

# Stick then carrot: When do governments give amnesty during civil war?

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## Abstract

Governments grant amnesties to rebel groups during civil wars, and this is a puzzle. Why would the government offer an amnesty, which can be interpreted as a signal of weakness? In certain circumstances, offering amnesty is a rational policy choice. Governments should give amnesties when they are winning: the risk of misinterpreted signals is lessened, costs are low, rebel groups are weakened, and so amnesty can be used instrumentally to encourage defection or division among foot soldiers, or as an incentive to leaders. Therefore, the government capitalizes on its military advantage and offers amnesty in a “stick then carrot” tactic. Using a database of amnesties during conflicts from 1990 to 2011, the article shows that governments are more likely to give amnesties following high rebel deaths. The use of amnesty during conflict is nuanced and context is important when understanding strategic choices.

**Key words: civil war, amnesty, transitional justice, conflict termination, bargaining theory**

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# Introduction

Amnesties during civil war are a puzzle. Based on case studies of the most egregious cases, amnesties are widely assumed to be an incentive that trades justice for peace, yet the results from quantitative studies are inconclusive. In the midst of these findings, we still know little of the circumstances under which governments offer amnesties during conflict. Amnesty could even be counter-productive, since it could be interpreted as a sign of government weakness, which then encourages the rebels to keep fighting in the hope of victory. If amnesties arguably expose the government to increased fighting, under what circumstances do governments offer amnesties during conflict? The example of Cambodia is instructive.

In 1994, Cambodia faced its most positive future for many years. The Khmer Rouge had ruled Cambodia with a murderous regime from 1975 to 1979 resulting in the deaths of nearly two million people (Dy 2007). The Khmer Rouge was ousted by the Vietnamese but retreated to the border and continued fighting in a proxy conflict supported by foreign sponsors. With the end of the Cold War and under international pressure, a peace agreement was signed in 1991 and elections were held to establish a unity government. However, the Khmer Rouge aimed for absolute power and so refused to accept what it saw as biased elections or to demobilize its troops, numbering around 35,000,<sup>1</sup> (Ashley 1998). When the UN peacekeeping force (the United National Transitional Authority in Cambodia) withdrew in 1993, the new coalition government renewed conflict with fierce attacks on the Khmer Rouge. Foreign allies no longer supported the group and morale was low as the leadership forced the foot soldiers to turn on the civilians around them (Ashley 1998). However, many fighters did not see an alternative to fighting. In July 1994, the government offered an amnesty to guerrillas who wished to desert from the Khmer Rouge. Thousands took up the offer and the fighting force reduced to 9,000 by the end of 1994. Fighting ended in 1996, when a greatly weakened Ieng Sary, the Khmer Rouge second-in-command, took up a further amnesty granted by the government and brought some 3,000 fighters out of the jungle (Peou 2002). These amnesties were designed to “entice defections from, and thus weaken, an insurgent army” (Slye 2012, 300).

The research presented here focuses on amnesty: “an extraordinary legal measure whose primary function is to remove the prospect and consequences of criminal liability for designated individuals or classes of persons in respect of designated types of offenses irrespective of whether the persons concerned have been tried for such offenses in a court of law” (Freeman, 2009: 13). Amnesties are controversial as they are associated with impunity. Early research focused on

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<sup>1</sup> Troop numbers are taken from UCDP actor information, available at <https://ucdp.uu.se/additionalinfo/270/0>, accessed 16/12/2020.

outgoing actors in a political transition protecting themselves from reprisals and repercussions (Huntington 1991; Gonzalez-Enriquez, Aguilar, and Barahona de Brito 2001). One common viewpoint sees amnesties as unacceptable because they block justice (Orentlicher 1991, 1996; UN Secretary-General 1999). Increasingly, this is the view of the international community, with the UN explicitly stating that its negotiators cannot accept a peace agreement that includes an amnesty for international crimes (UN Mediation Support Unit 2012). On the other side of the debate are those who see amnesty as a useful, and in some cases essential, option for facilitating a transition to peace (Putnam 2002; Snyder and Vinjamuri 2003; Mallinder 2008; Freeman 2009b; Mendez 2012). There is an underpinning assumption that such a trade-off is effective in achieving conflict termination. This has been a rich debate, yet key parameters are still unknown. A particular gap is on why and when governments give amnesty during civil war. Amnesty is one tool in the government's toolkit for addressing conflict. This research addresses when it is rational for the government to use this tool. The research addresses this gap by focusing on the dynamics within a conflict and developing a theoretical framework based on issues of signalling and commitment problems.

Amnesty is a popular strategy during conflict. Since 1945, 83% of amnesties are granted during conflict, compared to 17% granted post-conflict (Binningsbø et al. 2012; Loyle and Binningsbø 2018). Of all conflict dyads since 1990, 29% receive an amnesty at some point during conflict.<sup>2</sup> Furthermore, of the dyads that receive an amnesty, 72% go on to receive further amnesties. Understanding the use of amnesty is important for practical reasons. Amnesties affect the conflict dynamics and context for conflict termination. Research on the outcomes of amnesties show that they can make negotiated settlements more likely (Daniels 2020). The presence of an amnesty will also constrain future options and the post-conflict environment. It is therefore important from a policy point of view to understand what influences the granting of an amnesty during conflict.

A common assumption is that amnesty will be interpreted as a sign of weakness and will even lead to increased fighting (Dancy 2018). Yet, we then have a puzzle as to why governments would offer amnesties at all. To date, the focus has been primarily on the impact of amnesty, yet as Dancy states "no established theory of conflict-amnesty provision exists" (Dancy, 2018: 406). The contribution of this article is to add to this literature by considering specifically the context within which the government grants amnesty during conflict and developing a dynamic theory of amnesty.

We can think of amnesty as a policy choice. Given the risk of appearing weak, governments should not give amnesty except in situations where they already appear strong. The argument put forward here is that the government gives amnesty when it is winning. In such circumstances, the government has established its strength and so does not fear that the rebels will interpret an

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<sup>2</sup> Author's dataset, see data section for more details.

amnesty as a sign of weakness. Thus, reputation costs to the government are low. Furthermore, the government can rationally realise that the rebels will be susceptible to an amnesty when they are weakened and looking for a way out. Amnesties can be aimed at the leadership as an incentive to the leader to enter negotiations or as part of a settlement. But amnesty can also be used as “war by other means” to encourage desertion and expose internal rifts, thus destabilizing the rebel groups. Thus, the government follows the stick of a successful military attack with the carrot of an amnesty offer.

This article takes a quantitative approach to examine the determinants of amnesties during civil war, using a database of amnesties during the years 1990-2011. The analysis drills down into the dynamics within the conflict and the results show that governments are more likely to give amnesties following a year of high rebel deaths.

These findings have important implications for policy. In recent years, amnesty has been seen as less acceptable (UN Mediation Support Unit 2012). However, this article suggests that the government uses amnesty alongside military advantage. By weakening the rebel group through desertion, the government puts pressure on the rebel leadership, while simultaneously offering a way out. This can make negotiated settlements more likely. Without amnesty, fighting could continue, causing increased suffering (Anonymous 1996). It is now widely accepted that it is important to have strategies to incorporate fighters back into society and multiple conflicts include forms of demobilization, disarmament and reintegration programmes. Furthermore, amnesties to foot soldiers are less likely to conflict with international law (Freeman 2009b; Freeman and Pensky 2012; Mallinder 2007; Mallinder and Hadden 2013).

## Theoretical framework

We can think of amnesty as a policy choice under the control of the state. Governments act rationally and choose the policy choice that best benefits them with the lowest costs. Within a civil war, the priority for the state is to triumph over the rebel group as best it can. “Triumph” can range from total victory (the state’s preferred option) to a settlement offering the fewest concessions necessary (Mason and Fett 1996; Mason, Weingarten Jnr, and Fett 1999).

However, all else equal, an amnesty offers an uncertain benefit - since it depends on the reaction of the rebels - alongside potentially dangerous costs. Thus, we have a puzzle. It should not be sensible or productive for governments to offer amnesties and yet they do. As we saw, offering amnesty is a popular choice in civil war. Research to date only goes part of the way in answering this conundrum. For the most part, this research looks only at structural conditions. For example, we know that amnesty is more likely in wars over government and in longer wars (A. G. Reiter, Olsen,

and Payne 2012). However, these results look at the total conflict and so tell us little about how amnesty fits into the dynamics of a conflict. We also know that amnesties are rarely given to the smallest rebel groups, against whom the government can hope for total victory, but instead are more likely to those rebels groups that are stronger, which have the capacity to carry on fighting and are able to threaten worse consequences - a longer conflict or the possibility of rebel victory (Loyle and Binningsbø 2018; A. G. Reiter 2014). However, these studies have treated all amnesties as a stand-alone event, examined with variables that are unchanging or that hardly vary. Given that we are trying to understand tactical choices, such static theories limit what we can know (Mitchell 2017). I argue that we need to delve deeper into the dynamic of the conflict and take a more nuanced approach to when amnesties serve the government. If we want to understand a strategy, such as using amnesty, it is essential that we consider carefully the conditions under which that choice is made, along with the costs and benefits.

### *The strategic context*

Bargaining theories state that there should be a settlement range that is acceptable to both parties, but that combatants fail to reach agreement because they misinterpret the strength of the other party (D. Reiter 2003; Fearon 1995; Walter 2009b, 2002). Parties attack in order to show military ability and willingness to fight, thus war is an exchange of signals (Fearon 1995). Amnesty is also a signal. It is an expression by the government that it is willing to make concessions. When negotiations are already taking place, the government does not need to be concerned about the signal that amnesty is sending.<sup>3</sup> The act of negotiations has already made clear that the government seeks a settlement (Kaplow 2016; Findley 2012). By contrast, during conflict, the offer of an amnesty may be interpreted by the rebels as a sign of weakness on the part of the government, which encourages the rebels to continue fighting (Dancy 2018). In a multi-group conflict, if amnesty is viewed as a concession, it may encourage other groups to fight harder (Walter 2009a; Kaplow 2016). Alternatively, the amnesty may be seen by rebels as a trick to get them to accept a bad deal and be “suckered” (Dancy 2018, 399). We run into the commitment problem, where rebels cannot rely on governments to honour their promises in the future and so are less likely to accept a deal that is mutually advantageous.<sup>4</sup>

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<sup>3</sup> 39% of amnesties are given during negotiations, compared to 61% that are given during conflict.

<sup>4</sup> Though note that if the government has also committed war crimes, an amnesty has an advantage of establishing a framework within which state wrongdoings will also be pardoned. In such a situation, state crimes are a guarantee of future implementation of an amnesty (Nalepa 2010). 83% of amnesties were to both rebel and state forces (author’s dataset).

This article builds on this framework, but argues that we should be more nuanced in considering the strategic context. Specifically, a different cost-benefit analysis applies when the government is winning. This can be early in the conflict before the rebel forces have gained strength, or during conflict, when the government uses military tactics to gain dominance over its adversary (Biddle, Friedman, and Shapiro 2012). With a successful military campaign, the government has already displayed its military strength and rebels have exposed their weakness. Thus, the military advantage opens up the opportunity for strategies such as amnesty. Since the government has shown that it is capable of inflicting damage on the rebels, the signalling costs attached to amnesty are lowered. The attractions of an amnesty offer, for the government, are to attempt to reduce or end the conflict without the need for fighting that is costly in time, manpower and loss of life.

The target of the amnesty can be the rebel leadership, with the aim of getting them to surrender or enter negotiations. Leaders may want to keep fighting in order to avoid punishment (Prorok 2016, 2018), and amnesty can counteract this. Having displayed force, the government can offer an escape. In the Cambodian example, the 1996 amnesty was an encouragement for Ieng Sary to leave his jungle hideout and disband his rebel group. However, amnesty can also be used instrumentally to gain advantage indirectly over the leadership through targeting the foot-soldiers. I develop the argument around this claim in the next section.

### *Weaponizing amnesty*

The Tamil region of Sri Lanka has been disputed since independence in 1948. The Liberation Tigers of Tamil Eelam (LTTE) began armed conflict in the mid-1970s, which escalated to a civil war in the mid-1980s. At its heart, the conflict is about finding a common ground between the Sri Lanka government's concessions for some devolved rule to the Tamils and the Tamils' claim of the right to secession (Armon, Carl, and Philipson 1998). Previous peace talks failed to resolve the conflict, where the LTTE used ceasefires as an opportunity to strengthen their forces. In 2005, a strongly nationalist government came to power in Sri Lanka and renewed fierce hostilities against the LTTE (Griffiths and Barnes 2008). In late 2008, after months of heavy fighting, the government captured the Tigers' headquarters at Kilinochchi in the north of the island. On 2 February 2009, the government offered an amnesty, with a two-month deadline, to all but the leadership of the rebel group. What are the benefits of offering an amnesty in the middle of conflict and why would the government not simply fight on to defeat the rebels? In Sri Lanka, the government was capable of defeating the rebels, as subsequent events showed. The rebel leadership rejected the amnesty and

the government continued attacking until it comprehensively defeated the rebels on 19 May 2009, with huge loss of life and widespread human rights abuses. Why then did it first offer an amnesty?

Rationally, the government knows that the rebels will be susceptible to an amnesty only when they are weak. From the government's perspective, amnesty can be a low-risk way to weaken the rebel group. Primarily, amnesty can be used instrumentally to encourage rebels to desert. If rebels surrender, there are a number of benefits for the government. Firstly, these desertions weaken the rebel group internally and reduce the pool of troops that the rebels mobilize (Toft 2010). Therefore, the amnesty can diminish the fighting power of the group, thus decreasing the threat to state forces. Secondly, a weaker rebel group may have to abandon territory and instead use terrorist tactics (Bueno de Mesquita 2013). Desertion by fighters can also show internal rebellion and lack of control within the group. The amnesty therefore causes a distraction as the leadership has to divert energies to restoring internal control and loyalty. Additionally, the rebel group may have to invest in recruiting and training new fighters.

The case of the 2002 amnesty in Colombia showcases many of these features. The FARC (Revolutionary Armed Forces of Colombia) had been fighting one of the longest modern insurgencies, from 1964, along with the ELN (National Liberation Army). In May 2002, a new president, Alvaro Uribe, came to power with a strategy of "total war", exploiting state-of-emergency legislation (Simons 2004; Narvaez Gomez 2009). In December 2002, Uribe passed an amnesty law.<sup>5</sup> This amnesty was available to the FARC and ELN, alongside the paramilitary groups, who were the main target and who had expressed an intention to disband. The amnesty offered leavers protection and reintegration. In 2002, FARC fighters numbered 20,700 and ELN 4,700 ('Evaluación de La Política de Defensa y Seguridad Democrática, 2002-2010' 2010). In 2003, the number of fighters deserting from FARC increased to more than 1,300, triple the number of the previous year (Stratfor 2008). By December 2005, after a further amnesty,<sup>6</sup> over 4,000 members of FARC and over 1,000 members of ELN had deserted (Arjona and Kalyvas 2006). Given that the punishment for desertion from the FARC is death, that such large numbers of deserters are prepared to risk a fatal shooting by their comrades shows a lack of control within the group. These deserters further weakened the abilities of FARC by giving sensitive operational information to the government, and even becoming guides for the Colombian military. FARC responded to the loss of fighters following the 2002 amnesty by increasing tactics such as kidnapping and terrorism. These tactics made them extremely unpopular, particularly with the constituency they claimed to be fighting for, the rural poor (Ortiz and Vargas 2013). In 2012, formal peace negotiations began between FARC and the Colombian government, which led to a peace agreement in 2016.

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<sup>5</sup> Law 782 of 2002

<sup>6</sup> The Justice and Peace law, Law 975 of 2005.



In these ways, amnesty can diminish the conflict and destabilize the rebel group, even if it does not directly or immediately bring about the end of conflict. Amnesty can be a way to encourage desertion, it can expose and foment internal divisions and it can force the group to expend energies in recruiting new fighters and reasserting internal control. Thus, it can serve as a non-military mechanism to bring military advantage for the government.

While offering an amnesty after military gains may bring advantages to the government, why should the rebels take it?<sup>7</sup> Rebels also think strategically about their choices. From the rebels' point of view, a major block to conflict termination is the commitment problem, whereby rebels fear that the government will not need to stick to its promises after the rebels have disbanded (Fearon 1995; Walter 2009b). Amnesty is subject to the same commitment problem. Dancy argues that, all things equal, the rebels would fear being "suckered" by the government and should reject any amnesty (Dancy 2018, 399). There are two reasons why we should question this interpretation with respect to amnesties during conflict. Firstly, it is in the government's interests to look further down the game tree and realise that if it reneges on an amnesty given during conflict, then no further concessions will hold any weight and the only option open to the government is to fight for total victory. Remember that in the example in Cambodia, Ieng Sary came out of the jungle for the 1996 amnesty, which followed the 1994 amnesty successfully taken up by foot-soldiers. Secondly, in the circumstances laid out here, when a credible alternative is military defeat by the government, taking a chance on amnesty becomes more appealing, particularly for foot soldiers who will be the ones losing their lives. Not only does the government's offer have more chance of being seen as convincing, given that the government is offering amnesty when it has the credible option of fighting to victory. But also, the commitment problem is high for would-be deserters as the government can betray them and their own side can punish them. Only a strong government is seen as capable of securing the deserter's safety, while a weak group is less likely to inflict reprisals.

In sum, when the government is winning its costs are lower, since the amnesty follows a military gain where they have proved they are dominant. This calculation makes amnesty more appealing as a strategy and the government deploys amnesty as the carrot after the military stick. The chances of impact are higher because when the rebels have suffered military losses, they are open to inducements to leave a sinking ship. Thus, the benefits of amnesty to the government are higher. The hypothesis is therefore that amnesty is more likely after government military advantage.

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<sup>7</sup> Though note that the argument does not require the rebels to accept the amnesty. Even making the leadership expend energies in counteracting the amnesty offer, for example, by having to restore internal control or find loot to neutralize the attractions of any financial offer linked to the amnesty can distract and weaken the rebel group, bringing positive effects for the government.

## Data and methods

The hypothesis is tested on the UCDP Dyadic Dataset, which measures government-rebel group dyads, covering the years from 1990 to 2011 (Harbom, Melander, and Wallensteen 2008; Themner and Wallensteen 2012).<sup>8</sup> I choose the UCDP definition of civil conflict, where a case enters the dataset if there are more than 25 conflict-related deaths in a year because the focus on dyads allows for a fine-grained study of the use of amnesty. I begin my analysis in 1990 for three reasons: two theoretical and one logistical. The first theoretical reason refers to the significance of amnesty. Human rights actions were originally solely concerned with the state as the responsible actor (Sikkink 2012). Gradually, the focus shifted to individual criminal accountability.<sup>9</sup> Amnesty has therefore taken on a different meaning, which directly affects an individual's decision calculus. We also see this empirically, as prior to 1975 there are fewer amnesty laws – a formal grant of amnesty was not necessary since impunity was taken for granted (Mallinder 2008). The second theoretical reason is that the nature of many civil wars changed after the end of the Cold War (Kalyvas and Balcells 2010). Many states lost their Cold War patrons and so had to look to domestic solutions for their civil wars. The logistical reason is that the data on rebel deaths is time limited (details below).

The dependent variable is the offer of an amnesty to a rebel group during a year and all the years of active conflict in which amnesty is offered are coded as 1. I use the During Conflict Transitional Justice dataset, which is the most comprehensive dataset of transitional justice measures (Loyle and Binningsbø 2018). The measures in the Loyle and Binningsbø dataset are applied at the conflict level, so based on case histories or the amnesty text, I apply each amnesty to the relevant dyad or dyads within a conflict. I take amnesties where rebels are recipients of the amnesty, therefore not including amnesties to state agents only. I also do not include amnesties to only prisoners, because I am interested in the effects of amnesties on fighters. Applying these restrictions, I have 127 amnesties given to 71 (out of 245 total) dyadic conflicts. The dependent variable is coded as a dichotomous variable that takes the value of 1 if an amnesty is granted during that calendar year. The measure is coded for analysis to include only amnesties during conflict, so excluding those given in the peace agreements. Amnesty during conflict is given in 12% of all dyadic conflict years.

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<sup>8</sup> Given the data availability of the variables included in the analysis, I examine the question at the yearly level.

<sup>9</sup> A key turning point was in 1975 with the adoption of the 1975 UN “Torture Declaration” (the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. res. 3452 (XXX), annex, 30 U.N. GAOR Supp. (No. 34) at 91, U.N. Doc. A/10034 (1975), <https://www1.umn.edu/humanrts/instree/h1dpast.htm> [accessed 14 November 2015]) along with domestic trials against individual military officers in Greece in 1975.

My hypothesis tests whether amnesty follows military advantage and I measure this with the number of rebel actor deaths. I take the measures of deaths in conflict from the UCDP Georeferenced Event Dataset (GED) and the data are available from 1989 (Sundberg and Melander 2013). To avoid reverse causality, the measure is lagged one year, therefore my analysis runs from 1990. Given the highly positively skewed nature of the distribution, I take the natural log of the numbers of rebel deaths. I need to control for whether an increase in rebel deaths shows an increase in conflict overall, rather than signalling the government winning. I include the number of deaths among state forces. This data also comes from the UCDP Georeferenced Event Dataset and these variables are also lagged. As with the data for the rebel deaths, I use the natural log.

In the base model (Model 1), I include controls considered important in the conflict literature, on the type of regime, the GDP per capita of the country and the duration of the conflict between this government-rebel group dyad. I include regime since autocracies may have fewer commitment problems, given that a grant of amnesty is less likely to be challenged or overturned by subsequent changes by elections and therefore rebels are more likely to trust an offer of amnesty from autocratic regimes (Melander 2009). Regime is measured by the lagged linear value from the V-Dem project (Coppedge, Gerring, and Lindberg 2017). I control for the natural log of GDP per capita, lagged, taken from Maddison (Maddison-Project 2013) since poverty can make a rebel “career” an attractive financial option (Collier and Hoeffler 2004; Collier, Hoeffler, and Söderbom 2004). I also control for the length of time that this conflict has been ongoing, as amnesties are more likely as conflicts are longer (A. G. Reiter, Olsen, and Payne 2012). This information is in the UCDP Dyadic Dataset. I account for duration time dependence by including polynomials of duration (Carter and Signorino 2010).

In Model 2, I control for the strength of the rebel group compared to the government as researchers have found that amnesties are more likely to stronger groups (Loyle and Binningsbø 2018). Stronger rebel groups may also have different expectations about the likely conflict outcome. Research has shown that stronger groups are more likely to gain concessions (Gent 2011). I take the data from the Non-State Actor Dataset (Cunningham, Gleditsch, and Salehyan 2013). These data measure the strength of the rebel forces relative to the government forces, using estimates of troop numbers. I have recoded the measure to run from 1 to 3, with the higher numbers corresponding to stronger rebels.<sup>10</sup>

Next, in Model 3, I expand the model to include two controls specific to amnesty as a policy choice. Firstly, I introduce a control for previous amnesties to the same dyad since a government that has granted amnesty in the past has already indicated a willingness to settle and sent a signal to

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<sup>10</sup> Only 2% of the groups are in the original top two categories (4 and 5), so these are incorporated into category 3.

current and would-be rebels (Walter 2006). I consider international costs and the effects of the rising global norms against amnesties, leading to a growing expectation of states' "responsibility to investigate and punish perpetrators" (Sikkink, 2012: 21), measured by post-2002, when the International Criminal Court was ratified. However, others have shown that empirically the use of amnesty has not decreased in recent years (Mallinder 2008; Olsen, Payne, and Reiter 2012).

I control for unit heterogeneity by running a model that conditions on the unit means. This approach is similar to modelling dyad-fixed effects; however, it has the advantage of not eliminating the cases where there is no variation in the dependent variable. In other words, with fixed effects, those cases that never receive an amnesty would not be included in the analysis, which results in a very low  $N$ . Conditioning on the unit means avoids this problem. Thus, the unit means of the explanatory variables are included as explanatory variables, and as a substitute for dyad-fixed effects (Wooldridge 2002, 487). The interpretation of the explanatory variables is the same as for a fixed effects model.<sup>11</sup> Standard errors are clustered by government-rebel group dyad. Due to missing values, primarily in the data on deaths, there are 646 observations.

I replicate Model 3 in a number of robustness checks, reported in the Appendix (Table A3). Firstly, I control for international intervention in the conflict, which has been theorized to reduce the commitment problem (Hegre, Hultman, and Nygård 2019; Fortna 2004). I include the variable of UN Peace Keeping Operations to proxy for international involvement. The data are taken from the International Peace Institute (Perry and Smith 2013), and the data date from 1990 (Model A3.1 in the Appendix). Secondly, I control for the number of democratic breakdowns, on the basis that rebels will be less likely to trust an amnesty from a fragile regime. The data are taken from (Boix, Miller, and Rosato 2013), though data are only available to 2007 (Model A3.2). Thirdly, I include resources, as this can influence whether the group is more resistant to an amnesty. Resources can sustain rebels economically (Collier and Hoeffler 2004; Collier, Hoeffler, and Söderbom 2004). Resources are taken as the presence of gems, drug production or hydrocarbon production in the conflict area and these data are taken from Lujala (2010) and updated to 2011 (Model A3.3). I then include the number of dyadic conflicts occurring within the country. Researchers have argued that when other dyads are fighting, the signal from an amnesty is more costly as it shows a willingness to make concessions (Walter 2009a). Therefore, this could influence the granting of the amnesty (Model A3.4). I then run the model using an alternative measure of conflict intensity. I use the UCDP data on whether the level of deaths that year was in the range of 25-999 deaths or over 1,000. I lag this variable (Model A3.5). I next drop the dyad that has received the highest number of amnesties, FARC (Model A3.6). Next, I use a linear probability model with dyad- and year-fixed effects (Model

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<sup>11</sup> The table including means is reported in the Appendix, Table A2.

A3.7), and finally, I report the results for a logit fixed effects model, again using dyad- and year-fixed effects (Model A3.8). In all cases, the results remain the same and retain strong significance.

## Results

The results are shown in Table I, which analyses the impact of government military gains on the offer of amnesty, using a model that conditions on the unit means.

Table I: The impact of government military advantage on the offer of amnesty

	Model 1 b/se	Model 2 b/se	Model 3 b/se
DV: Amnesty			
Rebel deaths, log lag	0.343*** (0.11)	0.343*** (0.11)	0.336*** (0.11)
State forces deaths, log lag	-0.148* (0.09)	-0.190** (0.08)	-0.195* (0.11)
Regime lag	2.116 (1.85)	2.013 (2.02)	6.217*** (1.97)
GDPpc log lag	-0.490 (0.66)	-0.785 (0.65)	-0.994 (0.99)
Duration	-0.033 (0.16)	0.009 (0.17)	-0.311 (0.19)
Relative strength lag		-1.213** (0.59)	-1.524** (0.69)
Past dyad amnesty			0.593** (0.28)
Post-2002			1.334*** (0.47)
Constant	-2.767** (1.39)	-2.920* (1.60)	-0.317 (1.60)
Observations	646	618	618
Pseudologlikelihood	-238.054	-223.018	-197.512
AIC	502.109	476.036	433.025
BIC	560.229	542.433	517.128

Significance: \*  $p < 0.1$ , \*\*  $p < 0.05$ , \*\*\*  $p < 0.01$ . Standard errors clustered on dyad reported in brackets. Cubic splines included but not reported. All models include the unit mean of all explanatory variables, not reported. Time period: 1990-2011.

Model 1 is the base model. The test of the argument is the result for the lagged measure of rebel deaths. The results for this variable are positive and highly significant, meaning that a higher number of rebel deaths in the previous year makes amnesty is more likely. Thus, the result is consistent with my argument that government military advantage opens up a space for amnesty. To consider whether the situation arises because of simply an increase in fighting or whether it is specifically

government military advantage, I control for the death levels of state forces. The results show that increasing deaths of state forces make amnesty less likely. Therefore, the increased likelihood of amnesty is not a response to battle weariness. Rather, amnesty offers follow specifically deaths to the rebel side. Previous theories of conflict would suggest that if the government is winning, it would be unwilling to give concessions since it should want to push on to total victory (Mason and Fett 1996). However, I argue that amnesty is a weaponized concession that the government uses to weaken the rebel group.

In Model 2, I control for the relative strength of the rebel group, in order to take into account research that shows that stronger rebel groups are more likely to receive concessions (Loyle and Binningsbø 2018; A. G. Reiter 2014). My results support that cross-sectionally larger rebel groups are more likely to get amnesties (from the measure of mean rebel strength reported in Table A2 in the Appendix). However, the results in Table 1 are more fine-grained and show the within-conflict dynamics. Here, we see that rebels do not receive amnesty in a context where they are gaining strength against the government. An amnesty in such a context would send a signal of weakness. Rather, if rebels are losing strength against the government, then the group is more likely to receive an amnesty. This supports the argument that amnesty is given when the government has displayed military advantage. The measure for rebel deaths still retains its strength and its significance.

In Model 3, I introduce two control specific to amnesty as a policy choice. As we would expect, previous amnesty makes a subsequent amnesty more likely. Following a previous amnesty offer, the signalling costs of a subsequent amnesty are lower. The measure for post-2002 is also positive and significant. This result goes against the argument that there should be fewer amnesties with the rise of the norm against impunity (Sikkink 2012), but supports other recent findings that amnesties are more common since 2002 (Mallinder 2008, Olsen *et al.* 2012). Again, the measure for rebel deaths retains its strength and significance.

In summary, in all models, amnesty is more likely when the government is winning, in all cases with strong significance. Figure 1 (based on Model 3) shows the marginal effects of rebel deaths on the probability of the government offering amnesty. The results are strong and significant. Increasing the logged rebel deaths from one standard deviation below the mean to one standard deviation above the mean makes amnesty 13.7 percentage points more likely. Taken together, these findings give support to the argument that an amnesty offer is more likely after military advantage by the government side.

Insert Figure 1 here

## Conclusion

In the peace versus justice debate, amnesty is widely seen as unacceptable as it is associated with impunity. Yet, there is still disputes over its effects and gaps in our knowledge of how it is used. In particular, we still know little of the circumstances under which amnesties are given during conflict. The article tests one explanation: that the government gives amnesty in the context of recent military gains, as the carrot after the stick. When the government has inflicted losses on the rebel side, it has proved its strength and so costs to the government are low. The alternative for rebels is worse, and so amnesty is more tempting. Plus, a strong government is able to guarantee protection for deserting fighters from retaliation by their own side. Furthermore, by offering amnesty when fighting to victory is a credible option, the government's offer may be interpreted as sincere.

The results show that amnesty is more common after rebel losses and the findings hold to a number of robustness checks. This evidence supports the argument that the government uses amnesty instrumentally and chooses when and why to offer it. Thus, we have here cross-national results that support the qualitative work that argues that amnesty matters (Mallinder 2008; Freeman 2009b, 2009a).

The argument put forward does not claim amnesty is a magic bullet. Amnesty is one tool in the government's toolkit. In some cases, it may be an additional incentive to encourage the leaders into negotiations or a settlement. However, another way it is used, and one that has been largely overlooked to date, is as an instrument of military strategy. It is used to encourage defection and weaken the rebel group. This can increase the government's advantage. Just as one battle rarely wins a war, so rarely is one amnesty the deciding factor in reaching peace. This may explain why previous research has not found strong effects of conflict termination (Dancy 2018; Loyle and Binningsbø 2018). However, over time, and often through repeated amnesties, the government can weaken the rebel group.

The work has limitations, specifically that the number of observations is limited by the data on rebel numbers, as with all research on conflict. Finer data on numbers of fighters, rebel deaths and the numbers of those who take up amnesties would increase our confidence in the findings. Such data are hard to come by, though improving. Further research is also necessary to test the

mechanisms. Current detailed microlevel work on demobilizing fighters, for example, work being done in Colombia, can explore in-group dynamics.<sup>12</sup>

Amnesties raise problems for policy-makers. There has been a turn against amnesties in the peace-making community, epitomized by the UN guidelines that their mediators could not endorse any peace agreement that includes an amnesty for international crimes (UN Mediation Support Unit 2012). However, other voices claim that there is a role for amnesties and that they can be designed to be compatible with international law (Freeman 2009b; Mallinder 2007; Freeman and Pensky 2012; Mallinder and Hadden 2013). Amnesty is usually viewed as useful as an incentive for rebel leaders, taking arguments from the cases of transitions to democracy. This article claims that amnesties are effective by their impacts on foot soldiers. The argument is that targeting such recipients during conflict can encourage these rebels to desert. This can destabilize the group sufficiently that the conflict is diminished or the leadership is open to a negotiated settlement. The research here argues that the majority of amnesties given during conflict have the aim of encouraging defection of foot soldiers. Such combatants are not the main focus of a transitional justice campaign, as they are usually not the most high-ranking rebels who give the commands. Furthermore, such amnesties are usually conditional on demobilization and disarmament. Some amnesties, such as the 2002 and 2005 amnesties in Colombia, also require disclosure of past actions, which can play in role in establishing the truth of events for victims. Some amnesties even require reparations to be paid to victims. Amnesties to foot soldiers are also the amnesties that are often acceptable morally and under international law. Thus, these results have a contribution to make to policy makers in peace negotiations and conflict resolution.

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<sup>12</sup> See for example forthcoming work by Enzo Nussio and Juan E. Ugarriza on Why Rebels Stop Fighting.



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# Stick then carrot: When do governments give amnesty during civil war?

## Appendix

Table A.1: Descriptive statistics

Variable	Observations	Mean	Std. Dev.	Min	Max
Amnesty	1,026	.1237817	.3294929	0	1
Rebel deaths (log and lag)	743	3.881538	2.184777	0	8.873888
Government deaths (log and lag)	743	3.56287	1.975504	0	10.31138
Regime (lag)	1,020	.407952	.2342885	.0460888	.9314962
GDPpc (log and lag)	890	7.537937	.9813872	5.383005	10.3532
Duration of conflict for this dyad	1,026	8.234893	7.67361	1	37
Rebel strength relative to the government forces (lag)	712	1.630618	.6296166	1	3
Past amnesty to this dyad	1,026	.8879142	1.844731	0	10
Post-2002	1,026	.3615984	.4806976	0	1
UN Peace Keeping Operation	1,026	.1978558	.3985771	0	1
Democracy breakdowns	806	.6116625	.8715307	0	3
Resources in the conflict area	1,022	.5303327	.4993234	0	1

Table A.2: Government military success on offer of amnesty

	Model 2.1 b/se	Model 2.2 b/se	Model 2.3 b/se
DV: Amnesty			
Rebel deaths, log lag	0.343*** (0.11)	0.343*** (0.11)	0.336*** (0.11)
State forces deaths, log lag	-0.148* (0.09)	-0.190** (0.08)	-0.195* (0.11)
Regime lag	2.116 (1.85)	2.013 (2.02)	6.217*** (1.97)
GDPpc log lag	-0.490 (0.66)	-0.785 (0.65)	-0.994 (0.99)
Duration	-0.033 (0.16)	0.009 (0.17)	-0.311 (0.19)
Duration squared	0.002 (0.01)	-0.001 (0.01)	0.004 (0.01)
Duration cubed	-0.000 (0.00)	0.000 (0.00)	-0.000 (0.00)
Relative strength lag		-1.213** (0.59)	-1.524** (0.69)
Past dyad amnesty			0.593** (0.28)
Post-2002			1.334*** (0.47)
Mean rebel deaths, log lag	-0.401*** (0.15)	-0.391*** (0.15)	-0.382*** (0.15)
Mean state forces deaths, log lag	0.594*** (0.17)	0.592*** (0.17)	0.360** (0.17)
Mean regime lag	-2.769 (1.88)	-2.511 (2.06)	-6.328*** (2.10)
Mean GDPpc log lag	0.041 (0.06)	0.052 (0.06)	0.213*** (0.08)
Mean duration	0.415 (0.71)	0.696 (0.70)	0.735 (1.04)
Mean relative strength lag		1.249*** (0.48)	1.354** (0.55)
Mean past dyad amnesty			0.006 (0.34)
Mean post-2002			-1.435** (0.69)
Constant	-2.767** (1.39)	-2.920* (1.60)	-0.317 (1.60)
Observations	646	618	618
Pseudologlikelihood	-238.054	-223.018	-197.512
AIC	502.109	476.036	433.025
BIC	560.229	542.433	517.128

Significance: \* p< 0.1, \*\* p< 0.05, \*\*\*p< 0.01. Standard errors clustered on dyad reported in brackets. Time period: 1990-2011.

Table A.3: Government military success on offer of amnesty

	Model A3.1	Model A3.2	Model A3.3	Model A3.4	Model A3.5 b/se	Model A3.6	Model A3.7 Fixed effects OLS	Model A3.8 Fixed effects logit
	b/se	b/se	b/se	b/se		b/se		
DV: amnesty								
Rebel deaths, log lag	0.324*** (0.12)	0.368*** (0.11)	0.359*** (0.11)	0.329*** (0.12)	0.243*** (0.09)	0.331*** (0.11)	0.039*** (0.01)	0.317** (0.13)
UN PKO	- 2.359*** (0.69)							
Democracy breakdowns		-1.750  (1.40)						
Resources			0.155 (0.62)					
Number of dyads				-0.722** (0.33)				
Intensity level					0.376 (0.46)			
State forces deaths, log lag	-0.178 (0.11)	-0.209** (0.10)	-0.221** (0.11)	-0.173 (0.11)		-0.187* (0.11)	-0.023 (0.01)	-0.194 (0.15)
Rebel strength, lag	-1.376** (0.65)	- 2.254*** (0.68)	-1.624** (0.66)	-1.639** (0.65)	-1.592** (0.69)	-1.315** (0.66)	-0.099 (0.11)	-0.414 (0.85)
Regime, lag	7.132*** (2.05)	5.717** (2.35)	7.174*** (2.38)	6.365*** (2.04)	6.113*** (2.12)	6.112*** (2.01)	0.484** (0.24)	3.113 (2.21)
GDPpc, log lag	-1.850* (1.03)	-0.845 (1.03)	-1.265 (1.02)	-0.979 (0.82)	-1.159 (1.01)	-0.834 (1.10)	0.050 (0.12)	0.085 (1.16)
Duration	-0.314 (0.19)	-0.164 (0.21)	-0.339* (0.20)	-0.372** (0.18)	-0.338* (0.20)	-0.265 (0.21)	-0.064*** (0.02)	-0.632*** (0.20)
Past dyad amnesty	0.597** (0.28)	0.610** (0.30)	0.581* (0.34)	0.621*** (0.23)	0.565** (0.29)	0.585** (0.29)	0.064*** (0.02)	0.614*** (0.22)
Post-2002	1.569*** (0.49)	1.106** (0.47)	1.290*** (0.48)	1.320*** (0.48)	1.416*** (0.45)	1.357*** (0.48)	0.146** (0.06)	1.131* (0.62)
Constant	0.034 (1.61)	0.275 (1.74)	0.468 (1.78)	1.802 (1.69)	0.758 (1.49)	-0.876 (1.63)	-0.103 (0.94)	
Observations	618	543	614	618	618	598	618	317
Pseudologlikelihood	-192.895	-181.600	-191.563	-191.743	-198.706	-188.071	-96.358	-104.457
AIC	427.791	405.201	425.126	425.487	435.412	414.143	214.716	228.913
BIC	520.747	495.440	517.946	518.443	519.515	497.621	263.408	266.502

Significance: \* p < 0.1, \*\* p < 0.05, \*\*\* p < 0.01. Cubic splines included but not reported. Models A3.1-A3.6 include the unit mean of all explanatory variables, not reported. Model A3.7 is a linear probability model including dyad- and year-fixed effects. Model A3.8 is a logit fixed effects model including dyad- and year-fixed effects. Time period: 1990-2011.