

# Forum for International Criminal and Humanitarian Law



## Are amnesties for atrocities sustainable over time? The case of Argentina

A seminar organized in the series of the  
Forum for International Criminal and Humanitarian Law<sup>1</sup>  
by PRIO, the Chr. Michelsen Institute and the Norwegian Centre for Human Rights (University of Oslo).

*Thursday, 25 September 2008 15:00 – 16:30  
PRIO, Hausmanns gate 7, Oslo*

With the rise of criminal justice for atrocities<sup>2</sup> since the mid-1990s, much has been said and written on its relationship with peace and other transitional processes. Many of these discussions seem to gravitate around the conflict between constraining effects of criminal justice<sup>3</sup> on (in particular key) individuals involved in the armed conflict or the oppressive regime in question, on the one hand, and the central role of some of those individuals in peace-making or other aspects of transition, on the other. Many are of the view that the power of these individuals is such that they are needed for the transition to go well – that amnesties for atrocities or similar arrangements may be necessary to secure its success. There has been much debate on this perceived dichotomy between criminal accountability and the deliberate shielding from criminal responsibility in the interest of peace or transition.

Some states have introduced legislation amounting essentially to granting amnesty for past atrocities. This seminar will consider the Argentine experience and the reasons for which Argentina's amnesty law in the end was set aside by its highest court. Can we draw some general lessons from Argentina as to the long-term sustainability of amnesty for atrocities? Or are the circumstances surrounding the case of Argentina unique? The seminar will also consider the status of amnesties for atrocities in international law.

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<sup>1</sup> This Forum, previously known as the *Forum for International Criminal Justice and Conflict* (FICJC), started as an informal initiative under the Ethics, Norms and Identities Programme of PRIO by its Senior Researcher Morten Bergsmo in consultation with Dr. Jo Stigen and Torunn Salomonsen, Department of Public and International Law, University of Oslo. Now with Morten Bergsmo and Nobuo Hayashi, PRIO Researcher, as Convenors, the Forum aims to identify and facilitate discourses on key issues in international criminal and humanitarian law. Matters of interest to the Forum also encompass humanitarian affairs, criminal justice, truth and reconciliation and other questions surrounding the two fields of law and related disciplines. Through its seminars, workshops and publications, the Forum brings together legal academics and practitioners, government officials, NGO representatives, philosophers, political scientists and others. Information about the Forum can be found at [www.prio.no/ficjc/](http://www.prio.no/ficjc/).

<sup>2</sup> By 'atrocities' here is meant crimes against humanity, genocide and war crimes, often referred to as core international crimes. Whereas war crimes can only occur as part of an armed conflict, crimes against humanity and genocide have no such legal requirement. Crimes against humanity can be considered to have occurred in peace time by an oppressive regime, provided the conduct in question was part of a widespread or systematic attack directed against a civilian population.

<sup>3</sup> That is, investigation, arrest, trial and punishment.

### Programme:

- 15:00 *Welcome* by Morten Bergsmo<sup>4</sup> (Senior Researcher, PRIO).
- 15:05 *Introductory remarks* by Elin Skaar<sup>5</sup> (Research Director, CMI).
- 15:20 *The rise and fall of Punto final in Argentina*, by Mirna Goransky<sup>6</sup> (Prosecutor of the National General Prosecution Office appointed to the Special Unit to Investigate Human Rights Crimes during the 1976-83 Dictatorship).
- 16:00 *International law and amnesty for atrocities*, by Claudia Angermaier<sup>7</sup> (Candidate Judge, formerly Assistant Legal Adviser, ICC).
- 16:15 *Comments* by Christopher K. Hall<sup>8</sup> (Senior Legal Adviser, International Justice Project, Amnesty International).
- 16:20 *Discussion*.

### Registration:

Seminar participation is free. It is not necessary to register, but helpful if you do so. To register, please send an e-mail message to [ficjc@prio.no](mailto:ficjc@prio.no) (with "Seminar 080925" in the subject field) by noon on 25 September 2008, indicating your wish to register as a seminar participant.

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<sup>4</sup> **Morten Bergsmo**, Senior Researcher, International Peace Research Institute, Oslo (PRIO) (2006-); formerly Senior Legal Adviser and Chief of the Legal Advisory Section, Office of the Prosecutor, ICC (2002-05); Legal Adviser, ICTY (1994-2002); Legal Adviser, UN Commission of Experts for the Former Yugoslavia established pursuant to UNSC resolution 780 (1992) (1993-94); represented the ICTY to the UN negotiation process to establish the ICC (1996-2002). He has advised on core international crimes investigation and prosecution processes in several countries, including Bosnia and Herzegovina, Cambodia, Canada, Denmark, Indonesia, Macedonia, the Netherlands and Serbia, and has had several international consultancies in international criminal justice. He has published extensively in international criminal law.

<sup>5</sup> **Elin Skaar** holds a PhD in Political Science from the University of California, Los Angeles. She is Research Director of the 'Rights, Democracy and Development' research group and project head of the 'Transitional Justice' research project at the Chr. Michelsen Institute, Bergen. She has worked with the UNDP in Namibia on poverty reduction issues. She has worked extensively on human rights issues and judicial reform in Latin America. Recent books include: with Siri Gloppen and Roberto Gargarella (eds.), *Democracy and the Judiciary: The Accountability Function of Courts in New Democracies* (London: Frank Cass, 2004); with Siri Gloppen and Astri Suhrke (eds.) *Roads to Reconciliation* (Lanham, Maryland: Lexington Books, 2005); and *Judicial Independence and Human Rights in Latin America: Violations, Politics, and Prosecution* (Palgrave Macmillan, forthcoming).

<sup>6</sup> **Mirna Goransky** has a Law Degree from the University of Buenos Aires in Argentina. As a prosecutor of the Special Unit to Investigate Human Rights Crimes during the 1976-83 Dictatorship, she is in charge of the trials against those accused of crimes against humanity in the Navy School of Mechanics (Escuela de Mecánica de la Armada, ESMA) and Operation Condor. Previously she has worked on justice sector reform processes in Argentina and other countries working as a consultant for the Ministry of Justice of Argentina, the World Bank and USAID. She was a Criminal Law Professor in the University of Buenos Aires Law School from 1984 to 1998. Mirna Goransky is a founder member of the Argentine Association for Civil Rights (ADC) and the Institute for Comparative Studies on Criminal and Social Sciences (INECIP). She has published many articles on criminal law, human rights and justice sector and her most recent research project was a comparative study of prosecutor's offices in Argentina, Chile and the United States.

<sup>7</sup> **Claudia Angermaier** holds a doctorate in law from the University of Vienna, in addition to a Bachelor of Arts from the University of the Witwatersrand in South Africa. Formerly Assistant Legal Advisor of the Legal Advisory Section, Office of the Prosecutor, ICC (2004-05); Research Assistant, Criminal Law Department, University of Vienna (2002-04); Country Manager for the FRY, International Centre for Migration Policy Development (2002). She researched selection criteria in international criminal justice when she worked for the ICC.

<sup>8</sup> **Christopher K. Hall**, Columbia College in New York City (1972); University of Chicago Law School (1978); Associate at Fried, Frank, Harris, Shriver & Jacobson in New York City (1978 to 1982) (extensive *pro bono* litigation on behalf of Haitian and Cuban refugees); Instructor (1982-83) and Adjunct Professor (1983-84) at the University of Miami School of Law from 1982 to 1984; Associate at Kurzban, Kurzban & Weinger in Miami (1983-84); Assistant Attorney General of the State of New York (1984-90); Legal Adviser (1990 to 2004) and Senior Legal Adviser, International Justice Project (since 2004), International Secretariat, Amnesty International, London.