

## *Delicti Jus Gentium: A Limitation on the State's Power to Grant Amnesty*

Jacob Milton C. Divino

40 *ATENEO L.J.* 202 (1996)

SUBJECT(S): CRIMINAL LAW

KEYWORD(S): DELICTI JUS GENTIUM, HUMAN RIGHTS

This Paper explains why amnesty cannot be granted in cases of *Delicti Jus Gentium*, which are crimes that are generally recognized as violative of universal human rights. It explores this topic by analyzing the power to grant amnesty and determining its substantive limitations based on principles of international law. It also shows that amnesty cannot be granted to perpetrators of international crimes, since the President is bound by international duties to prosecute such offenders.

The Paper discusses amnesty as a constant means used by the State to obliterate the fact of commission of a crime and to avoid the punishment of the political offender. It also shows that this power is limited by the fact that amnesty cannot be granted for the commission of international crimes. Lastly, the Paper applies the principles enunciated to an actual case decided by the National Amnesty Commission in December of 1994, which involves the hijacking by Baskinas in 1971 and who, in 1994, was granted amnesty by the National Amnesty Commission without having been punished for the crime. Lastly, the Paper provides several recommendations to the United Nations, the Executive department, the National Amnesty Commission, the Legislative department, and the Judicial department as to the proper implementation of the grant of amnesty involving crimes considered as *Delicti Jus Gentium*.