

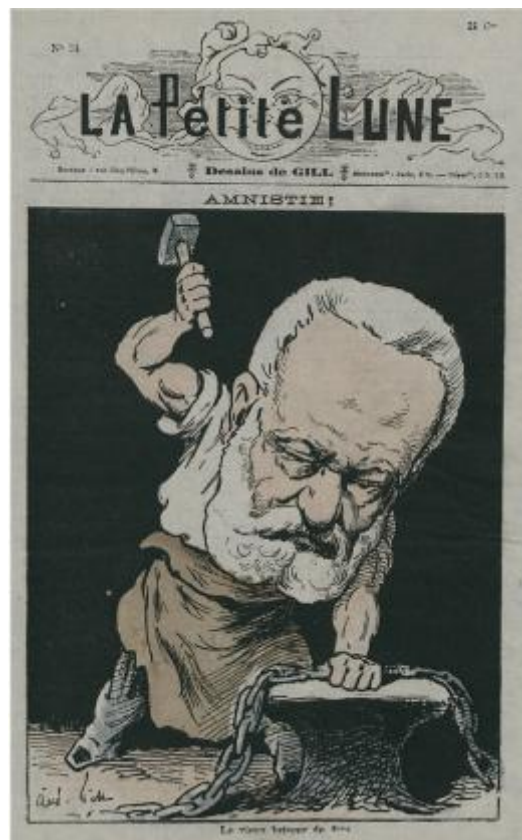
# Amnesty

## Practices of political forgetting in Europe during the Modern Period

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### ABSTRACT

Amnesty is a procedure of radical clemency that decrees forgetting of wrongdoing. Often practiced in Europe during the aftermath of major civil crises in an effort to end confrontation and revive community life, it was used in varying ways and for varying reasons depending on the regime. Long praised for its restorative role, the violence of the modern period contrasted it with the duty of memory. Its current rejection is revealing of a system of historicity in which actors struggle to free themselves from the past, with concern for victims taking priority. Forgetting subsequently becomes possible only if justice is rendered and history succeeds in disarming the confrontation of memories.



Amnesty, which is a political decision seeking to erase a wrongdoing committed in an effort to revive community life, is a measure that has a very negative connotation today. It is often associated with amnesia, which is to say the refusal to confront the violence of the past. Associated with compromising with persecutors, it is supposedly opposed to the rights of victims. The measure was nevertheless practiced regularly in Europe and was long accepted for its reconciliatory qualities. For those who have defended it over the course of time, it is a good means of strengthening democracy by pacifying the public sphere.

The origin of the tradition actually dates back to the Athenian amnesty of 403, which ended the episode of the Thirty Tyrants, and restored democracy in the aftermath of the Peloponnesian War. The Roman world practiced clemency in different forms, with the closest to modern amnesty being the collective pardon adopted early in the reign of certain emperors. The Middle Ages were a period of individual pardons, initially in the hands of lords and later that of kings, who made these the symbol of their regained power. It was only during the wars of religion that formulations emerged associating clemency and forgetting. For instance, in France, the Edict of Nantes sought for "the memory of all things past [...] to remain subdued and dulled, as if for something that never occurred." Modern Europe inherited this dual tradition of clemency through pardon, which was granted on an individual level by a sovereign authority, and amnesty, which served as a measure of collective and disinterested forgetting on the part of a people seeking to reunite after an ordeal. For all that, it is difficult to put all of the amnesties granted during the modern period in Europe on the same footing.

The amnesties/reconstruction of Western democracies were heir to the long history of reconciliations following the end of civil wars. Granted while the regime had not yet been defeated, they were in keeping with an endogenous process that put an end to repression, rather than with a purge akin to those during the aftermath of the Second World War. They sought to renew the social contract. The major French republican amnesties, such as those of the Commune (1879-1880) (see ill.), the Dreyfus Affair (1900), or the Algerian War (1962-1982), represent the best examples.

The amnesties of authoritarian or totalitarian regimes are singular. In 1859, when Napoleon III granted broad amnesty to republicans after his victory in Italy, it was in search of popular support at a time when his traditional sources of support, the Church and business circles, were beginning to fail him. He imposed on its beneficiaries the oath of never again conducting political activities, which explains the refusal of the many who preferred to wait, in Victor Hugo's famous words, for the return of liberty before their return to the country. There was a comparable arrangement in the Fascist amnesty law of 1932, which on the occasion of the tenth anniversary of the March on Rome, freed nearly half of all political inmates. Many observers have pointed out that while the Duce was attentive to the impact of his decision on the international level, his primary concern was to ease the unbearable weight of detention on the Italian penitentiary system. A comparable logic can be found in the post-Stalin amnesty of 1953 in the USSR, which freed 1,200,000 inmates, but only applied to common law convicts. These amnesties were both limited in number and strategically placed. Given the nature of the regime, their legal forms tended to reinforce authority, seeking to win public opinion while pursuing highly concrete objectives for regulating the prison system, which placed them at the heart of strategies for controlling the population.

The amnesties/reconciliation following in the aftermath of dictatorships were characteristic of what have been called democratic transitions, such as in the period immediately following the Second World War, during the 1970s with the fall of dictatorships in Mediterranean Europe, and in the late 1990s with the disappearance of communism in Central and Eastern Europe. In most cases, democracy was long scorned, if it existed at all, and the power of the dictatorship was such that amnesty was quick and even immediate and sometimes anticipated when the transition was being negotiated. Sparing former leaders was a frequent practice, either because they still held key posts, or because societies were still corrupted by the spirit of the regime. A total purge proved impossible while a reconstruction process, which sought to mobilize all forces available, proceeded. The amnesty of collaboration in France (1951-1953) was of this type. It was based on the idea that there was not "a handful of the miserable and

disgraceful” to be condemned, in the words of General de Gaulle in 1944. It was highly representative of a movement on a European scale, which can be explained by the needs of reconstruction, a bad conscience connected to collaboration, and Europe’s rapid shift into the Cold War. The amnesty across both sides in Spain in 1977 spared Francoists, while seeking to leave behind the “delayed” civil war. It underscored the impossibility of purging, as well as a concern for a peaceful transition against a background of exalting national unity, while the return of terrorist violence, Basque in particular, reactivated the fear of revolution and military dictatorship.

In all cases, amnesty was a complex measure that always swung between an affirmed ideal and situational reasons that imposed themselves and showed limitations. Complete amnesty does not exist. In view of what has been called the return of memory, the context of adopting measures is poorly viewed by populations which today often denounce the interruption of justice and the impunity of criminals. Yet this challenge is a recent one, and the shift in the meaning of amnesty generally dates back to the aftermath of the Second World War. Until then it accorded with the idea of progress that was part of the Western conscience and defined a system of futurist historicity, for which it was otherwise necessary to wipe clean the past or at least to proceed so as not to hinder construction of the future. In the late nineteenth century, this idea was strengthened by the imperious need to “create” national identity, which ascribed greater value to unity rather than division.

The crimes of the twentieth century, which defined the legal and moral norms of what is considered intolerable and inalienable, subsequently made clemency questionable and led, in the context of the moral crisis of recent decades, to a change in the system of historicity, which is characterized by a memorial obsession and denounces the measure as compromise. The French example, beginning with the Dreyfus Affair, nevertheless shows that an entire strand of public opinion concerned about the challenging of human rights attached conditions to clemency, and called into question the ritual or political aspect of the practice: the only way of facilitating mourning, in an effort to turn towards the future in good conditions, is for the truth to be told and for justice to be rendered.

Defended or denounced today in polemical fashion and exploited by those who are its beneficiaries or by their heirs, the practice has very often been associated in the democratic and liberal Europe of the twentieth century with the idea of producing consensus in an effort to build a space for community life. However, if it is adopted without a reminder of the law, it tends to discourage politics or to depoliticize the public sphere, which is challenged today by the movements most critical of liberal democracy.

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