

Summary

Der Rechtsstaat und das Problem der strafrechtlichen Amnestie

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According to many authors, the practice of amnesty is incompatible with the rule of law (*Rechtsstaat*), since an amnesty amounts to a denial of justice and rule of law demands that justice be done. The aim of this paper is to show that such an incompatibility is not as evident as it seems to be. The paper begins with a presentation of three basic goods a *Rechtsstaat* owes its citizens: protection against violence, the guarantee that law and not arbitrary will reigns in the political institutions, and the feeling of being respected as a full and equal member of the political community. Before showing, in the final chapter, that amnesty is compatible with the protection of these goods, I first discuss the notion of amnesty, showing that we should bracket the pathos of forgiveness often associated with amnesty as well as the idea of oblivion, and concentrate on the fact that an amnesty means the absence of criminal prosecutions and that in this sense it has an analogy with prescription. This conceptual discussion is followed by a brief overview of some ethical – and not merely political – reasons justifying amnesties.