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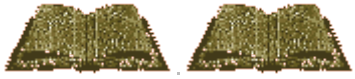
Book Reviews: Technical Books Section



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AMNESTY FOR CRIME IN INTERNATIONAL LAW AND PRACTICE

Amnesty For Crime In International Law And Practice, 1st Edition, *by* Andreas O'Shea. Hard Bound, 6.5" x 9.5".
Martinus Nijhoff, (An Imprint of Brill Academic Publishers), P.O. Box 9000, 2300 PA Leiden, The Netherlands. . . E-mail: marketing@brill.nl. Publication Date February 2002. 416 pp., ISBN 90-411-1759-8. Price EUR 100.00 / USD 92.00 / GBP 63.00

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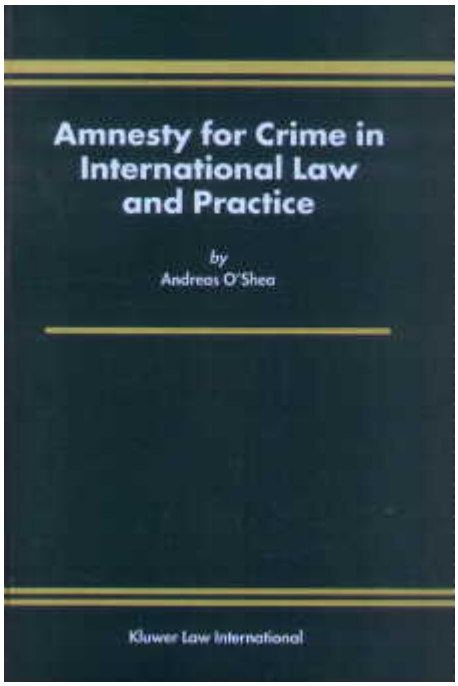

The Author, Dr Andreas Gordon O'Shea, is a senior lecturer at the University of Durban- Westville, South Africa. He completed his law studies at the Universities of Witwatersrand and Louvain and Liège, and then was called to the Bar of England and Wales (member of Lincoln's Inn). He has worked and taught in the fields of the development of principles on the limitation on national amnesty laws, international criminal law, conflict resolution, transitional justice and the protection of human rights. He is currently involved in a proposed project with the Centre for International Law and Transitional Justice at the University of Durban- Westville.

This book, according to Prof. John Dugard, contains a comprehensive and well-researched study of the relationship between municipal amnesty laws and developing principles of international criminal law.

It is well clear that the problem the author afforded is not juridical in itself, but primarily social and political. Many peoples, at the end of civil wars, had the necessity of stopping any criminal act, directly or indirectly related to the reasons or to the consequences of the civil war. To many Parliaments it appeared wise and rightful to promote and apply an amnesty act in view of a national reconciliation. After the end of the second World War, however, the idea arose that peoples could be forgiven, through an amnesty act, but leaders should be punished by an International Court of Justice. This is the core of the conflict that Dr O'Shea analyzed in his book. His point of view is typically juridical.

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The attempt of the author of finding out an instrument to use in solving enormous political problems like these cannot be successful. His analysis is perfect, but the solution should be political, as decisions in these issues are taken by those who are strong enough to take them. A Court becomes an instrument of a political Power.

...This book ..... contains a comprehensive and well-researched study of the relationship between municipal amnesty laws and developing principles of international criminal law...

The proposal of Dr O'Shea is that some crimes, like genocide, slavery, torture and other crimes, that violated international criminal laws, ought to be excluded from national amnesties. Every one of

course approves, because such violations of human rights cannot be accepted and the authors cannot go unpunished. Here the States are called to choose between an amnesty that will hopefully ensure a period of social peace and the punishment of the authors of horrible crimes against humanity, that will unfortunately not ensure such a period of peace.

A complementary proposal is the preservation, in the case of an amnesty, of the mechanism of civil liability, by employing the best possible alternative to amnesty from civil proceedings.

A Protocol, alleged as appendix to the book, summarises the ideas of the Author on the proper limitations to municipal amnesties promulgated in times of transition.

The book is not a medical legal one. Those of us, however, who participated in identifying human bodies and remains during wars and disasters, and in establishing the cause and manner of death, know perfectly the related technical difficulties, and certainly will appreciate the effort of the author of this book, which is a meta-analysis and also a consequence of our work, and is based on two points, what to do and how to do it, in order to improve the situation of people gone through internal conflicts and revolutions.



-Giusto Giusti
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