

operation in Haiti most sharply into focus. Accountability for past violations was more fundamental to securing a climate of respect for human rights than any other issue; at the same time, amnesty was the most powerful bargaining chip available to the UN and US negotiators in their dealing with the military.<sup>196</sup> The long term impact of the UN choosing to back an amnesty for the Haitian military will not be clear for some time, but all indications are that it may amount to a short term UN gain at the expense of Haitian community based reconciliation and stability.

Reconciliation initiatives by outsiders can only work if they engender some kind of popular involvement in a process that has everything to do with the hearts and feelings of society, and very little to do with legalities. The process of defining and agreeing to amnesties is so much a part of the reconciliation process, that outside 'direction', as opposed to advice on options and process, strikes at the very validity and purpose of that 'popular' process.

Most recently, South Africa has set up a Truth and Reconciliation Commission which some have referred to as a moral project. It is premised on the belief that justice for all concerning events during the apartheid years is impossible. There are just not enough South African legal resources to achieve that end, and most believe that even to attempt to get justice for all, would split South African society apart. It has taken the South African government and many national interest groups two years to create their own 'solution' or version of a truth commission.<sup>197</sup> Its progress over its two year mandate will depend on South African political leadership and society's sense of morality and justice. What is obvious is that if it works, that it is because South Africans devised it, and South Africans accepted it. A successful South African truth commission model will inform, but not dictate, reconciliation processes in other societies.

*Recommendation #56*

**It is recommended that the UN and its field operations not take a position on amnesties for human rights violations, and that such decisions be left solely up to the societies attempting to reconcile and rehabilitate themselves.**

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<sup>196</sup> p.142, *Haiti: Learning the Hard Way*, Lawyers Committee 1995 op cit.

<sup>197</sup> The Truth and Reconciliation Commission, 17 members headed by Archbishop Tutu, has two years to deal with the 1960-1993 apartheid era, and will largely function through 3 committees: committee on human rights (hearing from victims of murder, abduction, torture, and severe ill-treatment); committee on reparations (mostly symbolic reparations to victims and dependents); amnesty committee (pardons and immunity to those who fully disclose what they did, were motivated by political objectives, and were in line with the policy of the government or anti-apartheid forces).