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obligations; 4.6 Legal defenses; 4.7 The question of limitations and derogations; 4.8 Reconciling international legal norms; 5. AMNESTIES AND THE INTERNATIONAL CRIMINAL COURT; 5.1 Background on the ICC; 5.2 General considerations about amnesties and the ICC; 5.3 Specific Rome Statute provisions related to amnesty; 5.4 The ICC in Uganda; 5.5 Conclusion; 6. THE EVOLVING UN POSITION ON AMNESTIES; 6.1 Legal questions about the UN position 6.2 Policy questions about the UN position 6.3 Alternatives to the current UN position; 7. CONCLUSIONS; PART II The Design of Amnesties; 1. INTRODUCTION; 2. LAST RECOURSE THRESHOLD; 2.1 Existence of an urgent and grave situation; 2.2 Exhaustion of appropriate options to end the urgent and grave situation; 2.3 Exhaustion of leniency options short of amnesty to end the blackmail; 3. OVERARCHING PARAMETERS FOR AMNESTY DESIGN; 3.1 A legitimate process; 3.3 Legitimate end; 3.4 Minimum leniency; 3.5 Maximum conditions; 3.6 Maximum viability; 4. SPECIFIC AMNESTY DESIGN CHOICES 4.1 Minimum legal entrenchment 4.2 Legitimate end; 4.3 Minimum leniency; 4.4 Maximum conditions; 4.5 Maximum viability; 5. CONCLUSIONS; Final Considerations: On the Perennial Contestation of Amnesties; APPENDIX 1 Summary Guidelines for Effective Amnesty Design; THRESHOLD ISSUES; Last-recourse threshold; SPECIFIC DESIGN CHOICES; 3. Minimum leniency; 5. Maximum viability; APPENDIX 2 Selected Excerpts from International Legal Instruments; NONTREATY SOURCES; 1993 - UN Declaration on the Protection of All Persons from Enforced Disappearances, Article 18(1) 2004 - Report of the Secretary-General on the Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies, UN Doc. S/2004/616, Paragraphs 10, 32, and 64 2005 - Report of Diane Orentlicher, independent expert to update the Set of Principles to combat impunity, UN Doc. E/CN.4/2005/102/Add.1, Principles 19 and 28; APPENDIX 3 Selected Excerpts from Jurisprudence on Amnesties; Abuse of Process; Conclusion; Amnesty in respect of criminal liability; Amnesty in respect of the civil liability of individual wrongdoers; The effect of amnesty on any potential civil liability of the state Conclusion

Sommario/riassunto

This book is about amnesties for grave international crimes that states adopt in moments of transition or social unrest. The subject is naturally controversial, especially in the age of the International Criminal Court. The goal of this book is to reframe and revitalise the global debate on the subject and to offer an original framework for resolving amnesty dilemmas when they arise. Most literature and jurisprudence on amnesties deal with only a small subset of state practice and sidestep the ambiguity of amnesty's position under international law. This book addresses the ambiguity head on and argues that amnesties of the broadest scope are sometimes defensible when adopted as a last recourse in contexts of mass violence. Drawing on an extensive amnesty database, the book offers detailed guidance on how to ensure that amnesties extend the minimum leniency possible, while imposing the maximum accountability on the beneficiaries.
