

# Amnesties, Conflict and Peace Agreement Database V2

## Code Book

*Updated 17 July 2024*

Please cite as:

Louise Mallinder and Daniel Shaw (2024), Amnesties, Conflict and Peace Agreement Database, Version 2, Peace and Conflict Resolution Evidence Platform (PeaceRep) and Queen's University Belfast  
<https://peaceagreements.org/amnesties/>

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## ABOUT THE AMNESTIES, CONFLICT AND PEACE AGREEMENT DATABASE

The Amnesties, Conflict and Peace Agreements (ACPA) database aims to provide detailed qualitative descriptions of amnesty processes. As of April 2024, it contains qualitative data on 320 amnesties that are introduced during ongoing conflict, as part of peace negotiations, or in post-conflict periods from 1990-2023 in all world regions.

This database is a subset of a larger Amnesty Law Database that contains information on 699 amnesties that have occurred between 1945 and 2023 and which relate to a wider range of political crises, such as civil unrest, military coups, or authoritarian government, as well as international and internal armed conflict.

Although its primary aim is qualitative, the ACPA database may also be used to obtain **basic quantitative data** (eg the total number of amnesties granted to non-state armed groups). However, in its current form, it is not designed to produce statistical explanations of why an amnesty was introduced or what impact it had.

The ACPA database may be viewed and searched at <https://peaceagreements.org/amnesties/>

The search page allows users to apply filters (eg for date, region etc), to search by substantive categories, and to do word searches, either in simple or advanced search modes.

## UNIT OF ANALYSIS

The Unit of Analysis around which the Amnesty Law Database, and its ACPA subset, is structured is a single amnesty *process*. Amnesties are legal or policy measures that, at a minimum, remove criminal liability for wrongdoing, prior to conviction. This can be the *sole* legal effect of an amnesty, or one legal effect among others including *additional* effects that apply post-conviction.

One amnesty process may relate to multiple legal texts (eg a peace agreement, enacting legislation, and implementing regulations). In addition, policy documents, guidelines adopted by implementing bodies, case law etc, may also shape how an amnesty is designed and implemented.

An amnesty is coded as a single process in the database where it has been enacted in a statute or decree that presents the amnesty law as a discrete process. Some countries repeatedly enact legislation relating to amnesties. The database's process-orientated approach means that domestic laws that regulate the use of previously enacted amnesties or amend earlier amnesty legislation (without also creating a new and distinct amnesty) do not constitute independent amnesty processes in the database. These later amendments to amnesty laws are incorporated into the relevant amnesty process description.

If subsequent legislation does not explicitly relate to a preexisting amnesty, then it is coded in as a separate amnesty. In rare instances, such as in the Philippines in 2022, a government simultaneously issued four amnesty proclamations, with near identical terms. These proclamations were part of an overarching peace policy, and they were all to be implemented by the same National Amnesty Commission, which existed over several years to implement multiple rounds of amnesties under an evolving mandate. However, they are coded as separate amnesties in the database as they relate to different non-state armed groups, each law is connected to a different peace agreement or no peace agreement. This approach makes visible with the government choice to use different laws rather than grant one amnesty for multiple groups, which is the case within other states.

In addition, where an amnesty law is implemented in phases eg an amnesty for political prisoners that resulted in prisoners being released in batches, this is coded as one process rather than separate entries for each batch of releases.

Such decisions around coding potentially overlapping amnesty processes are highly complex and context-dependent, but the decision-making process around this is made clear within the database, with reference to secondary sources where appropriate.

## INCLUSION CRITERIA

To be included in the Amnesty Law Database, and the ACPA dataset, amnesties must:

- be enacted through *formal law* (ie legislation (exclusively on amnesties or truth commission laws that award powers to grant or recommend amnesty), and/or executive decrees); or have been *implemented in practice*

have been granted by a national or regional *government*. In some cases, the amnesty is enacted in a situation in which control over the government is disputed, such as during an ongoing civil war or transition of power. In such cases an amnesty is included in the database if the enacting body is seen as the *de facto* government, for example by controlling the capital city and/or most of a territory. For example, the 2021 general amnesty in Afghanistan is included because while the Taliban are not internationally recognized as the legitimate government of Afghanistan, they are in *de facto* control of the state.

*remove criminal liability pre-conviction* as a sole purpose or as one purpose among others.<sup>1</sup> This means that measures that only apply post-conviction to reduce or remove criminal penalties are not included in this database, irrespective of whether the term ‘amnesty’ by the national authorities or others to describe these forms of leniency.

The following additional criteria were used to identify amnesties in the Amnesty Law Database for inclusion in the ACPA database:

**Temporal criterion:** Amnesty entered into effect or was implemented between 1 January 1990 and 31 December 2023

**Contextual criteria:**

- Amnesty is introduced at a time of **armed conflict** or in a post-conflict period but it is intended to address conflict-related offences. The Uppsala Conflict Data Program is used to determine the existence of a conflict, which means that amnesty processes have been included in this sample if there are more than 25 deaths per year related to political violence;<sup>2</sup> and/or
- The existence of a **peace agreement** (as identified from the PA-X database,<sup>3</sup> UN Peacemaker<sup>4</sup> or other secondary sources)

Both the Amnesty Law Database, and the ACPA database, seek to include all amnesties that meet the relevant criteria.

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<sup>1</sup> This means that to be included in the database, it must normally be possible to code an amnesty under one or both of the following fields in Table 7: ‘barring new criminal investigations’ and ‘stopping ongoing investigations and trials’.

<sup>2</sup> Uppsala Conflict Data Program <https://ucdp.uu.se/> (accessed 28 March 2023)

<sup>3</sup> Peace Agreements Database <https://www.peaceagreements.org/> (accessed 28 January 2020)

<sup>4</sup> UN Peacemaker <https://peacemaker.un.org/> (accessed 28 January 2020)

## MEASURES THAT ARE EXCLUDED FROM THE DATABASE

'Amnesties' or related measures that fall outside the scope of the Amnesty Law Database, and the ACPA database, are:

Measures that are **not implemented in practice**, eg

Peace agreements that proclaim amnesty, but where the amnesty was not subsequently enacted

- Peace agreements that propose amnesty but were not signed by all parties and were not implemented (eg Rambouillet Accord)
- Amnesties that are promised or proposed, but are ultimately not implemented

Laws **regulating the use of amnesty** in general terms, eg

- Peace agreements that agree to impose some regulation on the future use of amnesty (without proposing the introduction of an amnesty law)
- Constitutional provisions regulating the use of amnesty

Amnesties proclaimed by **non-state actors**

Amnesties introduced for purposes that are not related to conflict or other forms of political crises eg

- General amnesty laws granted to large parts of the population for common crimes to mark a national holiday, ease overcrowding in prison etc
- Weapons amnesties

Leniency measures that do not correspond to the definition of amnesties used above eg

- Official immunities and indemnities
- Ad hoc releases of small groups of political prisoners which occur outside of a clear amnesty process
- Measures that are called 'amnesty' but are used *only to release convicted individuals*

## CODING AND TRANSPARENCY

In keeping with its qualitative aim expressed above, the data entered in the database is not reduced to numeric codes. Instead, where primary legal texts are available, relevant provisions of these sources are cut and pasted directly into relevant fields of the database. Where secondary sources are used to interpret amnesty legislation or provide contextual information, the sources may also be directly quoted. All sources used are included in the references to the amnesty process.

Where the coding of an amnesty has entailed inferring an aspect of the amnesty's scope, this is explicitly stated. Eg if the amnesty does not explicitly state its legal effects, it may be appropriate to infer that it prevents future criminal investigations and prosecutions.

However, in the absence of any stated inferences, data is only inputted into the database where an amnesty contains provisions that explicitly address the relevant fields. For example, if amnesty states that it includes or excludes foreign nationals, then the relevant passages of the legislation are cut and pasted into the appropriate fields. In contrast, where an amnesty law does not refer to particular issues than the relevant fields are left blank, eg if there are no conditions attached to an amnesty, then all database fields relating to conditions are left blank (rather than eg stating the amnesty is unconditional). The advanced search feature means that searches can be used to identify fields that are blank as well as fields that contain text.

It is important to note that the availability of primary and secondary sources varies considerably across cases, with sub-national processes and those occurring in the most underdeveloped countries/regions often presenting a particular challenge. For example, it is difficult to assess whether an amnesty was enacted after being declared in countries where the media is less free and/or in which the government does not provide regular updates on these issues. Likewise, different states have different levels of transparency and consistency in how laws are published, with some publishing well organised official gazettes while others announce amnesties through radio broadcasts or televised addresses. Such challenges are particularly acute in the context of ongoing conflicts, in which governments have incentives to withhold information or in which control over territory may be limited. Such issues are unavoidable when gathering data on conflict-affected states, but are worth highlighting in the interest of transparency.

Where English language translations of amnesty texts are not available, Mallinder tried as far as her language skills permit to translate texts from French and Spanish. In other instances, she used Google Translate. In addition, even where English language versions were available, they were not always official translations. For this reason, **translations in this database should not be considered official translations.**

## **STRUCTURE OF THE DATABASE**

The ACPA database is organized into a series of fields within separate tables. The tables relate to the main aspects of amnesty enactment, design, and implementation. Specifically, this includes Basic Information, Enactment Process, Recipients, Crimes, Implementation Process, and Legal Scope. Within these tables are individual fields covering descriptions of specific aspects of the amnesty process. The tables and fields are listed and described in the List of Fields below, with relevant definitions and examples.

## LIST OF FIELDS

This section describes the fields that are included in the ACPA database.<sup>5</sup>

### Table 1: Basic Information

#### *Amnesty Process Name*

This is a term for easily identifying an amnesty in the database, usually the name of the country where the amnesty was enacted and the year it came into effect e.g. Libya 2015. Please note that as legislative processes often involve multiple stages, the year that the amnesty came into effect may not be the same as the year in which the amnesty was proclaimed by an Executive, passed by a legislature, or was implemented.

The state name should appear as it is listed in the UN Member States list.<sup>6</sup>

Where two or more amnesties are enacted within a state within one year a further word is added to distinguish between them. This term can be either the first three letters of the month or the name of the recipient group.

Where the amnesty was agreed between two or more states, the names of both states are listed, eg Timor-Leste / Indonesia 2005.

Where the amnesty related to only one region of a state, the name of the state is provided, but the name of the region may also appear in brackets after the country name and year eg India 2005 (Mizoram).

#### *Date of Introduction*

This field states the date the amnesty was entered into force. This is most often taken from the primary legislation used to enact the amnesty. If this is not possible, then it uses the date that it was agreed upon. The date used is explained in the enactment process table.

#### *Name of Relevant Law(s)*

Where possible, this field should list all relevant legal texts (peace agreements, national laws, executive orders etc) that have shaped the design and implementation of an amnesty process. Where relevant, this may also include formal amnesty guidelines that were adopted by Truth Commissions that had the power to adopt such guidelines and recommend or grant amnesty. Even though these guidelines are not laws per se, they are adopted in conformity with the legal powers given to the commission in legislation and they are a formal statement of how the amnesty was

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<sup>5</sup> The Amnesty Law Database is much larger and contains information relating to national and international case law, provisions for the reintegration of amnesty beneficiaries, victim responses to amnesty, responses by international actors, historical background to the amnesty and related transitional justice processes. This additional information has not been updated since 2007.

<sup>6</sup> United Nations, 'Member States' <http://www.un.org/en/member-states/> (accessed 30 July 2020).

to be interpreted and applied. For each legal text, the following information should be provided as far as possible:

- Title of the legislation, usually in English and where appropriate another official language
- Formal publication details, eg Official Gazette
- Date the amnesty was agreed, its date of promulgation and/or the date it entered into effect.

In addition, if possible, this field briefly explains the relationships between the relevant legal texts eg, 'implemented in..., amended by..., annulled by...).

### *Legislation?*

This field is coded by a binary yes/no to indicate whether the legislation is on file with the database creator (Mallinder). If Mallinder has access to the peace agreement text, but not related domestic legislation, this field is coded as 'no'.

### *Region*

Region in which the amnesty was adopted:

- Africa
- Americas
- Asia
- Europe
- Oceania

The coding in this field corresponds to the list of geographical regions prepared by the UN's Statistics Division.<sup>7</sup>

### *Name of government or leader who introduced it*

Name and official title of the head of state or government responsible for introducing the amnesty.

If the country is ruled by a junta or another collective entity rather than individual, the formal title of the governing body is listed.

### *Sources of Information*

This field lists the range of documentary sources that may be used in conjunction with primary legal texts (discussed above), to describe specific amnesty processes.

These sources may include:

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<sup>7</sup> UN Statistics Divisions, 'Geographic Regions' <https://unstats.un.org/unsd/methodology/m49/> (accessed 28 January 2020).

- Jurisprudence from national and international courts, and opinions from human rights treaty monitoring bodies
- National policy papers
- Truth commission reports
- Reports and public statements by intergovernmental bodies and governments in third states (particularly Country Reports on Human Rights Practices from the US Department of State)
- Reports by civil society organizations (particularly Amnesty International and Human Rights Watch)
- Newspaper articles

Due to the variety of documentary sources employed, problems were occasionally encountered regarding confidence in the materials. For example, there were differing translations of court cases or legislation and there was bias and inaccuracy in some sources, especially newspaper articles and government publications. It was particularly difficult to gauge the reliability of certain newspapers as they were primarily obtained from the Lexis-Nexis news archives, which contain a variety of local and regional publications. To try to combat these problems, efforts were made to base the description of each case on as wide a variety of sources as possible, using the information that was most frequently occurring amongst these sources.

For some amnesties, there was a relative abundance of information, whereas in other instances, it was much harder to obtain detailed information. This was due to factors such as language difficulties, the time that had elapsed since the amnesty was introduced, the lack of transparency in the state concerned, or a relative lack of academic research on the relevant transitional state. For this reason, some records contain a longer list of sources than others do.

## **Table 2: Enactment Process**

### *Executive Decree or Policy*

This field describes the enactment process where an amnesty was adopted by an executive, either acting without the legislative body, or in conjunction with legislators. The field identifies the body enacting the amnesty, and where possible describes when and how the amnesty was announced, and when it entered into effect. If it is unclear whether the amnesty entered into effect, this is noted. This field may also briefly describe the political context in which the amnesty was introduced.

### *Negotiated Peace Agreement*

This field primarily contains cut and pasted excerpts from peace agreements taken from the PA-X database,<sup>8</sup> which:

- Commit the parties to introducing an amnesty
- Reaffirm commitments to previously agreed peace agreement amnesty provisions, and/or
- Call for the implementation of previously agreed amnesty commitments.

This field may also note where the introduction of amnesty was presented as a precursor and prerequisite to the signing of a peace agreement.

Where it has not been possible to obtain excerpts from peace agreements, this field may describe peace agreement amnesty provisions based on secondary sources.

### *Promulgated Law*

Where appropriate, this field describes amnesties that are adopted as a result of a legislative process, including amnesties that are promulgated by interim assemblies.

The field may draw upon secondary sources to describe the context that led to the enactment of the amnesty law and any related legal texts. It may also describe the legislative process including identifying the sponsors of the legislation and outlining the results of the parliamentary vote.

This field may also cut and paste provisions of the amnesty law that specify:

- that it was enacted in accordance with a peace agreement (usually contained in the preamble)
- the process by which the law will enter into effect.

Where an amnesty is amended or repealed by subsequent legislation, this is described here.

### *Public Consultation*

This field draws on secondary sources to describe where an amnesty:

- was subject to a national referendum, either as part of a referendum solely on the amnesty or a referendum on a new constitution that contained amnesty provisions
- was adopted following a formal public consultation process in which the amnesty was among the key issues on which submissions were invited or from which recommendations were made that amnesty should be granted.

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<sup>8</sup> Bell, Christine, Sanja Badanjak, Juline Beaujouan, Tim Epple, Robert Forster, Astrid Jamar, Sean Molloy, Kevin McNicholl, Kathryn Nash, Jan Pospisil, Robert Wilson, and Laura Wise (2020). PA-X Peace Agreements Database and Dataset, Version 4. [www.peaceagreements.org](http://www.peaceagreements.org)

## Sequencing / Timing

Amnesties enacted as part of a conflict or peace process are assigned to one the following temporal phases between conflict and peace depending on when the amnesty process came into effect:

1	<b>Conflict in the absence of negotiations:</b> Amnesty is granted during ongoing conflict and available sources describing its introduction do not link it to ongoing negotiations or hopes that it would lead to political negotiations. Often these amnesties are linked instead to strengthening the state's military objectives.
2	<b>Pre-negotiations:</b> Government grants amnesty with the publicly stated objective of using the amnesty to pave the way for political negotiations.
3	<b>Mid-negotiations:</b> Amnesty is granted while political negotiations are taking place. This can include amnesties granted after an initial ceasefire or other preliminary agreements, but before the signing of a comprehensive agreement.
4	<b>Comprehensive agreement:</b> Amnesty results from commitments in a comprehensive peace agreement.
5	<b>Post-agreement:</b> Amnesty enacted after a peace agreement, where the agreement made no explicit mention of amnesty. Post-agreement amnesties can be enacted soon after the peace agreement or several years later. This category also includes new amnesties introduced to extend the scope of earlier amnesties that were enacted as part of a comprehensive agreement.
6	<b>UN interim administration or occupying power:</b> Amnesty is granted by a UN interim administration following the end of a conflict or an occupying power.

### Table 3: Recipients

#### *Non-state armed groups*

Amnesties that are described as applying to:

- members of specified non-state armed groups (eg where the organizations are identified by name, where the amnesty applies to organizations that have signed ceasefire agreements or peace agreements)
- rebel fighters, guerrillas, or other similar terms
- crimes committed during the conflict, without specifying any form of personal affiliation etc. This can include where the amnesty applies to specific conflict-related offences including aggression, rebellion, or violations of state security.

For many amnesties, this category includes not just combatants but also sympathisers and collaborators with armed groups.

Where possible, this is coded by cutting and pasting excerpts from amnesty laws, but secondary sources may also be used.

### *States Agents*

Describes where an amnesty extends to those who worked for or on behalf of the state in an official capacity when they committed their crimes, such as in the military, police, prison services, intelligence agencies, civil service, and politicians. This can include retired state personnel.

In some cases, it is ambiguous whether a particular recipient or group of recipients were part of the state at any given moment. For example, some amnesties are enacted following rapid transitions of government, such as the 2021 amnesty in Bolivia. This was an amnesty for protestors and political leaders who were prosecuted under a short-lived *de facto* government which had seized power during a coup. Many of the political leaders prosecuted had been in government before the coup, re-entered government following the ousting of the *de facto* coup government, and would arguably still have been part of the “legitimate” government which was ousted by the coup. However, they are coded as security detainees as they did not have effective control over the government during the time that the alleged crimes took place and when they were prosecuted for them. Such coding decisions are often complex and context-dependent, with justifications and sources being given in relevant cases.

Where possible, this is coded by cutting and pasting excerpts from amnesty laws, but secondary sources may also be used.

### *Security Detainees*

This can include amnesties for:

- protestors and demonstrators
- other political detainees (who have been held without trial)
- persons accused of security offences or crimes against the state where secondary sources do not clearly identify such persons as being part of non-state armed groups or where authoritative secondary sources argue that that anti-terrorism legislation etc is being used to detain large numbers of people who were not involved in violence (e.g. Syria and Iraq).

Where possible, this is coded by cutting and pasting excerpts from amnesty laws, but secondary sources may also be used.

### *Participants in Coup Attempts*

Describes where an amnesty extends to coup participants.

Where possible, this is coded by cutting and pasting excerpts from amnesty laws, but secondary sources may also be used.

### *Nationals outside the Borders*

Describes where an amnesty is granted for nationals who are living outside the territory, by choice or as refugees or exiles, including:

- Those who fled the violence or conscription
- Political dissidents
- Members of an insurgency group operating outside the borders.

Where possible, this is coded by cutting and pasting excerpts from amnesty laws, but secondary sources may also be used.

### *Foreign Nationals: Included*

Describes where an amnesty is granted to foreign nationals who are present within the territory of the state granting amnesty or who committed crimes within the territory of that state.

Where possible, this is coded by cutting and pasting excerpts from amnesty laws, but secondary sources may also be used.

### *Foreign Nationals: Excluded*

Describes when an amnesty is explicitly granted only to nationals of the enacting state or where the amnesty explicitly excludes foreign nationals from its terms.

Where possible, this is coded by cutting and pasting excerpts from amnesty laws, but secondary sources may also be used.

## **Table 4: Crimes**

### *International Crimes: Included*

Amnesties generally do **not** explicitly state when they remove criminal liability for international crimes (defined above).<sup>9</sup> As a result, it is not generally possible to cut and paste excerpts from amnesty laws that state these crimes fall within the scope of amnesty.

This means that determining whether an amnesty should be coded as extending to international crimes and gross human rights violations is an interpretative exercise that requires engagement with secondary sources. Thus, data is entered into this field only when:

- national or international case law indicate that the amnesty included these crimes; and/or

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<sup>9</sup> Notable exceptions to this is Article 2 of Congo's Law 21-99 which explicitly grants amnesty for 'war crimes' and South Africa's Promotion of National Unity and Reconciliation Act 1995 which awarded the Truth and Reconciliation Commission the power to grant amnesty for 'gross violations of human rights'.

- there is substantial evidence in reports by the UN, regional human rights institutions, or respected human rights organizations, such as Amnesty International or Human Rights Watch, that (a) crimes under international law took place and (b) that the group(s) benefitting from the amnesty were responsible for those crimes.

Please note that this restrictive approach to coding means that it is probable that the database underrepresents the number of amnesties that extend to international crimes and serious human rights violations due to the paucity of secondary sources available for some amnesty processes.

Some amnesty processes both include and exclude international crimes and serious human rights violations, by for example, excluding crimes against humanity from the amnesty but allowing torturers to escape prosecution. Where this occurs, one amnesty process is coded as both including and excluding international crimes.

### *International Crimes: Excluded*

Amnesties are described as excluding international crimes only where the amnesty law explicitly excludes specific offences falling under the definition used above. Such exceptions to the amnesty are explicitly mentioned in legislation, or where reference is made to the state's obligations under international law. Alternatively, it could include formulations such as 'crimes within the jurisdiction of the ICC are excluded...'. Also coded under this field are the UN disclaimers to amnesty provisions of the peace agreements in Sierra Leone 1999 and Angola 2002.

Please note that the coding approach outlined above represents a relatively maximalist position in that it extends beyond atrocity crimes to encompass systemic and non-systematic serious human rights violations. If the coding were limited to only amnesties that exclude atrocity crimes (ie genocide, crimes against humanity and war crimes), the sample coded under this section would be considerably smaller. In addition, the coding in this field is based solely on the characterization of the crimes covered by the amnesty and it does not consider the enacting state's international legal obligations to prosecute these offences.

Some amnesty processes both include and exclude international crimes, by for example, excluding crimes against humanity from the amnesty but allowing torturers to escape prosecution. Where this occurs, one amnesty process is coded as both including and excluding international crimes.

Where possible, this is coded by cutting and pasting excerpts from amnesty laws, but secondary sources may also be used.

### *Political Crimes: Included*

Amnesties are coded under this field where:

- They explicitly remove legal liability for political offences. Depending on the scope of the amnesty, this could be limited to purely political crimes (this usually includes the following activities: treason, sedition, subversive,

rebellion, using false documents, forgery, propaganda, possessing illegal weapons, espionage, membership of banned political or religious organizations, and defamation)

- Where they offer broadly framed amnesty for ‘political crimes and related common crimes’ or ‘for all conflict-related offences’.

Where possible, this is coded by cutting and pasting excerpts from amnesty laws, but secondary sources may also be used.

#### *Political Crimes: Excluded*

Amnesties are coded under this field where they explicitly exclude some political offences from the scope of the amnesty. This can involve explicitly excluding any of the purely political offences outlined above, or other political offences such as crimes committed against persons with diplomatic protection.<sup>10</sup>

Where possible, this is coded by cutting and pasting excerpts from amnesty laws, but secondary sources may also be used.

#### *Economic Crimes: Included*

Amnesties are coded under this field where they grant explicit protection from legal liability for some form(s) of economic crimes, which can include misappropriation or embezzlement of public funds, corruption, prohibited trade, tax evasion, smuggling, misuse of economic authorisations, damage to property, looting, and extortion.

Please note that amnesties for economic crimes are only included in the database where they are related to conflict or peace. Such amnesties generally extend to economic crimes alongside other offences. Amnesties that are solely for economic crimes are not included within the database.

Where possible, this is coded by cutting and pasting excerpts from amnesty laws, but secondary sources may also be used.

#### *Economic Crimes: Excluded*

Amnesties are coded under this field where they explicitly state that some form(s) of economic crimes are not included within the amnesty. Excluded economic crimes can include narcotic production and trafficking, counterfeiting currency, violations of banking regulations, crimes related to the sale of antiquities or property, construction violations, violations of laws on monopolies on goods and services, smuggling and violations of customs regulations, corruption and bribery, theft or misappropriation of public property and funds, and fraud.

Where possible, this is coded by cutting and pasting excerpts from amnesty laws, but secondary sources may also be used.

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<sup>10</sup> See eg Mali 1992.

### *Common Crimes: Included*

Amnesties are coded under this field where:

- they grant explicit protection from legal liability for ordinary offences. This can be termed ‘minor offences’ or ‘misdemeanours’;<sup>11</sup> ‘common crimes’, or crimes against persons prescribed by law and subject to the ordinary criminal justice process.<sup>12</sup> This may also include drug offences and other crimes which do not fit under the other fields in this table
- they are broadly framed, ie covering all conflict-related offences as it is generally inferred that such broad amnesties would also cover crimes that fall within this field. In this respect, this field may have a degree of overlap with other fields in this table.

Where possible, this is coded by cutting and pasting excerpts from amnesty laws, but secondary sources may also be used.

### *Common Crimes: Excluded*

Coded in this field are amnesties that exclude some crimes under domestic law. These exclusions may be framed as:

- The explicit exclusion of specified crimes under domestic criminal law. Where excluded domestic offences could also constitute gross human rights violations or economic crimes, this field may overlap with other exclusion fields in this table
- Broad exclusions of ‘common law offences’ from amnesties that provide immunity from prosecution for political offences.<sup>13</sup>

Where possible, this is coded by cutting and pasting excerpts from amnesty laws, but secondary sources may also be used.

### *Gender-Based Violence: Included*

Coded in this field are amnesties that remove criminal liability for physically violent offences that are directed against victims because of their gender. Amnesties are coded here where:

- The amnesty is broadly framed (eg it covers all conflict-related offences) and there are credible sources to indicate that gender-based violence took place within the conflict. As with the approach for ‘international crimes: included’, the coding for this form of amnesty makes clear where such interpretations have been made and cites sources that report the instance of these crimes occurring

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<sup>11</sup> See eg Lebanon 1991.

<sup>12</sup> See eg Mozambique 1992.

<sup>13</sup> See eg Chad 2002.

- The amnesty explicitly extends to some form of gender-based violence, eg rape.

Where possible, this is coded by cutting and pasting excerpts from amnesty laws, but secondary sources may also be used.

### *Gender-based Violence: Excluded*

Coded in this field are amnesties that exclude physically violent offences that are directed against victims because of their gender. Amnesties are coded here where:

- The amnesty explicitly excludes specific offences falling within this category. This can include offences related to rape, and/or other crimes that relate to sexual violence (the terminology used here varies considerably and can include terms such as ‘crimes against personal dignity and morality’,<sup>14</sup> ‘crimes against chastity’,<sup>15</sup> and other ‘assaults on women’)<sup>16</sup>
- The amnesty explicitly excludes international crimes and gross human rights violations, and there are authoritative sources arguing that (a) sexual offences took place, and (b) the exclusion of international crimes and gross human rights violations from the amnesty should be interpreted as preventing amnesty extending to these crimes.

Where possible, this is coded by cutting and pasting excerpts from amnesty laws, but secondary sources may also be used.

### *Non-Performance of Military Duties*

Coded in this field are amnesties that remove criminal liability for crimes relating to draft evasion, desertion and other non-performance of military duties.

Where possible, this is coded by cutting and pasting excerpts from amnesty laws, but secondary sources may also be used.

### *Temporal Restrictions*

Coded in this field are stipulations with respect to *when* crimes must have been committed to be eligible for amnesty. This may include start dates and/or end dates. Where possible, this is coded by cutting and pasting excerpts from amnesty laws, but secondary sources may also be used, particularly to explain the significance of the specified dates.

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<sup>14</sup> See eg Bosnia and Herzegovina 1999.

<sup>15</sup> See eg Philippines 1994 (opponents of the state).

<sup>16</sup> See eg Papua New Guinea 2002 (Bougainville).

### *Geographic Restrictions*

Coded in this field are stipulations with respect to *where* crimes must have been committed to be eligible for amnesty. Where possible, this is coded by cutting and pasting excerpts from amnesty laws, but secondary sources may also be used.

### **Table 5: Conditions**

The fields in this table address conditions which are placed on recipients for them to be eligible to obtain or retain an amnesty. This can include either conditions that must be met or provide a list of conditions which may be applied to individual cases. In most cases, conditions are applied broadly to all recipients or a particular class of recipients, such as rebels only being eligible for amnesty after handing over weapons. However, in some cases, such as the 2018 Seychelles amnesty, named individuals may be required to meet specific conditions, such as community service.

### *Individual Applications and Deadlines*

This field describes any requirements in an amnesty that:

- Applicants request an amnesty or non-state armed groups surrender before a specific deadline. Where possible, this field identifies the original deadline, plus any extended deadlines
- Any details of whether they must present themselves in person to specified government institutions or make a written application.

Where possible, this is coded by cutting and pasting excerpts from amnesty laws, but secondary sources may also be used.

### *Disarmament and Demobilisation*

This field describes any requirements that to benefit from an amnesty, non-state armed actors, individually or collectively, must do any of the following:

- Hand over weaponry to public officials; and/or
- Surrender and demobilise under the terms of the amnesty, including any descriptions of how they must surrender, i.e. to designated organizations etc.

Where possible, this is coded by cutting and pasting excerpts from amnesty laws, but secondary sources may also be used.

### *Renounce Violence*

Coded in this field are conditions attached to the grant of amnesty that require beneficiaries to do any of the following:

- End their involvement in armed struggle
- Renounce their past violent actions

- Apologise or express remorse for their past actions and acknowledge harms perpetrated on victims
- Pledge to adhere to national laws, respect the constitution and the rule of law
- Release hostages.

Where possible, this is coded by cutting and pasting excerpts from amnesty laws, but secondary sources may also be used.

The conditions set out in this field can be viewed as a form of symbolic reparations, and thus viewed alongside the field on 'contribution to reparations', which relates to conditions to contribute to material reparations.

### *Inform on Comrades*

This field describes provisions of amnesties that condition the grant of amnesty on individuals providing the state with information (testimony, data and/or documents) on their former comrades and leaders, and the structure and activities of their former organization on the understanding this information would be intended to enable the state to weaken or dismantle their former organization.

Where possible, this is coded by cutting and pasting excerpts from amnesty laws, but secondary sources may also be used.

### *Truth Telling*

This field describes provisions of amnesties that condition the grant of amnesty on individuals disclosing the truth about their *own* criminal actions. Such truth telling can occur in truth commissions or other fora, and it may include cooperating in efforts to recover the remains of disappeared persons. This field can include information on the:

- Manner in which the truth must be told (written process, oral testimony)
- Criteria for determining if the truth has been told
- Processes for assessing the veracity of information disclosed
- This field also codes excerpts from amnesties that commit the state to cooperating with truth recovery where amnesty covers state actors.<sup>17</sup>

This section does not contain information on penalties for perjury in the amnesty application process. That information goes in the field on 'rules governing amnesty decisions'.

Where possible, this is coded by cutting and pasting excerpts from amnesty laws, but secondary sources may also be used.

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<sup>17</sup> See eg Guatemala 1996.

### *Participate in Alternative Justice Programmes*

This field describes provisions of amnesties that condition the grant of amnesty on individuals participating in non-judicial accountability process (depending on their origins and design, these processes could also be known as traditional/informal/restorative/local justice processes).

This field does not refer to perpetrator participation in truth commissions as that appears in the ‘truth telling’ field above; however, in some instances, these processes may operate under the auspices of a truth commission.<sup>18</sup>

Where possible, this is coded by cutting and pasting excerpts from amnesty laws, but secondary sources may also be used.

### *Contribute to Reparations*

This field describes provisions of amnesties that condition the grant of amnesty on individuals or organisations making material contributions to reparations for victims. This can include surrendering illegally obtained assets or embezzled public funds; returning property that had been taken from victims; providing compensation to the victim; and/or engaging in community service. In some cases, such as Syria 2019, amnestied persons must pay court ordered reparations, unless the victim waives their right to reparations.

This field also provides excerpts of amnesty law provisions that express the state’s obligation to pay reparations for amnestied offences.<sup>19</sup>

This field refers to material contributions to reparations. Symbolic forms of reparation (eg apologies, expressions of remorse) are coded under ‘renounce violence’.

Where possible, this is coded by cutting and pasting excerpts from amnesty laws, but secondary sources may also be used.

### *Penalties for Recidivism*

Coded under this field are amnesty provisions that:

- Remove of the benefits of the amnesty for persons who re-offend; and/or
- Exclude beneficiaries of previous amnesties who re-offended.<sup>20</sup>

Where possible, this is coded by cutting and pasting excerpts from amnesty laws, but secondary sources may also be used.

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<sup>18</sup> See eg the Community Reconciliation Process in Timor Leste 2001.

<sup>19</sup> See eg Côte d’Ivoire 2003, Guatemala 1996

<sup>20</sup> See eg Burundi 1990 and 1993, Tajikistan 1996.

## Table 6: Implementation Process<sup>21</sup>

### *Type of Mechanism*

This field briefly identifies the type of institution or mechanism that is tasked with administering the amnesty. This could entail overseeing the demobilisation and reintegration of former combatants or deciding whether to grant/recommend or withhold amnesty on an individual case-by-case basis. The institutions tasked with the latter role are referred to in the field descriptions in this table as the ‘decision-making body’.

Examples of possible implementation mechanisms are:

- Courts (or courts in conjunction with law officers, the Ministry of Justice, or prison authorities)
- The Executive
- A government department (usually the Ministry for Justice)
- A specially appointed amnesty commission
- Public prosecutors
- Prison authorities
- The armed forces
- A truth commission.

In some cases, the mechanism is ambiguous or is hybrid in nature.

### *Rules on the Operation of the Amnesty*

If amnesty legislation or subsequent regulations introduced rules governing the operation of the amnesty process, these rules are reproduced in this field. These rules are highly diverse among amnesty processes due to the range of different mechanisms for implementing amnesty. However, such rules often address issues including:

- The pausing of criminal prosecutions until a decision is made on an amnesty application
- Time periods in which amnesty applications must be processed
- Delineations of the roles of different institutions within decisions on whether amnesty can be granted and in the implementing of an amnesty decision
- Commitments that the amnesty cannot bar the accused from establishing their innocence<sup>22</sup>

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<sup>21</sup> Please note that some amnesties in the database were intended to apply automatically. Such amnesties do not have a formal implementation process.

<sup>22</sup> See eg CAR 2003; Senegal 1991, 2004 and 2005; Rwanda 1991 Dec; Togo 1994; Djibouti 1995; Madagascar 2012; and Rwanda 1991 Nov.

- The powers of the amnesty granting body to subpoena documents and witnesses, and administer oaths.

Where amnesties have a range of legal effects (see table 7) including applying both pre- and post-conviction, this field provides excerpts from relevant laws describing the operation of the processes for all forms of legal effects covered by the amnesty law.

#### *Name of Amnesty Granting Body*

This field provides the formal name of the amnesty granting body. This field is only relevant where the amnesty is administered by a specially appointed body or by a truth commission.

Data is not coded here where an amnesty is administered by the courts or by permanent government department or offices.

#### *Appointment of Commissioners*

This field is only relevant where the amnesty is administered by a specially appointed body or by a truth commission. This field contains information relating to appointment of commissioners. This may include:

- The number of commissioners or other members of the body that is tasked with granting amnesty
- The composition of the decision-making body, particularly in terms of whether different government departments are represented
- The process for appointing members of the commission, including chairpersons and vice-chairpersons
- Any provisions governing the independence, tenure and process for removal of commissioners
- Any criteria for eligibility to serve on the commission
- The names of individuals who were appointed to serve on the commission.

Where possible, this is coded by cutting and pasting excerpts from amnesty laws, but secondary sources may also be used.

#### *Resources*

This field is only relevant where the amnesty is administered by a specially appointed body or by a truth commission. It seeks to describe the personnel and financial resources given to the body to enable it to fulfil its mandate. This can include information on:

- Its funding sources
- Its powers to appoint staff

- The roles and composition of its staff.

Where possible, this is coded by cutting and pasting excerpts from amnesty laws, but secondary sources may also be used.

### *Application Process*

This field relates to amnesty processes that require individuals to formally request or apply for amnesty. It can relate to issues including:

- Whether applications need to be made in person or in writing (eg on a proscribed application form)
- Whether applications must be made by an individual or whether they can be made through a proxy
- Whether amnesty applicants are entitled to be supported in their applications by advisers or required to have guarantors
- The nature of the information that the applicant must disclose
- Whether the application must contain a renunciation of violence or a commitment to refrain from recidivism
- Whether restrictions can be imposed on amnesty applicants (eg with respect to residence) while their application is being processed
- The institutions or officials tasked with checking or verifying the accuracy of the contents of the amnesty application
- Whether amnesty beneficiaries would be awarded an amnesty certificate if their application is successful.

Where possible, this is coded by cutting and pasting excerpts from amnesty laws, but secondary sources may also be used.

### *Decision-Making Process*

This field describes the process by which decisions are made to grant or deny amnesty applications. This may address the following issues:

- Whether the decision-making body is required to inform applicants when the decision will be made on their application
- Whether the decision-making body is required to disclose information to the applicant before the hearing on their application
- Whether the decision-making body can request further information from an applicant before the hearing on their application
- Whether amnesty applicants are entitled to attend the hearings at which applications are considered or be represented in such hearings by a lawyer
- Whether amnesty hearings are held in public or in private

- The criteria on which amnesty decisions are to be based (eg full disclosure, provision of credible information, satisfaction that the applicant did not commit crimes that are excluded from the amnesty, or genuine expressions of remorse)
- Whether the names of amnesty beneficiaries are published.

Where possible, this is coded by cutting and pasting excerpts from amnesty laws, but secondary sources may also be used.

### *Finding Options*

This field describes the range of finding options that are available to the decision-making body. This can include specifying whether:

- The decision-making body has the power to grant or recommend amnesty
- The decision-making body is empowered to only grant/recommend or withhold amnesties or whether it can also offer sentence reductions or alternative sentences
- The decision-making body must publish the reasons for its decision
- Minority decisions are permitted for individual applications
- The decision-making body is responsible for monitoring compliance with any conditions imposed by its decision
- The decision-making body is required to inform amnesty applicants of its decision.

Where possible, this is coded by cutting and pasting excerpts from amnesty laws, but secondary sources may also be used.

### *Appeals*

Where an amnesty provides for an appeals process, the amnesty provisions that describe that process are set out in this field. This can include specifying:

- Whether appeals can be lodged against decisions to withhold and/or grant amnesty
- Who can lodge an appeal (the amnesty applicant and/or their representatives, the public prosecutor)
- Which institutions are tasked with hearing appeals
- The time limits for appeals to be made
- Whether the amnesty applicant is entitled to legal representation in the appeals process
- The time limits for appeals decisions to be taken

- Whether the amnesty decision is stayed for the duration of the appeal.

This field does not extend to amnesties that explicitly bar the appeals being made against decisions to grant amnesty.<sup>23</sup> However, such bars are referred to in the field 'Rules of the Operation of the Amnesty'.

Where possible this field is coded by cutting and pasted excerpts from amnesty laws, but secondary sources may also be used.

### *Victim Participation*

This field relates only to amnesty processes that enabled some form of victim participation in the decision on whether to grant/recommend or withhold amnesty. Among the issues it describes are:

- Principles governing how the decision-making body will engage with victims
- A victim's right to be informed that an amnesty application relating to harms they have endured has been made
- The victim's right to be informed when the hearing to decide on an amnesty application relating to their experiences will be held
- The victim's right to attend hearings on an amnesty application relating to their experiences
- The victim's right to participate in hearings through providing oral testimony, submitting evidence, and/or asking questions to the amnesty applicant
- To victim's right to receive legal support and translation in their engagement with the process
- The victim's right to be informed of a decision to grant/recommend or withhold amnesty
- The victim's right to receive reparations.

Where possible, this is coded by cutting and pasting excerpts from amnesty laws, but secondary sources may also be used.

### *Wider Mandate*

This field describes functions created in the amnesty process for the amnesty decision-making body or other implementation institution(s) that are instead of or additional to deciding whether to grant/recommend or withhold amnesty to individuals. These functions can include:

- Monitoring the implementation of the amnesty programme;
- Overseeing the delivery of hostages;

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<sup>23</sup> See eg Peru 1995 (Article 2 of Law 26492); Yemen 2012.

- Overseeing the surrender of weapons
- Overseeing the demobilisation of combatants
- Overseeing the reintegration of combatants, community sensitisation and ‘facilitating reconciliation’ between victims and perpetrators
- Overseeing the return of refugees and displaced persons who benefit from the amnesty
- Organising, systematising and preserving archives related to the amnesty process.

Where possible this field is coded by cutting and pasted excerpts from amnesty laws, but secondary sources may also be used.

### *Monitoring Amnesty Beneficiaries*

The field relates to amnesties that create temporary or permanent conditions to which amnesty beneficiaries must adhere *after* they have received amnesty. This field describes amnesty provisions that relate to any of the following:

- The duration of the monitoring period
- The institution that is tasked monitoring the post-amnesty behaviour of amnesty beneficiaries
- Any conditions that would allow the monitoring to be brought an end prematurely based on positive behaviour by the amnesty beneficiary
- The circumstances in which the grant of amnesty to an individual can be revoked on the basis that the individual has violated post-amnesty conditions
- Whether additional penalties can be imposed based on non-compliance with amnesty conditions.

It may be useful to review this field together with the fields on ‘penalties for recidivism’ and ‘Imposing Alternative and Administrative Sanctions’.

Where possible, this is coded by cutting and pasting excerpts from amnesty laws, but secondary sources may also be used.

### **Table 7: Legal Scope**

#### *Permitting Civil Liability*

Coded in this field are excerpts from amnesty legislation that state that the amnesty does not remove civil liability or the right of victims to claim for damages.

### *Barring Civil Liability*

Coded in this field are excerpts from amnesty legislation that state that the amnesty removes the civil liability of amnesty beneficiaries.

Please note that in some civil law countries, amnesties that bar criminal proceedings may indirectly bar civil proceedings, where the opening of civil proceedings is dependent on the existence of a prior criminal conviction. This indirect effect of the amnesty is not captured in this data.

### *Barring New Criminal Investigations*

Coded in this field are amnesties that prevent new criminal investigations from being launched in relation to eligible crimes/persons after the amnesty is granted. This includes excerpts from amnesty laws that specify:

- The amnesty applies irrespective of whether a person has been arrested or not
- The amnesty applies to cases where criminal proceedings have not been initiated
- That criminal proceedings will not be initiated for amnestied offences.

In addition, where an amnesty law does not specify its legal effects, for some amnesties this may be inferred. Such inferences are made explicit in the database.

### *Stopping Ongoing Investigations and Trials*

Coded in this field are amnesties that end ongoing criminal proceedings for eligible crimes/persons *before* a verdict has been proclaimed or a sentence has been issued.

Where possible, this is coded by cutting and pasting excerpts from amnesty laws, but secondary sources may also be used.

### *Releasing Convicted Prisoners and Sentence Reductions*

Coded in this field are amnesties that in addition to applying pre-conviction *also include post-conviction* legal effects including pardons, sentences reductions, mitigation of sentences, conditional suspension of the execution of sentences, and probation arrangements.

Where possible, this is coded by cutting and pasting excerpts from amnesty laws, but secondary sources may also be used.

### *Imposing Alternative and Administrative Sanctions*

Coded in this field are amnesty provisions that impose post-amnesty conditions on amnesty beneficiaries' behaviour or provide for other non-criminal sanctions. These conditions may be temporary or permanent. These conditions may include:

- Restrictions on beneficiaries' ability to exercise specific civil and political rights, particularly the right to vote and the right to hold public office
- Restrictions on beneficiaries' personal behaviour (eg owning weapons, leaving geographic areas, or consuming alcohol)
- Removing benefits to which the amnesty beneficiary would otherwise be entitled (eg state pensions)
- Requiring draft evaders and deserters to return to military service
- Demotions or expulsion from a public body, such as the army
- Participation in customary justice practices
- Additional fines levied on beneficiaries.

This field may also contain commitments that previously imposed penalties will not be revoked. This can include statements that:

- Fines that have already been paid or goods that had been confiscated would not be reimbursed
- The amnesty does not prevent disciplinary proceedings or other alternative sanctions.

Where possible, this is coded by cutting and pasting excerpts from amnesty laws, but secondary sources may also be used.

#### *Immunity from Future Disciplinary Proceedings*

Coded in this field are amnesty provisions that grant amnesty beneficiaries immunity from *future* disciplinary or other non-judicial sanctions. This can include provisions:

- Guaranteeing immunity from disciplinary proceedings<sup>24</sup>
- Stating that amnesty beneficiaries would be able to return to their previous state employment or military rank without any penalties being imposed
- Allowing deserters to be discharged from military service without facing any penalty
- Providing refugees with a legal right to re-enter the territory.

Where possible, this is coded by cutting and pasting excerpts from amnesty laws, but secondary sources may also be used.

#### *Removing Administrative Penalties*

Coded in this field are amnesty provisions that overturn or end *previously imposed* non-penal or disciplinary sanctions. This can include provisions to:

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<sup>24</sup> See eg Solomon Islands.

- Restore civil and political rights which may have been suspended due to a criminal conviction. In some amnesties, this includes a commitment to facilitate amnesty beneficiaries' 'full exercise of their civil and political rights'<sup>25</sup>
- Allowing for the removal of previously imposed fines
- Restoring pensions.

Where possible, this is coded by cutting and pasting excerpts from amnesty laws, but secondary sources may also be used.

### *Deportation and Extradition*

Coded in this field are descriptions of commitments made by governments to amnesty beneficiaries or public statements made by public officials with respect to deportation and extradition of amnesty beneficiaries. This can include:

- Commitments to provide amnesty beneficiaries with guarantees that they will *not* face extradition to stand trial before courts in a third state
- Commitments that some amnesty beneficiaries, particularly rebel leaders, may be extradited to stand trial before courts in a third state
- Commitments that foreign nationals who are eligible for amnesty will not face deportation if they surrender under the amnesty programme
- Statements that foreign nationals who surrender under an amnesty programme could face deportation to their country of origin. Where such commitments are made in conjunction with an amnesty programme in their country of origin this is noted in the database.

These types of commitments do not generally appear in the text of amnesty laws and thus, this field is coded based on secondary sources.

### *Expunging Criminal Records*

Coded in this field are amnesty provisions that erase criminal records and/or preclude magistrates and civil servants from using or recalling, any judicial or police file or other official document information relating to the amnestied offence. These provisions can include the creation of penalties to those who disclose information on amnestied offences.

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<sup>25</sup> See eg Sierra Leone 1999.

## ACKNOWLEDGEMENTS AND ATTRIBUTION

The Amnesty Law Database was created by Professor Louise Mallinder<sup>26</sup> between 2003 and 2006. The phase of the data collection was funded by the Northern Ireland Department of Education and Learning as part of Professor Mallinder's doctoral research. It was further updated by Mallinder as part of the Arts and Humanities Research Council-funded Beyond Legalism project (Ref AH/E008984/1) (2007-9).

The updating, editing and publication of version 1 of the ACPA database was part of the Political Settlements Research Programme, funded by UK Aid from the UK Department for International Development (DFID) for the benefit of developing countries.

The updating, editing and publication of version 2 of the ACPA database to include amnesties enacted from 2017 to 2023, was undertaken by Dr Danel Shaw and Prof Mallinder. This research is supported by the Peace and Conflict Resolution Evidence Platform (PeaceRep), funded by the UK Foreign, Commonwealth & Development Office (FCDO) for the benefit of developing countries. The information and views set out in this publication are those of the authors. Nothing herein constitutes the views of FCDO. Any use of this work should acknowledge the authors and the Peace and Conflict Resolution Evidence Platform.

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