

**Judging the Acceptability of Amnesties: A Togolese Perspective**

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**Abstract**

The relationships between the circumstances in which amnesties are granted and Togolese lay people's judgments of their acceptability were examined. The 351 participants were instructed to read stories- created by the authors -in which a former police officer testified in front of a commission to receive amnesty. The stories were based on a five factor design: Quality of the information revealed, presence-absence of apologies, opportunity given to the victims for telling their story, compensation, and punishment of the applicant. Several interactions involving the truth and the apology factors were observed: Acceptability required the simultaneous presence of several positive aspects.

Key words: amnesty, acceptability, Togo

**Introduction**

The present study examined the extent to which Togolese people judge amnesties to be acceptable. Amnesties are often systematically granted by transitional regimes to former perpetrators of violence as a way to achieve the shift to democracy (Hayner, 2002; Huyse, 2005; Greenawalt, 2000; Lyster, 2000; Slye, 2000). Amnesties, however, have a price. They may be viewed by the victims and by other citizens as basically unjust. Once granted amnesty, the perpetrators of serious offenses can no longer be prosecuted, and, sometimes, simple mention of their crimes may become illegal. Amnesties may be viewed by the populace as immoral. Too often, beneficiaries of amnesty are unwilling to show any indication of remorse and remain convinced that their former political conduct was fair. Under these conditions, granting them full amnesty may be interpreted as siding with them in their conviction that they were not basically wrong, even if they have committed what international law considers crimes against humanity. Amnesties may also be viewed as economically (and socially) inappropriate. Former members of dictatorial regimes have often used their position to favoring the members of their group, and in the worst cases, for spoiling the country, and amassing huge fortunes. Such riches would be better used if redistributed to the victims, in proportion to their losses, and re-invested for the greater good of the population. Finally, amnesties may be viewed by the victims and by others as politically dangerous. If former perpetrators of political offenses are not adequately punished, and if they don't realize that their conduct was immoral, they may become a threat to democracy. They may use their fortune, and their unchallenged power and influence, to try to derail the new constituency.

This study examined the relationships between the varied circumstances in which amnesties are granted (e.g., presence of sincere apologies from the perpetrator, compensation to the victims, revelation by the perpetrator of important information about the past) and lay people's judgments of acceptability. In other words, the present study tried to answer Slye's (2000, p. 175) question about the common logic that makes us comfortable in accepting

amnesties as legitimate and just (see also Greenawalt, 2000, p. 195). The questions we intended to answer were, broader than whether each of these circumstances does or does not have a significant effect on acceptability judgments. It can be considered, on a priori grounds, as highly probable that, for most people, the more the victims have been properly compensated for the harm that was inflicted on them, the more their offender was truly repentant, the more their offender was punished for what he has done, and the more an amnesty would be considered as acceptable. This study was about the cognitive process by which acceptability judgments are formed. Firstly, the study examined the relative importance of the different circumstances in the judgment process. Of the many circumstances that can be considered, which of them are the most important in lay people's views? Is the victim's compensation factor more important than the amnesty applicant's repentance factor? Secondly, and more importantly, the study examined the way these circumstances interact in the judgment process. Is the applicant's repentance factor of any importance for judging acceptability if the victim has not been properly compensated? Is the amnesty applicant's punishment factor less important for judging acceptability when this person has revealed important information about the previous political system? These questions are crucial ones for understanding people's possible reactions to amnesties because the conditions under which amnesties are granted are usually complex ones, involving a multiplicity of factors.

As indicated above, the study was conducted in Togo. Togo is a country that is currently experiencing a political transition. In 2006, reconciliation talks between the government and the opposition were initiated. An agreement was reached between the parties (the Ouagadougou agreement), the opposition was invited to take part in a transitional government, and the population became sensitized to the idea of the creation of a truth commission under the auspices of the United Nations. In 2008, the president officially announced the creation of a Truth, Justice and Reconciliation Commission with the support of

the United Nations High Commission for Human Rights. National consultations were launched, and all citizens were invited to contribute to the implementation of the commission (composition, missions, and various mechanisms).

### **Political Transition, Truth Commissions, and the Granting of Amnesty**

In about forty countries (e.g., Chile, El Salvador, Germany, Nigeria, South Africa, Sri Lanka, and Honduras), truth commissions have been more or less central constituents of the process by which the country has attempted to rebuild itself after a period of division (Borer, 2006; Hayner, 2002; Long and Brecke, 2003; Minow, 1998; Rothberg and Thomson, 2000; Skaar, Gloppen and Suhrke, 2005; Villa-Vicencio and Verwoerd, 2000). The South-African Truth and Reconciliation Commission is certainly the best-known example of Truth commissions. Although its work has probably benefited South-African society as a whole, and further violence has been considerably reduced, although not eliminated, the principle of this specific truth commission has, however, been severely criticized (Verwoerd, 2003).

One criticism has been that the commission was the byproduct of a compromise between the emerging forces (e.g., the liberation movements) and the old regime. The transition to democracy, which resulted in an agreement on an Interim Constitution that made provision for amnesty as part of a truth commission process, was just a negotiated settlement between de Klerk's National Party, Mandela's African National Congress and other anti-apartheid movements. In other words, the real question was not whether to exchange justice for truth but to exchange justice for power. In the critics' views, the pursuit of justice has been sacrificed for the sake of achieving political/economical purposes (Biko, 2000). This is in contradiction with "the principles of international law that obligate a state to prosecute individuals responsible for certain gross violations of human rights" (Slye, 2000, p. 176).

Another criticism was that the commission has insufficiently prosecuted the authors of violence and has displayed a high degree of clemency towards some, including amnesty for very serious crimes. As a result, the majority of South Africans may be led to believe that even the new regime can break the law and not apply justice (Wilson, 2001), a view that is justified by the daily violence that still goes on in South Africa (see Campbell, 2005). In the long term, amnesties “undercut efforts to establish a stable democracy that honors human rights and the rule of law” (Slye, 2000, p. 176). In addition, financial compensations for victims of gross violations have not been sufficiently addressed by the commission (Jenkins, 2002). Even when material compensation was offered, the fact that the victims’ rights can be ignored by an amnesty process certainly results in disappointment: “Amnesties violate the right to a fair trial, the right to judicial protection, the right to justice, and the right to a remedy” (Slye, 2000, p. 177).

Finally, some authors have argued that “the telling” could cause mental disorders (e.g. Van der Walt, Franchi and Stevens, 2003; and Lyster, 2000). Referring to such mental health problems due to the “telling”, Allan (2000, p.191-192) stated:

The activities of a body such as the Truth and Reconciliation Commissions are bound to expose a high incidence of mental disorders and psychological pain in the relevant country. These bodies aim to help the relevant nation to come to terms with past abuses, but insofar as they involve the re-telling and re-experiencing of painful events, they can aggravate or lead to mental disorders and psychological pain.

### **Little Empirical Data**

These criticisms may stem from the fact that little empirical data exist on South Africans’ views about their truth commissions and its achievements (Gibson, 2004). What little empirical data are available do not provide much support for these criticisms. Kaminer,

Stein, Mbanga and Zungu-Dirwayi (2001) showed that the association between direct participation in the work of the commission and current psychiatric status was not significant. This result does not support the idea that “the telling” had further traumatized the victims.

Using a simulation technique, Gibson (2002) examined the conditions under which amnesty may be viewed as fair or unfair (acceptable or unacceptable). Sixteen vignettes depicting 16 different situations in which amnesty was granted were created. Four factors were considered that corresponded to the extent to which (a) distributive justice, (b) restorative justice, (c) procedural justice, and (d) retributive justice were rendered before amnesty was granted. Each factor had two levels (presence-absence) and their orthogonal combination produced the 16 situations ( $2 \times 2 \times 2 \times 2$ ). In Gibson’s study, (a) the distributive justice factor represented the extent to which the victims had been properly compensated for the harm inflicted on them, (b) the restorative justice factor concerned the extent to which the victims accepted the apology offered by the amnesty applicant, (c) the procedural justice factor was about the extent to which the victims had the opportunity to voice their grief publicly and receive the recognition that they had been unjustly wronged, and (d) the retributive justice factor involved the extent to which the amnesty applicant suffered as a consequence of the revelation of his/her past behavior (e.g., the spouse was ashamed and asked for a divorce).

The participants were from four communities in South Africa (Black Africans, Colored Africans, Africans from Asian-origin and White Africans). Each participant was instructed to consider only one of these vignettes and to indicate the extent to which the granting of amnesty was fair and then to indicate the extent to which each form of justice had been rendered. Overall, (a) 72% of black South Africans agreed with the granting of amnesties decided by the commission, even if they were directed at other segments of the population, but (b) only 33% of black South Africans considered the amnesties as just. In

other words, the majority of the population that had suffered most under the apartheid regime agreed with the amnesty process only because they realized that it was the result of a necessary political compromise (see also Lyster, 2000).

Each of the four factors that were manipulated in the vignettes had a significant effect on the fairness judgments. When the participants perceived that justice had been rendered (either distributive, restorative, procedural, retributive or combinations of them), the granting of amnesty was judged fairer than when they had perceived that justice was not rendered. The main message of the study was that (a) justice considerations matter at the time of judging of the fairness of amnesty in concrete cases, and (b) sincere apologies from the amnesty applicant and the opportunity for the victim to tell his/her story; that is, two symbolic factors, impact as much as monetary and punishment factors on the fairness judgments.

Subsequent findings by Mullet, Neto and Pinto (2008) were consistent with Gibson's results. These authors conducted a survey examining the personal views of ordinary citizens living in East Timor on the possible objectives, functions, powers, and composition of truth commissions. As a truth commission was operating in East Timor at the time of the survey, the participants were familiarized with the concrete work of such commissions. Most participants strongly valued the "symbolic" nature of truth commissions (over their judicial or therapeutic nature). Strengthening the respect for human rights everywhere, acquiring as much knowledge as possible about past atrocities, and restoring the dignity of all those (victims and perpetrators) involved in the atrocities were identified as clear priorities. Most participants, however, disagreed with the views that the work of the commission must be aimed at banishing the perpetrators and their accomplices (from the country or from political life). They particularly expressed reservations regarding the idea that the work of the commission should be aimed at systematically identifying and itemizing perpetrators, or at shaming them, punishing them or obtaining proper reparation from them. Participants were in



fact concerned about healing the perpetrators themselves rather than having them condemned (see also Babo-Soares, 2005; Thomas and Garrod, 2002).

### **Extending Gibson's (2002) Study**

The present study was aimed at extending Gibson's (2002) study by examining the views of a different population than the one used in Gibson's study. As in Gibson's study (conducted in South Africa), the political factor was held constant; that is, past violence was always associated with a political objective; that is, the violence was primarily directed at political opponents and their family. As in Gibson's study, the justice factors were distributive justice, restorative justice, procedural justice, and retributive justice. In the present study, however, a fifth factor was taken into account: the quality of the information on the past regime's abuses that the amnesty applicant was willing to reveal. This factor was judged important since applicants' willingness to contribute to the establishment of the truth about the past is usually viewed as the main condition for the granting of amnesty by truth commissioners (Slye, 2000).

Our first hypothesis was that the more information the applicant was willing to reveal, the more the amnesty received should be judged as acceptable. In addition, this factor was predicted to be among the most important ones. Applicants who accept to reveal important information can be considered as persons who have decided to collaborate with the new constituency, possibly as a result of the realization that the previous regime was wrong.

Another difference with Gibson's study resided in the way the restorative justice factor was operationalized. In Gibson's study, the amnesty applicants always offered apologies to victims, and the two levels of this factor were acceptance of the apologies by the victim or the victim's family, or rejection of these apologies because they were judged insincere. As was observed in many instances, however, no apology at all was offered by amnesty applicants

(e.g., Amstutz, 2004, p. 187-210; Biko, 2000, p. 197; Hayner, 2002, p. 99): “The much vaunted truth of amnesty hearings was often the truth of unrepentant murderers who still felt that their war was a just one” (Wilson, 2001, p. 25). As a result, the two levels that were considered in the present study were presence of sincere apologies and emotional demonstration of remorse by the amnesty applicant, or no apologies at all.

Our second hypothesis was that when sincere apologies are present, the amnesty should be judged more acceptable than when no apologies are present, and that the effect of this factor on acceptability should be stronger in the present study than in Gibson’s (2002) study. Applicants who demonstrate remorse and sincerely apologize to the victims can be considered as persons who have realized that their past political behavior was wrong. In a certain way, these persons have changed. They no longer consider their victims as enemies. They, to some degree, deserve to be fully reintegrated into society.

Our third hypothesis was about the effect of the procedural, distributive and retributive justice factors. An effect similar to the one that was observed in Gibson’s study was expected.

A final difference with Gibson’s study resided in the type of methodological framework that was used. As in several studies conducted in ethics and using acceptability scales (Esterle, Muñoz Sastre and Mullet, 2008; Muñoz Sastre, Pecarisi, Legrain, Mullet and Sorum, 2007; Teisseyre, Mullet and Sorum, 2005), the method used was an application of the Functional Theory of Cognition (FTC, Anderson, 1996; Anderson, 2008, 2009; see Annex A for more information). The main reason for choosing such a methodological framework was that we intended to examine the cognitive rules by which people integrate information about the applicant’s behavior and the victims’ compensation for judging acceptability. In other words, our fourth hypothesis was that the cognitive rule involved in acceptability judgments should be a complex, interactive rule.

Namely, a strong interaction between the quality of the truth factor and the restorative justice factor was judged to be highly probable. If applicants publicly apologize to their victims but are, nevertheless, unwilling to reveal important information or reveal information that subsequently appears to be of doubtful quality, this lack of cooperation with the new constituency is likely to be interpreted as reflecting insincerity on their part. In this context, their apologies are at risk of losing much of their weight because apologies from persons who are viewed as possibly insincere are of no value (Nadler and Liviatan, 2006). More generally, if the revelation of substantial information about the past really is a strict pre-condition for amnesty to be judged acceptable, then the possible effect of all the justice factors on acceptability should be conditioned by the quality of the information that has been communicated by the amnesty applicant.

In summary, the acceptability of amnesty was hypothesized to depend, in a complex way, on five factors: (a) whether the amnesty applicant revealed important information (the contribution to truth factor), (b) whether the amnesty applicant sincerely apologized (the restorative justice factor), (c) whether the victims were offered an opportunity to tell their story (the procedural justice factor), (d) whether they were reasonably compensated (the distributive justice factor), and (e) whether the amnesty applicant had experienced some kind of personal punishment (the retributive justice factor). The term “complex way” expresses the view that these factors were, to a considerable extent, expected to interact.

## **Methods**

### ***Participants***

The participants were 351 Togolese (117 women and 234 men) who lived in the Lomé area. Their ages ranged from 18 to 78, with a mean of 36 ( $SD = 13$ ). Sixteen percent of the participants had not completed elementary schooling, 39% had completed elementary but not

high school, and 46% had completed high school. As compared with the general population in the town of Lomé, females were clearly underrepresented, young persons (16-29) were over-represented, people older than 30 were underrepresented, and more educated people (high school and beyond) were over-represented. Except for gender, no reliable statistics were available for assessing the extent to which the sample was biased (for age and educational level).

All participants were unpaid volunteers. They were contacted during daylight hours in the main streets of Lomé (about 750,000 inhabitants), usually in the vicinity of the main open air markets, the school centers, the churches and mosques, and the post offices. The research team was composed of 11 psychology students from the University of Lomé, trained in the specific technique that was used and also in the techniques of questionnaires in general. They worked under the close supervision of one of the authors (LK). Each student was assigned one sector of the town and instructed to solicit every third passer-by until 40 individuals - who were able to read the vignettes - were contacted. The individuals approached were told that our research team was conducting a survey on the acceptability of amnesty and they were asked whether they were able to read the material. If the answer was affirmative, they were given some examples of vignettes, and briefly explained the procedure. The acceptance rate was moderately high; 51% of the people contacted agreed to participate in the study. The main reason for refusal to participate seemed to be lack of available time.

### ***Material (Research scenarios)***

The material consisted of 48 cards containing a vignette of a few lines, a question, and a response scale. The vignettes were composed according to a five within-subject factor design: Quantity and quality of the information that the amnesty applicant was willing to reveal (very important revelations, some true information, doubtful information) x Presence-

absence of sincere apologies (sincere apologies and demonstration of remorse, no apology and no expression of concern for the victims) x Opportunity given to the victims for telling their story (full opportunity, no real opportunity) x Compensation for the harm done (reasonable compensation, virtually no compensation) x Level of punishment of the amnesty applicant (loss of job and separation with the family, status quo), 3 x 2 x 2 x 2 x 2. In other words, in one-third of the scenarios, very important information had been revealed, in another third of the scenarios, only some true information had been revealed, and in the remaining third of the scenarios, only doubtful information had been provided. In the same way, in one-half of the scenarios, sincere apologies were been offered, and in the other half of the scenarios, no apology at all was offered (see Table 2).

Under each vignette were a question and a response scale. The question was, "To what extent do you believe that the amnesty was acceptable in this case?" The response scale was a 12-cm scale with a left-hand anchor of "Not at all acceptable" and a right-hand anchor of "Completely acceptable." An example scenario is the following:

Paul was the local chief of the police and a member of the party in power. He was accused of personally executing two opponents of the regime. In addition, he was also accused of having encouraged the people working for him to use violence against anyone deemed a threat to the power.

Paul asked to testify in front of the Truth Commission to receive the amnesty that the new government had promised to persons who agreed to testify openly in front of the commission.

Paul revealed some facts - unknown until now - on police activity in his sector and the responsibilities of his direct superiors. These facts have been verified. They helped move forward the investigation.

During the public hearings, Paul presented his apologies to the victim's families and all the population of his sector. He was very moved, and his apologies seemed to be sincere. It even appeared as if Paul himself may have been another victim of the oppressive regime.

During the public hearings, the victim's families were able to express openly their suffering and the way(s) that the loss of their two family members had affected their lives. The president of the commission gave them enough time to express themselves, and the commission respected them without ever doubting their sincerity.

Victims' families received a considerable financial compensation. They were given the assurance that the basic education of the victims' children would be supported by the government and the international non-profit organizations. They even found a stable employment for the widow of one of the victims.

Paul is without employment at the present time. His close family left him when they learned of his past conduct. He is a broken man. Furthermore, he had to return to their rightful owners all possessions stolen in the course of his career.

The cards were arranged by chance and in a different order for each participant. The participants answered additional questions regarding age, gender, and educational level. No questions were asked on participants' political views, because at the time of the study, most potential participants would have been reluctant at indicating their political orientation, even orally.

### ***Procedure***

The site was either a vacant classroom in the local university or at the participant's home. Each person was tested individually. The experimentation included two phases. In the familiarization phase, the experimenter explained what was expected and presented each participant with 24 vignettes taken from the complete set. For each vignette, the participant read it out loud, was reminded by the experimenter of the items of information in the story, and then gave an acceptability rating by marking the response scale. After completing the 24 ratings, the participant was allowed to review his/her responses and compare and change them if needed. In the experimental phase, each participant gave ratings for the whole set of 48 vignettes, with no time limit imposed, but was no longer allowed to review and change previous responses. In both phases, the experimenter made certain that each subject, regardless of age or educational level, was able to grasp all the necessary information before making a rating.

The participants took 25 to 50 minutes to complete both phases. The experimental phase was shorter since the participants were already familiar with the task and the material. The participants were told in advance of the approximate length of the experiment. No participant expressed any complaint about the number of vignettes they were asked to evaluate or about the credibility of the proposed situations.

## **Results**

Mean values computed for each vignette are shown in Table 1. In only five cases (out of 48), acceptability ratings were clearly higher than the mid-point of the acceptability scale (>8). For the amnesty to be judged acceptable, (a) sincere apologies must be present; that is, applicants are expected to demonstrate that they have realized that their political conduct was wrong, (b) very important facts must have been revealed; that is, applicants are expected to show their willingness to contribute to the truth seeking process, and (c) at least two of the

other three factors must have a positive value (e.g., applicants have personally suffered as a result of their misconduct and victims have been compensated). If only important, but not crucial, information has been disclosed, then all the other factors must have positive value for the amnesty to be judged acceptable.

In nine additional cases, acceptability ratings were located in what can be viewed as a “neutral” area (higher than 4 and lower than 8). For the amnesty to be judged “limit”, (a) sincere apologies must, as in the preceding case be present, (b) important facts must have been revealed and at least one of the other three factors must have a positive value, or (c) some true facts must have been revealed and at least two of the other three factors must have a positive value. In all other cases, the mean acceptability rating was lower than 4; that is, it was clearly in the unacceptability area.

The whole set of ratings has been subjected to statistical analyses. The five factors had significant effects, and strong significant interactions between factors were present. The detailed results of these analyses are presented in Annex B.

## **Discussion**

The present study examined the way in which people living under a transitional political regime judge the acceptability of amnesties, and, more specifically, the relationships between the many circumstances under which amnesties are usually granted as well as acceptability judgments. The first hypothesis was about the effect of the truth factor; that is, the quantity and quality of the information about the past regime’s abuses that the amnesty applicant was willing to disclose. The findings support the hypothesis that the more information the applicant was willing to reveal, the more the amnesty was judged acceptable.

The second hypothesis was about the effect of the restorative justice factor. The findings supported that hypothesis that when sincere apologies were present, the amnesty was



judged more acceptable than when no apologies were present. The effect size of this factor was the strongest of all; that is, in the present study, contrary to what was observed in Gibson's (2002) study, the restorative justice factor was the major factor.

The third hypothesis was about the effect of the other justice factors (procedural, distributive and retributive). Effects similar to the ones that were observed in Gibson's study were found.

The fourth hypothesis was about the complexity of the cognitive rules by which the acceptability judgments were formed. As expected, several interactions involving the truth factor were observed. When amnesty applicants revealed important information, and this information helped to establish the truth about the past, the effects of the other factors were stronger than when only doubtful information was communicated. In other words, when amnesty applicants were unwilling to cooperate at establishing the truth, the acceptability judgments were always low since there was not much room left for the other factors to manifest their possible positive effect (e.g., full compensation to the victims). In contrast, when amnesty applicants fully cooperated with the commission at establishing the truth, the acceptability judgments were higher because the other effects were allowed to play their (positive) role.

A still stronger series of interactions was evidenced regarding the restorative justice factor. The pattern of the effects was the same as the one that was evidenced regarding the truth factor. When amnesty applicants did not demonstrate any signs of remorse and did not apologize to the victims, the acceptability judgments were always very low because there was virtually no room left for the other factors to manifest their possible positive effects (e.g., presence of procedural justice). In contrast, when amnesty applicants fully apologized, the acceptability judgments were much higher because the other effects were allowed to play their (positive) role.

The overall pattern of effects, although complex, was very clear. The truth factor and the restorative justice factor interacted not only with each other, but also with the remaining factors. The following formula, which has been composed according to Anderson's (2008) principles of cognitive algebra, summarizes the overall findings:

$$\text{Acceptability} = (\text{Truth} \times \text{Restorative}) (\text{Procedural} + \text{Distributive} + \text{Retributive})$$

This rule represents an attempt at synthetically answering Slye's (2000, p. 175) question on the rationale of amnesties. The above formula groups the factors in two sets. The first one is about the amnesty applicants' behavior; that is, whether or not they demonstrated deep personal change, and, as a result, agreed to cooperate with the new constituency and acknowledged that they behaved wrongly in the past. Each factor in this set strictly conditioned the way in which the other factor played its role. Demonstrating deep personal change was viewed by the Togolese participants as implying BOTH cooperating with the commission and demonstrating remorse.

The second set of factors examined what was offered to the victim as compensation. These factors acted in a cumulative way. The more procedural justice was rendered, the higher the material compensation, and the higher the price paid by the perpetrator, the higher the acceptability judgment. Finally, the first set of factors strictly conditioned the effects of the factors in the second set. When the amnesty applicants behaved in a "positive" way, the level of compensation offered to the victim was considered by the Togolese participants as relevant for judging acceptability. When the amnesty applicants behaved in a "negative" or "mixed" way, the level of compensation offered to the victim was considered as irrelevant for judging acceptability.

From these two sets of factors, the first one was, by far, the most important in the Togolese participants' view. This is perfectly understandable. Amnesties primarily apply to former perpetrators of violence, not to victims; it is thus simply logical that the amnesty

applicants' actual behavior was deemed as being of primary importance compared to the possible compensations to the victims. The message that was conveyed by the Togolese participants was that full compensation to the victim is not enough for amnesties to be viewed as fair. The only acceptable amnesties are the ones that are granted to truly cooperative and remorseful applicants, with the condition that the victims have been properly if not fully compensated. Blanket amnesties are always considered as being particularly unfair.

This result is consistent with Gibson's findings. As in Gibson's study, very few situations in the present study were considered acceptable because acceptability requires the simultaneous presence of several positive aspects (see also Nadler and Liviatan, 2006). This result is also largely consistent with Braithwaite's (2002, p. 203) statement: "From the restorative justice perspective, there is no objection in principle to amnesties following wars, so long as they are amnesties that contribute to the ending of wars, so long as the stakeholders were given a voice in the amnesty negotiations, so long as those who benefit from amnesties are willing to show public remorse for their crimes and to commit to service to the new nation and its people to repair some of the harm they have done" (see also Greenawald, 2000, p. 203).

### *Limitations of the Study*

The present study has at least three limitations. Firstly, it was conducted on only one African sample. Although the observed results form a clear and understandable, although very complex pattern, the extent to which these results can be applied to other people from other countries in Africa or other continents (e.g., Latin America, Tibet) who have suffered from dictatorships, civil wars or wars with their neighbors is still largely unknown. In addition, for practical reasons, participants were, disproportionately, educated volunteers. Although special efforts were made to contact people from different areas in Lomé, and from

different educational levels, we are unsure about the representativeness of our overall sample. It is, however, reassuring that no difference between genders or as a function of age and education was found.

Secondly, as in Gibson's (2002) study, we used vignettes, not real cases. Even though reading vignettes is very different from experiencing real cases, vignettes are commonly used in studying the judgments and decisions of experts and lay people, and their use has been validated by researchers (e.g., Peabody, Luck, Glassman, Dresselhaus, and Lee, 2000). The external validity of the Functional Theory of Cognition itself was found to be good by Levin, Louviere, Schepanski and Norman (1983; see also Fruchart, Rulence-Pâques, and Mullet, 2007). In the present study, we used participants who were highly sensitized to the issue of truth, reconciliation and amnesty, we used typical levels for each factor, and we presented plausible situations in the vignettes. The participants displayed no real difficulty in making judgments; this is an important sign of the validity of the vignettes. Namely, if the situations had been non-ecological, the judgment process would have been much more laborious for the participants. Moreover, in the present study, the use of vignettes was important for the following reason. We examined how factors were weighted, how they were combined, and how different categories of participants (females and males, more or less aged, educated and less educated) possibly differed in weighting and combining. One condition for examining the processes of weighting and combining, independently of other processes, is that each participant has to have the same information presented in the same way.

Third, as indicated in the methods section, it has not been possible to have the participant express their political orientation. In a country where, just a few years ago, anybody could fear imprisonment or death for merely voicing a political opinion, it is understandable that most participants were still unwilling to disclose their views. This is unfortunate since, as shown by Noor, Brown and Gonzalez (2008, see also, Hewstone, Cairns,

Voci, McLernon, Niens and Noor, 2004), political orientation and group membership can impact on matters such as inter-group forgiveness and reconciliation. As a result, it would be highly advisable, in future studies on amnesty and amnesty processes, to compare the views of participants with different political orientations, and from various ethnic or religious communities.

### ***Policy Recommendations***

For the Togolese people living under a transitional political regime, amnesties are judged acceptable (a) if sincere apologies have been offered by the amnesty applicants, apologies that demonstrate that they realize that their conduct was wrong, (b) if important facts have been revealed by these applicants, revelations that demonstrate their sincerity and their willingness to contribute to the truth seeking process, and (c) if the victims have been at least decently compensated. In all other cases, amnesties are considered as strictly unacceptable.

Before considering the granting of amnesties to members of a previous non-democratic regime, the politicians in charge of the design of amnesty committees should take into account these basic facts because people's views on these matters are, in fact, reasonable ones. As stated before, amnesties apply to former perpetrators of violence, not to their victims. Granting them amnesty on the grounds that their victims have been compensated, and that these perpetrators have revealed information that allow politicians and historians to better understand the past of the country is likely not to be fully understood by the public. For the public, a fundamental ingredient is lacking, and this ingredient directly refers to the applicants' current "identity". To what extent is this particular applicant now convinced that part of his/her political and societal views were not in accordance with human rights? To what extent is this particular applicant now convinced that part of what he/she did in the past, publicly or privately, was wrong? In other words, what the public expects is that applicants

demonstrate some change in their worldviews and in their behaviors. What the public, very logically, expects is that some “positive” change in the perpetrators’ identity has occurred that makes them worthy of being reintegrated into society.

As important as it certainly is, appropriate compensation of the victims is, however, of secondary relevance. Appropriate compensation of the victims, through diverse forms of justice (notably procedural and distributive), must take place anyway; that is, it must take place independently of any amnesty process. As a result, appropriate or at least decent compensation of the victims does not in itself justify an amnesty process.

Each time amnesty is granted to former members of undemocratic regimes who are perceived by the people as “unrepentant murderers who still felt that their war was a just one” (Wilson, 2001, p. 25), the amnesty process is bound to be perceived as unacceptable. As a result, in such cases, the process of interpersonal forgiveness (between individual victims and individual perpetrators), and the process of inter-group forgiveness (see Neto, Pinto & Mullet, 2010) that can, in the long run, take place and develop may be blocked. High levels of inter-individual hostility as well as high levels of inter-group hostility may persist. The building of sustainable peace in the country can, as a result, be compromised, if not the very legitimacy of the new order.

As shown by Gibson (2004), people can understand that a blanket amnesty process can ease political transition because powerful members of the old regime often have the possibility to indefinitely block the process to democracy if they have no strong assurances that their fortune and their freedom will be untouched. As a result, people can, at least temporarily, agree with a blanket amnesty process because they perceive it to be a political necessity. In the long run, however, once the power of the amnestied has faded, the legitimacy of such an amnesty process is in danger of being strongly questioned. Amnesties that have been granted under circumstances that render them unacceptable to people’s views are, over

the long term, bound to be contested, by these people or by their descendants. Politicians who have allowed blanked amnesty process may, in the future, be at risk of being disavowed.

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Table 1. Mean Acceptability Judgments as a Function of the Five Descriptive Factors. In the Five First Cases, Acceptability Judgments Range in the Acceptability Area. In the Nine Following Cases, Acceptability Judgments Range in the Neutral Area. In all the Remaining Cases, Acceptability Judgments Range in the Inacceptability Area.

Factors					
Quality of Truth	Restorative Justice	Procedural Justice	Distributive Justice	Retributive Justice	<i>M</i>
Important	Remorse	Opportunity	Compensation	Punishment	11.51
Intermediary	Remorse	Opportunity	Compensation	Punishment	9.49
Important	Remorse	Opportunity	No Compens.	Punishment	8.75
Important	Remorse	Opportunity	Compensation	No Punishment	8.35
Important	Remorse	No Opportunity	Compensation	Punishment	8.12
Intermediary	Remorse	No Opportunity	Compensation	Punishment	7.55
Intermediary	Remorse	Opportunity	No Compens.	Punishment	7.31
Intermediary	Remorse	Opportunity	Compensation	No Punishment	6.96
Important	Remorse	No Opportunity	No Compens.	Punishment	6.18
Intermediary	Remorse	Opportunity	No Compens.	No Punishment	5.92
Important	Remorse	Opportunity	No Compens.	No Punishment	5.65
Important	Remorse	No Opportunity	Compensation	No Punishment	5.22
Important	Remorse	No Opportunity	No Compens.	No Punishment	4.84
Intermediary	Remorse	No Opportunity	Compensation	No Punishment	4.34
All Other Cases					0.97

## Annex A

Generally speaking, the primary aim of FTC methodology is to reveal the cognitive rules used by people to integrate information when they make a judgment or decision. It posits, based on extensive empirical data, that people place subjective values on different pieces of information and that they combine these subjective values by means of a cognitive algebra dominated by addition, multiplication, and averaging. Furthermore, this theory studies how this is done indirectly and functionally. It infers from people's judgments of the combined value of two or more cues the cognitive rules used to arrive at these judgments. FTC methodology requires a complete factorial design; that is, the set of vignettes had to consist of all possible combinations of the factors. Such a design facilitates the determination of the impact of each factor on the overall judgments, and is necessary for the investigation of their interactions and of the cognitive rules participants have used in combining them (see also Birnbaum, 1999).

## Annex B

A first ANOVA was conducted on the raw data with an Age (four levels were considered) x Gender x Truth x Apology x Telling x Compensation x Punishment, 4 x 2 x 3 x 2 x 2 x 2 x 2 design. A second ANOVA was conducted with an Education (two levels were considered) x Truth x Apology x Telling x Compensation x Punishment, 2 x 3 x 2 x 2 x 2 x 2 design. As age, gender and educational level had no significant effect and were not involved in any significant interaction with the other factors, a third ANOVA was conducted with a simpler Truth x Apology x Telling x Compensation x Punishment, 3 x 2 x 2 x 2 x 2 design.

The results of the third ANOVA are shown in Table 1. All five main effects were significant. Acceptability was rated higher when the information revealed was important ( $M = 4.11$ ,  $SD = 0.97$ ) or intermediary ( $M = 2.99$ ,  $SD = 0.81$ ) than when it was of doubtful quality ( $M = 1.22$ ,  $SD = 0.76$ ). Acceptability was rated higher when sincere apologies were present ( $M = 5.17$ ,  $SD = 1.18$ ) than when they were absent ( $M = 0.38$ ,  $SD = 0.36$ ). Acceptability was also rated higher when the victims were given full opportunity to express themselves during the process ( $M = 3.41$ ,  $SD = 0.80$ ) than when they were not given the opportunity to tell their story ( $M = 2.14$ ,  $SD = 0.64$ ). Acceptability was rated higher when the victims were reasonably compensated ( $M = 3.30$ ,  $SD = 0.73$ ) than when they were offered virtually nothing ( $M = 2.24$ ,  $SD = 0.65$ ). Finally, acceptability was rated higher when the amnesty applicants had personally suffered ( $M = 3.30$ ,  $SD = 0.73$ ) than when they did not suffer ( $M = 2.25$ ,  $SD = 0.65$ ).

Four two-way interactions that involved the apology factor were significant. Figure 1 illustrates some of these interactions. When no apologies were present, the effects of revealing information, opportunity to tell one's story, victim's compensation, and the amnesty applicant's suffering were virtually nil. Other two-way interactions that involved the truth telling factor were significant. Figure 1 also illustrates one of these interactions. When

absolutely no truth was revealed, the effects of opportunity to tell one's story, victim's compensation, and amnesty applicant's suffering were weaker than when the full truth was revealed. Finally, the three-way interactions involving both the truth and apology factors were significant.



Table 2

Results of the ANOVA

	Effect		Error		<i>F</i>	<i>p</i>	$\eta^2_p$
	<i>df</i>	MS	<i>df</i>	MS			
Quality of Truth (T)	2	11,910.02	700	7.06	1,687.16	.001	.83
Restorative Justice (A)	1	96,889.98	350	15.75	6,152.96	.001	.95
Procedural Justice (P)	1	6,776.43	350	4.23	1,603.20	.001	.82
Distributive Justice (D)	1	4,727.90	350	1.91	2,474.42	.001	.88
Retributive Justice (R)	1	4,595.35	350	1.90	2,412.68	.001	.87
T x A	2	7,270.50	700	6.15	1,182.22	.001	.77
T x P	2	448.16	700	3.56	125.98	.001	.26
T x D	2	375.39	700	1.80	208.44	.001	.37
T x R	2	289.57	700	1.87	154.97	.001	.31
A x P	1	4,050.58	350	4.02	1,006.48	.001	.74
A x D	1	2,078.04	350	2.26	920.92	.001	.73
A x R	1	2,991.20	350	2.27	1,317.53	.001	.79
T x A x P	2	324.85	700	3.76	86.31	.001	.20
T x A x D	2	232.60	700	1.96	118.87	.001	.25
T x A x R	2	138.94	700	2.10	66.25	.001	.16

Figure captions

Figure 1. Effect of Revealing the Truth, Perpetrator’s Apologies and Victim’s Voice on the Acceptability of Amnesties.

