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Hermínio Rodrigues' 'The Grace of Pardon within the Framework of Angola's Constitutional and Criminal Body of Law: Some Thoughts Occasioned by a Case at Bar' Digested for the Anglophone Reader

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Abstract. This is a digest for the English-speaking circles of learning. This conspectus develops across five thematic stations, traversing the compass, conceptual apparatus, operational conduct, systemic fruits, and the foundational substrate that order and substantiate Hermínio Rodrigues' inquiry.
Keywords. Acts of Grace; Amnesty; Constitution of the Republic of Angola; Pardon; Principle of Equality; Res Judicata; Resocialisation.

1. Purview

Hermínio Rodrigues' paper[1] ponders pardon under the legal framework of Angola, regarding it as a prerogative of grace whereby the State tempers the severity of punishment in the name of justice and moral reclamation; the inquiry springs from a noteworthy controversy, the "500 Millions" case, wherein a defendant was vouchsafed a presidential grace while the constitutional contention still remained *sub judice*.

From this juncture, Rodrigues posits a central question about the lawful ambit of pardon in Angola and the operative virtue thereof concerning the parties convicted in Case No. 1013-C/2022. The argumentation finds its axis upon four ancillary spheres of categorical demarcation: the exacting boundary between pardon, amnesty, and remission of penalty; the seeming antinomy between selective pardon and the precept of equality; the competence or lack thereof of the beneficiary to decline such grace; and the determinative potency of a final and unappealable judgment in the granting of pardon amidst intervening constitutional strife.

The author accordingly portrays the grace of pardon as the nexus between constitutional law, criminal statutes, and the disposition of sovereign powers. The pressing concern is to ascertain the nature, purview, competence, constitutive modalities, and effectual yields of said measure, and thereafter to submit the resultant analytical figurations to the crucible of a concrete procedural history.

2. Notions

Rodrigues treats a broad genus of acts of grace or clemency, contrasting pardon[2] with amnesty[3] and remission of penalty[4].

The author further discriminates equality from mere uniformity of treatment, espousing a material doctrine whereby situations objectively disparate may (and at times behoove) be met with different measure.[5]

Finally, the author treats *res judiata* as a determinative

[1] Rodrigues Hermínio Carlos Silva, 'O Instituto do Indulto no Ordenamento Jurídico-Constitucional e Penal de Angola: Reflexões a Propósito de um Caso Concreto' (2026) 1 RDL 1 https://doi.org/10.21814/rdl.2026.st-03

[2] An act of grace vested in the President of the Republic. Granted to a specific person, it may remit the sentence wholly or in part or commute it into one more favourable. It does not wipe way the offence, nor does it extinguish the criminal deed or annul its unlawfulness. It takes effect upon the sentence imposed, specifically upon its exaction. Consequently, Rodrigues regards pardon as a negative premise of punishment, rather than a justifying cause.

[3] A general act of clemency incumbent upon the National Assembly, amnesty deactivates the operative lever of punishment and retroactively nullifies penal subsistence, heedless of the concrete person or sentence, without formally repealing the criminal norm.

[4] A general act of clemency vested in the National Assembly. Unlike amnesty, it does not affect the determination of criminal liability. Its purview is the sentence, in whole or in part, and is dispensed with regard to the penalty rather than the type of the crime. Thus, remission of penalty approximates amnesty yet remains sunder from it, for the latter looks to the offence in the abstract, while the former concerns the onus of the sentence's execution.

[5] Selective pardon is therefore not unconstitutional *per se*; the prevailing inquiry is whether the differentiation rests on tenable and objective grounds germane to the party's actual circumstances, most notably the extent of resocialisation, the absence of peril, and the abated need for punishment.

threshold. As pardon strikes the specific penalty rather than the proceedings, it presupposes a crystallised conviction and a definitive, individualised sentence.

3. Modus

Rodrigues proceeds by way of a qualitative legal-scientific method, fashioned upon four interlocking pillars.

Firstly, the author leverages a legal-dogmatic approach;[6]; secondly, he employs a historical-comparative approach;[7] thirdly, doctrinal analysis;[8] fourthly, casuistics.[9]

In this wise, Rodrigues marshals his discourse upon some cardinal tenets: that pardon is an act of executive policy and not of adjudication; that amnesty and remission of pardon are legislative acts of a general tenor; that pardon is justified by the waning exigency of penal enforcement in the specific instance; and that the decree of pardon remains amenable to the judicature of the Fundamental Law if the discriminatory variance therefrom resulting offends the precept of equality.

4. Yield

Rodrigues concludes that the Angolan constitutional order distributes the acts of grace by assigning pardons and sentence commutations to the President of the Republic and amnesties and remissions of penalty to the National Assembly.[10]

The main dogmatic yield is that pardon is an individual act of an executive-discretionary posture that operates upon the penal decree and upon its enforcement; it may annul the residual penalty or replace it with a more clement one; it does not expunge the contravention nor generally rescind the accrued consequences, absent an express statutory caveat. Amnesty, conversely, nullifies the penal bond and operates retroactively upon the factual substrate unto the cessation of punishment. Remission of penalty stands as a liminal mechanism: it is universal in ambit, legislative in form, and indexed to the decree rather than the contravention.

A second derivation touches the legal quiddity and teleological warrant of pardon. Rodrigues disclaims any judicial characterisation because the sentence remains in force. The author treats pardon as an act of sovereign grace directed towards the operative sphere of a final decree and warranted by the factual obsolescence of enforcement, having regard to the subject's restorative trajectory. Rodrigues insists that pardon should not be granted antecedent to *res judicata*, because prior to that point the penal determination may still undergo mutation or the defendant stand eventually exonerated.

A third result: since pardon is an act whereby the State abdicates, *in toto* or in part, the exercise of its *ius puniendi*, the beneficiary's acquiescence lacks legal relevance.[11]

A fourth: pardon does not in itself offend the principle of equality. As an individual act tied to the beneficiary's personal situation, unequal treatment may stand constitutionally warranted where it reflects objective variances in resocialisation and penal necessity.[12]

The key applied finding is that the party impleaded in the "500 Millions" case stood, *prima facie*, eligible for pardon because the ordinary criminal instances stood spent and the supereminent constitutional scrutiny had also run its course.[13]

5. Roots

The author's chief analytical resources are drawn from Angolan constitutional and criminal law.[14]

Yet, Rodrigues constructs his dogmatic framework through sustained engagement with Lusophone criminal and constitutional scholarship and the tenets of comparative literature from Spain, Italy, and Germany. The justificatory ambit of the author's reasoning finds its anchor in the time-honoured precept of clemency as the antistrophe of the State's punitive power and as a corrective conduit within the legal order.[15]

In this wise, Rodrigues endows the Lusophone reader with a dogmatic configuration, both systemically dense and internally unified, encompassing the categorical delineations of pardon, amnesty, and remission of penalty in Angola, a construction that culminates in a case study designed to subject the constitutional and penal schemata to the operative stress of the "500 Millions" litigation.

[6] The approach comprises an exegetical, systematic, and teleological inquiry into the relevant constitutional and penal provisions.

[7] Rodrigues traces the concept of pardon from the classical *indulgentia principis* to its role within the constitutional state. This reconstruction serves to analyse the endurance of pardon and the objections levelled against it based on the constraints of power-division, parity, and the prophylactic teleology of punishment.

[8] Rodrigues consults scholarly authorities in order to fix the boundaries between pardon, amnesty, and remission of penalty, to delineate the juridical posture of pardon, and to situate its justification in terms of moral reclamation. The surveyed learned body is also used to construe the sparse constitutional mandates, which name the sovereign prerogatives but leave unstated the criteria or foundations of clemency.

[9] The procedural itinerary of the "500 Millions" case is traced in its exhaustive perimeter. Then, Rodrigues interrogates whether the said trajectory maintained the parties short of *res judicata*, or whether the extraordinary constitutional instance stood fully spent.

[10] This partition demarcates distinct legal objects and distinct effects rather than merely denoting a formal variance of organs.

[11] A claim of innocence does not prevent the operative discharge of the act. Only in the distinct case of commutation does the author admit that some doctrine posits a margin for granting the subject a right of election touching the substituted sanction.

[12] The same reasoning leads Rodrigues to question the purported omission of the executive criteria regarding the remaining co-defendants in the "500 Millions" case. On that basis, the decree may be vulnerable to extraordinary review of constitutionality for breach of parity if materially congruent postures suffer unjustified divergence.

[13] The Constitutional Court did not pronounce an exoneration of the parties, nor did it revive the substantive merits of the penal suit; it had only required constitutional conformity. The later judgment of conformity by the Supreme Court spawned no fresh extraordinary challenge of unconstitutionality *proprio sensu*, but only remedies ancillary to the enforcement of the supereminent decree. Even upon the adversarial postulate that the proceedings were still pending, a decree of pardon would not *per se* disturb the procedural trajectory. In that event, it would only have a prospective effect upon the sentence if a final condemnation came to pass, and it would stand void of operative force if the party impleaded were exonerated or relieved of punishment.

[14] The specifically Angolan environment is integrated through the Constitution of the Republic of Angola, the Penal Code, and the organic and procedural mandates of the Constitutional Court.

[15] Rodrigues systematically invokes numerous learned authorities like G. Radbruch, who furnishes the dialectic of justice and certainty; Figueiredo Dias, who demarcates the categorical boundaries of pardon and the necessity of *res judicata*; Gomes Canotilho, Vital Moreira, J. Miranda, R. Medeiros, and J. M. Alexandrino, who ordain the constitutional nomenclature of power-division and parity; F. Aguilar and A. O'Shea, who unlock the historical lineage of clemency; and A. Taipa de Carvalho, E. Correia, M. M. Gonçalves, Simas Santos, and Leal Henriques, who frame the penal yields of pardon, its deterrent teleology, and the competence of refusal.