* (0.00) |
| Constant | -0.061 (0.96) | -0.262 (0.98) | -0.199 (0.79) | -0.306 (0.80) |
| Observations | 1486 | 1486 | 1464 | 1464 |
| Pseudologlikelihood | -1133.59 | -1136.44 | -1100.01 | -1105.77 |
| AIC | 2311.191 | 2316.893 | 2244.025 | 2255.543 |
| BIC | 2427.876 | 2433.578 | 2360.381 | 2371.900 |

Significance: + $p < 0.1$, * $p < 0.05$, ** $p < 0.01$. Standard errors clustered on conflict reported in brackets. Models 1 and 2 are multinomial logit regressions showing a change in battle intensity compared to no change. Models 3 and 4 are discrete logit regressions showing conflict ending compared to conflict continuing.

Table A2.8: Amnesties to others at conflict level

| DV | Model 1 Intensity change | Model 2 Intensity change | Model 3 Intensity change | Model 4 Intensity change | Model 5 Term- ination | Model 6 Term- ination | Model 7 Term- ination | Model 8 Term- ination |
|---|--------------------------------|--------------------------------|--------------------------------|--------------------------------|-----------------------------|-----------------------------|-----------------------------|-----------------------------|
| Unconditional am to others | N/A | | | | N/A (0.45) | | | |
| Unconditional am to others previous 3 years | | N/A | | | | 0.065 (1.09) | | |
| Unlimited am to others | | | 1.550* (0.62) | | | | -0.172 (1.06) | |
| Unlimited am to others previous 3 years | | | | 1.190* (0.54) | | | | 0.965** (0.31) |
| Conflict over terr. | -0.011 (0.22) | -0.023 (0.22) | -0.026 (0.23) | -0.042 (0.23) | -0.011 (0.22) | -0.023 (0.22) | 0.378 (0.25) | 0.341 (0.24) |
| Resources | -0.482** (0.18) | -0.490** (0.19) | -0.598** (0.19) | -0.636** (0.19) | -0.482** (0.18) | -0.490** (0.19) | -0.556* (0.25) | -0.611* (0.25) |
| Mountains | 0.056 (0.10) | 0.059 (0.10) | 0.024 (0.10) | 0.012 (0.10) | 0.056 (0.10) | 0.059 (0.10) | -0.047 (0.10) | -0.064 (0.10) |
| Regime | 0.021 (0.09) | 0.019 (0.09) | 0.036 (0.09) | 0.042 (0.09) | 0.021 (0.09) | 0.019 (0.09) | 0.086 (0.08) | 0.099 (0.08) |
| Regime sq | -0.003 (0.00) | -0.003 (0.00) | -0.004 (0.00) | -0.004 (0.00) | -0.003 (0.00) | -0.003 (0.00) | -0.006 (0.00) | -0.006 (0.00) |
| GDPpc | -0.060 (0.13) | -0.057 (0.13) | 0.026 (0.13) | 0.039 (0.13) | -0.060 (0.13) | -0.057 (0.13) | 0.003 (0.12) | 0.029 (0.12) |
| Duration | -0.061 (0.05) | -0.063 (0.05) | -0.050 (0.06) | -0.044 (0.06) | -0.061 (0.05) | -0.063 (0.05) | -0.143** (0.04) | -0.137** (0.04) |
| Duration sq | 0.003 (0.00) | 0.003 (0.00) | 0.003 (0.00) | 0.002 (0.00) | 0.003 (0.00) | 0.003 (0.00) | 0.005* (0.00) | 0.005* (0.00) |
| Duration cubed | -0.000 (0.00) | -0.000 (0.00) | -0.000 (0.00) | -0.000 (0.00) | -0.000 (0.00) | -0.000 (0.00) | -0.000* (0.00) | -0.000+ (0.00) |
| Constant | -0.850 (1.20) | -0.860 (1.20) | -1.470 (1.20) | -1.587 (1.19) | -0.850 (1.20) | -0.860 (1.20) | -0.777 (1.06) | -1.001 (1.06) |

Intensity increases

Unconditional am to others N/A

Unconditional am to others previous 3 years
-0.682
(0.78)

Unlimited am to others N/A

| | | | | |
|---|----------|----------|----------|----------|
| Unlimited am to others previous 3 years | | | | 0.925* |
| | | | | (0.45) |
| Conflict over terr. | -0.140 | -0.145 | -0.170 | -0.212 |
| | (0.20) | (0.20) | (0.20) | (0.20) |
| Resources | -0.334 | -0.338 | -0.379+ | -0.423* |
| | (0.22) | (0.22) | (0.22) | (0.21) |
| Mountains | 0.079 | 0.080 | 0.078 | 0.060 |
| | (0.09) | (0.09) | (0.09) | (0.09) |
| Regime | -0.002 | -0.002 | -0.010 | 0.004 |
| | (0.07) | (0.07) | (0.07) | (0.07) |
| Regime sq | -0.001 | -0.001 | -0.001 | -0.001 |
| | (0.00) | (0.00) | (0.00) | (0.00) |
| GDPpc | -0.094 | -0.091 | -0.090 | -0.065 |
| | (0.11) | (0.11) | (0.11) | (0.11) |
| Duration | -0.430** | -0.431** | -0.440** | -0.435** |
| | (0.05) | (0.05) | (0.05) | (0.05) |
| Duration sq | 0.018** | 0.018** | 0.018** | 0.018** |
| | (0.00) | (0.00) | (0.00) | (0.00) |
| Duration cubed | -0.000** | -0.000** | -0.000** | -0.000** |
| | (0.00) | (0.00) | (0.00) | (0.00) |
| Constant | 1.878+ | 1.868+ | 1.990+ | 1.775+ |
| | (1.04) | (1.04) | (1.05) | (1.05) |

| | | | | | | | | |
|---------------------|----------|----------|----------|----------|----------|----------|----------|----------|
| Observations | 1142 | 1142 | 1129 | 1129 | 1140 | 1142 | 1129 | 1129 |
| Pseudologlikelihood | -880.642 | -880.022 | -860.849 | -860.466 | -481.093 | -481.292 | -473.806 | -471.377 |
| AIC | 1805.283 | 1804.043 | 1765.698 | 1764.933 | 982.187 | 984.585 | 969.611 | 964.753 |
| BIC | 1916.175 | 1914.935 | 1876.338 | 1875.573 | 1032.575 | 1040.030 | 1024.931 | 1020.073 |

Significance: + $p < 0.1$, * $p < 0.05$, ** $p < 0.01$. N/A = results unreliable due to insufficient cases. Standard errors clustered on conflict reported in brackets. Models 1, 2, 3 and 4 are multinomial logit regressions showing a change in battle intensity compared to no change. Models 5, 6, 7 and 8 are discrete logit regressions showing conflict ending compared to conflict continuing.

Table A2.9: Outcomes at dyadic level

| | Model 1 | Model 2 | Model 3 | Model 4 |
|---|-------------------|-------------------|-------------------|-------------------|
| <u>Rebel victory</u> | | | | |
| Unconditional am to others | N/A | | | |
| Unconditional am to others previous 3 years | | N/A | | |
| Unlimited am to others | | | N/A | |
| Unlimited am to others previous 3 years | | | | N/A |
| Conflict over terr. | N/A | N/A | N/A | N/A |
| Resources | 0.205 (0.44) | 0.228 (0.43) | 0.081 (0.49) | 0.051 (0.50) |
| Mountains | -0.024 (0.27) | -0.024 (0.26) | -0.026 (0.28) | -0.052 (0.28) |
| Regime | 0.043 (0.17) | 0.054 (0.17) | 0.023 (0.17) | 0.052 (0.17) |
| Regime sq | -0.004 (0.01) | -0.005 (0.01) | -0.003 (0.01) | -0.005 (0.01) |
| GDPpc | -0.775* (0.37) | -0.771* (0.37) | -0.736+ (0.38) | -0.720+ (0.37) |
| Duration | -0.381 (0.31) | -0.388 (0.31) | -0.423 (0.30) | -0.477 (0.31) |
| Duration sq | 0.042 (0.04) | 0.043 (0.04) | 0.049 (0.04) | 0.056 (0.04) |
| Duration cubed | -0.002 (0.00) | -0.002 (0.00) | -0.002 (0.00) | -0.002 (0.00) |
| Constant | 3.057 (2.72) | 2.993 (2.69) | 2.950 (2.77) | 2.920 (2.68) |
| Observations | 1486 | 1486 | 1464 | 1464 |
| Pseudologlikelihood | -1034.599 | -1032.979 | -1014.344 | -1012.404 |
| AIC | 2157.199 | 2153.957 | 2116.688 | 2112.808 |
| BIC | 2390.568 | 2387.327 | 2349.401 | 2345.521 |

Significance: + $p < 0.1$, * $p < 0.05$, ** $p < 0.01$. N/A = results unreliable due to insufficient cases. Standard errors clustered on conflict reported in brackets. Base category is No termination.

Table A2.10: Outcomes at conflict level

| | Model 1 | Model 2 | Model 3 | Model 4 |
|---|--------------------|--------------------|--------------------|--------------------|
| <u>Negotiated settlement</u> | | | | |
| Unconditional am to others | N/A | | | |
| Unconditional am to others previous 3 years | | 1.770+ (1.06) | | |
| Unlimited am to others | | | N/A | |
| Unlimited am to others previous 3 years | | | | 0.686 (0.96) |
| Conflict over terr. | 0.148 (0.35) | 0.160 (0.35) | 0.218 (0.35) | 0.202 (0.35) |
| Resources | -0.210 (0.44) | -0.191 (0.43) | -0.164 (0.44) | -0.190 (0.44) |
| Mountains | -0.336* (0.15) | -0.348* (0.15) | -0.331* (0.15) | -0.341* (0.15) |
| Regime | 0.456** (0.11) | 0.466** (0.11) | 0.493** (0.11) | 0.503** (0.11) |
| Regime sq | -0.021** (0.01) | -0.021** (0.01) | -0.022** (0.01) | -0.022** (0.01) |
| GDPpc | 0.012 (0.23) | 0.017 (0.23) | 0.008 (0.24) | 0.017 (0.24) |
| Duration | -0.181+ (0.10) | -0.175 (0.11) | -0.176+ (0.11) | -0.176+ (0.11) |
| Duration sq | 0.012+ (0.01) | 0.011 (0.01) | 0.011+ (0.01) | 0.011+ (0.01) |
| Duration cubed | -0.000+ (0.00) | -0.000 (0.00) | -0.000+ (0.00) | -0.000+ (0.00) |
| Constant | -3.382+ (1.83) | -3.441+ (1.85) | -3.630* (1.84) | -3.735* (1.84) |
| <u>Government victory</u> | | | | |
| Unconditional am to others | N/A | | | |
| Unconditional am to others previous 3 years | | N/A | | |
| Unlimited am to others | | | N/A | |
| Unlimited am to others previous 3 years | | | | 1.350 (1.16) |

| | | | | |
|---|-----------------|---------|---------|---------|
| Conflict over terr. | -0.993+ | -1.004+ | -0.973+ | -1.016+ |
| | (0.58) | (0.58) | (0.58) | (0.58) |
| Resources | -0.816 | -0.827 | -0.793 | -0.904 |
| | (0.57) | (0.57) | (0.57) | (0.64) |
| Mountains | 0.200 | 0.206 | 0.172 | 0.158 |
| | (0.22) | (0.22) | (0.22) | (0.23) |
| Regime | -0.136 | -0.136 | -0.114 | -0.103 |
| | (0.19) | (0.19) | (0.19) | (0.19) |
| Regime sq | 0.003 | 0.003 | 0.002 | 0.002 |
| | (0.01) | (0.01) | (0.01) | (0.01) |
| GDPpc | 0.408 | 0.420 | 0.421 | 0.445 |
| | (0.29) | (0.29) | (0.30) | (0.31) |
| Duration | -0.414* | -0.407* | -0.391* | -0.395* |
| | (0.17) | (0.17) | (0.17) | (0.17) |
| Duration sq | 0.022+ | 0.021+ | 0.020+ | 0.021+ |
| | (0.01) | (0.01) | (0.01) | (0.01) |
| Duration cubed | -0.000 | -0.000 | -0.000 | -0.000 |
| | (0.00) | (0.00) | (0.00) | (0.00) |
| Constant | -4.199+ | -4.304+ | -4.345+ | -4.522+ |
| | (2.46) | (2.45) | (2.45) | (2.51) |
| <u>Rebel victory</u> | | | | |
| Unconditional am to others | N/A | | | |
| Unconditional am to others previous 3 years | 1.159 (1.11) | | | |
| Unlimited am to others | N/A | | | |
| Unlimited am to others previous 3 years | N/A | | | |
| Conflict over terr. | -1.529 | -1.532 | -1.508 | -1.457 |
| | (1.13) | (1.13) | (1.13) | (1.15) |
| Resources | 0.068 | 0.066 | 0.082 | 0.112 |
| | (0.69) | (0.69) | (0.69) | (0.68) |
| Mountains | 0.157 | 0.158 | 0.151 | 0.152 |
| | (0.31) | (0.31) | (0.31) | (0.31) |
| Regime | 0.113 | 0.114 | 0.129 | 0.128 |
| | (0.29) | (0.29) | (0.30) | (0.30) |
| Regime sq | -0.010 | -0.010 | -0.011 | -0.011 |
| | (0.02) | (0.02) | (0.02) | (0.02) |
| GDPpc | -0.886+ | -0.880+ | -0.866 | -0.856 |

| | | | | |
|---------------------|----------|----------|----------|----------|
| | (0.52) | (0.52) | (0.53) | (0.53) |
| Duration | -0.627+ | -0.624+ | -0.603+ | -0.599+ |
| | (0.34) | (0.34) | (0.33) | (0.33) |
| Duration sq | 0.034 | 0.034 | 0.032 | 0.032 |
| | (0.03) | (0.03) | (0.03) | (0.03) |
| Duration cubed | -0.001 | -0.001 | -0.001 | -0.001 |
| | (0.00) | (0.00) | (0.00) | (0.00) |
| Constant | 4.198 | 4.146 | 3.955 | 3.873 |
| | (3.82) | (3.84) | (3.90) | (3.88) |
| Observations | 1142 | 1142 | 1129 | 1129 |
| Pseudologlikelihood | -620.848 | -619.442 | -609.860 | -607.313 |
| AIC | 1325.695 | 1324.885 | 1307.720 | 1302.625 |
| BIC | 1537.398 | 1541.628 | 1529.000 | 1523.905 |

Significance: + $p < 0.1$, * $p < 0.05$, ** $p < 0.01$. N/A = results unreliable due to insufficient cases. Standard errors clustered on conflict reported in brackets. Base category is No termination.

Table 2.11: Military amnesties at dyadic level

| DV | Model 1 Intensity changes | Model 2 Intensity changes | Model 3 Intensity changes |
|---|---------------------------------|---------------------------------|---------------------------------|
| <u>Intensity increases</u> | | | |
| Military conditions amnesty | -1.762** (0.44) | | |
| Military conditions amnesty in previous 3 years | | -0.512+ (0.28) | |
| Military conditions amnesty to others | | | -2.324** (0.66) |
| Conflict over terr. | 0.213 (0.18) | 0.250 (0.18) | 0.256 (0.18) |
| Resources | -0.199 (0.17) | -0.197 (0.17) | -0.173 (0.17) |
| Mountains | 0.065 (0.06) | 0.073 (0.06) | 0.075 (0.07) |
| Regime | -0.022 (0.07) | -0.026 (0.07) | -0.031 (0.07) |
| Regime sq | 0.000 (0.00) | 0.001 (0.00) | 0.001 (0.00) |
| GDPpc | 0.027 (0.09) | 0.011 (0.09) | 0.009 (0.09) |
| Duration | -0.875** (0.10) | -0.876** (0.11) | -0.888** (0.10) |
| Duration sq | 0.051** (0.01) | 0.051** (0.01) | 0.052** (0.01) |
| Duration cubed | -0.001** (0.00) | -0.001** (0.00) | -0.001** (0.00) |
| Constant | 1.771* (0.83) | 1.773* (0.80) | 1.807* (0.82) |
| Observations | 1486 | 1486 | 1486 |
| Pseudologlikelihood | -1114.894 | -1133.152 | -1126.803 |
| AIC | 2277.788 | 2310.303 | 2297.605 |
| BIC | 2405.081 | 2426.988 | 2414.290 |

Significance: + p< 0.1, * p< 0.05, **p< 0.01. Standard errors clustered on conflict reported in brackets. Models 1, 2 and 3 are multinomial logit regressions showing a increase in battle intensity compared to no change.

Table 2.12: Military amnesties at conflict level

| DV | Model 1 Intensity change | Model 2 Intensity change | Model 3 Intensity change | Model 4 Termination | Model 5 Termination | Model 6 Termination |
|---|--------------------------------|--------------------------------|--------------------------------|------------------------|------------------------|------------------------|
| <u>Intensity decreases</u> | | | | | | |
| Military conditions amnesties | 0.434 (0.28) | | | -0.875+ (0.46) | | |
| Military conditions amnesties in previous 3 years | | 0.097 (0.23) | | | -0.993** (0.34) | |
| Military conditions amnesties to others | | | 1.193** (0.37) | | | 0.343 (0.62) |
| Conflict over terr. | 0.021 (0.23) | 0.006 (0.23) | -0.020 (0.22) | 0.322 (0.24) | 0.284 (0.24) | 0.365 (0.25) |
| Resources | -0.469* (0.19) | -0.474** (0.18) | -0.498** (0.18) | -0.542* (0.24) | -0.554* (0.24) | -0.526* (0.24) |
| Mountains | 0.057 (0.10) | 0.059 (0.10) | 0.044 (0.10) | -0.047 (0.10) | -0.054 (0.10) | -0.045 (0.10) |
| Regime | 0.019 (0.09) | 0.019 (0.09) | 0.042 (0.09) | 0.091 (0.08) | 0.101 (0.08) | 0.082 (0.08) |
| Regime sq | -0.003 (0.00) | -0.003 (0.00) | -0.004 (0.00) | -0.006 (0.00) | -0.006 (0.00) | -0.006 (0.00) |
| GDPpc | -0.068 (0.13) | -0.062 (0.13) | -0.031 (0.13) | -0.017 (0.12) | -0.007 (0.12) | -0.018 (0.12) |
| Duration | -0.062 (0.05) | -0.062 (0.05) | -0.059 (0.05) | -0.143** (0.04) | -0.134** (0.04) | -0.150** (0.04) |
| Duration sq | 0.003 (0.00) | 0.003 (0.00) | 0.003 (0.00) | 0.005** (0.00) | 0.005* (0.00) | 0.006** (0.00) |
| Duration cubed | -0.000 (0.00) | -0.000 (0.00) | -0.000 (0.00) | -0.000* (0.00) | -0.000* (0.00) | -0.000* (0.00) |
| Constant | -0.816 (1.22) | -0.842 (1.21) | -1.102 (1.21) | -0.578 (1.03) | -0.667 (1.01) | -0.591 (1.05) |
| <u>Intensity increases</u> | | | | | | |
| Military conditions amnesties | -1.127* (0.51) | | | | | |
| Military conditions amnesties in previous 3 years | | -0.584* (0.24) | | | | |

| Military conditions amnesties to others | N/A | | | | | |
|--|--------------------|--------------------|--------------------|----------|----------|----------|
| Conflict over terr. | -0.213 (0.21) | -0.195 (0.20) | -0.135 (0.20) | | | |
| Resources | -0.379+ (0.22) | -0.356+ (0.22) | -0.333 (0.22) | | | |
| Mountains | 0.073 (0.09) | 0.073 (0.09) | 0.081 (0.09) | | | |
| Regime | 0.014 (0.07) | 0.010 (0.07) | -0.008 (0.07) | | | |
| Regime sq | -0.002 (0.00) | -0.002 (0.00) | -0.001 (0.00) | | | |
| GDPpc | -0.080 (0.11) | -0.077 (0.11) | -0.102 (0.11) | | | |
| Duration | -0.425** (0.05) | -0.421** (0.05) | -0.430** (0.05) | | | |
| Duration sq | 0.018** (0.00) | 0.018** (0.00) | 0.018** (0.00) | | | |
| Duration cubed | -0.000** (0.00) | -0.000** (0.00) | -0.000** (0.00) | | | |
| Constant | 1.860+ (1.05) | 1.763+ (1.01) | 1.949+ (1.04) | | | |
| Observations | 1142 | 1142 | 1142 | 1142 | 1142 | 1142 |
| Pseudologlikelihood | -870.432 | -878.291 | -875.607 | -478.686 | -475.384 | -481.165 |
| AIC | 1788.864 | 1800.583 | 1795.214 | 981.371 | 972.768 | 984.329 |
| BIC | 1909.837 | 1911.475 | 1906.106 | 1041.858 | 1028.214 | 1039.775 |

Significance: + $p < 0.1$, * $p < 0.05$, ** $p < 0.01$. Standard errors clustered on conflict reported in brackets. Models 1, 2 and 3 are multinomial logit regressions showing a change in battle intensity compared to no change. Models 4, 5, and 6 are discrete logit regressions showing conflict ending compared to conflict continuing.

Paper 3

Appendix 3.1: Interviews

ICC

Anonymous representative of the Office of The Prosecutor
The Hague, 2 November 2015

Government

Anonymous representative, Ministry of Justice
Bogota, 10 June 2015

Claudia Lopez, Senator, Green Alliance
Bogota, 28 May 2015

Governmental Organizations

Sandra Beltrán, Researcher at department of Legal Medicine, National Attorney General
Office
Bogota, 26 May 2015

Joshua Mitrotti, General Director, Colombian Agency for Reintegration (ARC)
Bogota, 2 June 2015

Gonzalo Sanchez, Director of National Centre for Historical Memory (Centro Nacional de
Memoria Historica)
Bogota, 25 May 2015

Andrés Strapper, Head of Judicial Office, Colombian Agency for Reintegration (ARC)
Bogota, 2 June 2015

Army

Colonel Manuel Narváez (retired)
Bogota, 23 May 2015

Colonel Carlos Velasquez (retired), currently Researcher at the Centre for Military Historical Memory

Bogota, 1 June 2015

Inter-governmental Organizations

Anonymous representative from the peace building section in the Support Mission to the Peace Process in Colombia for the Organisation of American States (MAPP-OEA)

Bogota, 3 June 2015

International Non-governmental Organizations

Anonymous representative, International Centre for Transitional Justice, Colombian Office

Bogota, 3 June 2015

Anonymous representative, Transitional Justice Fund, United Nations Development Program

Bogota, 22 May 2015

Mark Freeman, Director, Institute for Integrated Transitions (IFIT) and independent expert adviser to the government delegation to the peace process

Barcelona, 15 June 2015 (telephone)

National Non-governmental Organizations

Rafael Cuello, Secretary-General of Colombian Federation of Educators (FECODE)

Gustavo Gallón, Director of Colombian Commission of Jurists (CCJ)

Bogota, 9 July 2015 (skype)

Camilo Sanchez, Researcher, DeJusticia (national human rights NGO)

Bogota, 3 June 2015

Camilo Terreros, Researcher, Military Legal Defense Office

Bogota, 10 June 2015

Ex-guerrillas

Yezid Arteta, ex-commandant of FARC

Barcelona, 30 September 2015

Anonymous representative of M-19

Bogota, 27 May 2015

Jose Artistizabal, ex-leader of Socialist Renovation Movement (CRS), currently director of New Arco Iris Corporation (national NGO)

Bogota, 28 May 2015

Enrique Flores, ex-Vice Commander, Workers' Revolutionary Party (PRT)

Bogota, 3 June 2015

Alvaro Villarraga, ex-leader of Popular Liberation Army (EPL), currently Director of Truth Agreements at the Center for Historical Memory

Bogota, 10 June 2015

Ex-paramilitaries

Maria Angelica Guzmán, ex-United Self-Defense Units of Colombia (AUC)

Cali, 7 June 2015

Academics

Farid Benavides, Universidad de Los Andes, 2012-2013 Vice minister of criminal policy in the Ministry of Justice

Bogota, 22 May 2015

Anonymous academic,

Bogota, 9 June 2015

Appendix 3.2: Consent form (Spanish)

Tesis doctoral de Lesley-Ann Daniels
Universitat de Pompeu Fabra (Barcelona, España)

ldaniels@ibej.org

Supervisor: Abel Escriba-Folch

abel.escriba@upf.edu

Consentimiento informado

La entrevista es para el desarrollo de la tesis doctoral de la investigadora, Lesley-Ann Daniels (Universitat Pompeu Fabra). Esta investigación va sobre los factores que influyen los procesos de paz en Colombia y como estos factores están vistos por los actores.

El contenido de dicha entrevista será usado únicamente para fines académicos.

La entrevista puede ser grabada o escrita, según las preferencias del entrevistado.

Lesley-Ann Daniels compromete con el entrevistado a usar el contenido de dicha entrevista de manera anónima, si el entrevistado lo prefiere.

El entrevistado puede no responder a cualquier pregunta o terminar la entrevista en cualquier momento, sin dar explicaciones y sin consecuencias.

Después de terminar, el entrevistado puede añadir un comentario para cambiar lo que había dicho.

El entrevistado autoriza a Lesley-Ann Daniels y su equipo de investigación para utilizar el contenido de la entrevista realizada el ___/___/_____ (fecha de la entrevista).

Como muestra de consentimiento y compromiso ambas partes firman el presente documento:

Entrevistado : He leído estas normas y no tengo pregunta

(firma y fecha)

Investigador

(firma y fecha)

Este consentimiento sigue las normas de la Asociación Americana de Psicología, <http://www.apa.org/ethics/code/index.aspx>, normas 8.02.

Appendix 3.3: Ethical code from American Psychology Association

The previous consent form is based on the ethical code from the American Psychology Association, <http://www.apa.org/ethics/code/index.aspx>, accessed 28/4/2015, sections 3.10 (Informed consent) and 8.02 (Informed consent to research).

3.10 Informed Consent

(a) When psychologists conduct research or provide assessment, therapy, counseling or consulting services in person or via electronic transmission or other forms of communication, they obtain the informed consent of the individual or individuals using language that is reasonably understandable to that person or persons except when conducting such activities without consent is mandated by law or governmental regulation or as otherwise provided in this Ethics Code. (See also Standards 8.02, Informed Consent to Research; 9.03, Informed Consent in Assessments; and 10.01, Informed Consent to Therapy.)

8.02 Informed Consent to Research

(a) When obtaining informed consent as required in Standard 3.10, Informed Consent, psychologists inform participants about (1) the purpose of the research, expected duration and procedures; (2) their right to decline to participate and to withdraw from the research once participation has begun; (3) the foreseeable consequences of declining or withdrawing; (4) reasonably foreseeable factors that may be expected to influence their willingness to participate such as potential risks, discomfort or adverse effects; (5) any prospective research benefits; (6) limits of confidentiality; (7) incentives for participation; and (8) whom to contact for questions about the research and research participants' rights. They provide opportunity for the prospective participants to ask questions and receive answers. (See also Standards 8.03, Informed Consent for Recording Voices and Images in Research; 8.05, Dispensing with Informed Consent for Research; and 8.07, Deception in Research.)