



Pardons: Justice, Mercy, and the Public Interest

Kathleen Dean Moore

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Controversy has surrounded the issue of pardons throughout its long history, from God's commuting Cain's banishment, to Pontius Pilate's release of Barabbas, to recent speculations that Oliver North would be pardoned. Pardoning practices in Europe from the fall of the Roman Empire to the Enlightenment varied drastically. The Norman kings, for example, readily granted pardons, while the philosophers of the Enlightenment argued vehemently against the practice. Montesquieu specifically stated that no pardoning power could exist in a democracy. Yet the Founding Fathers of this country granted the president an almost unlimited power to pardon, and, as a result, U.S. presidents have pardoned an average of one hundred fifty federal offenders every year since the beginning of this century.

Appearing on the eve of the fifteenth anniversary of President Ford's pardon of Richard Nixon, Kathleen Dean Moore's timely and highly readable volume addresses many crucial questions surrounding acts of clemency, including what justifies pardoning power, who should be pardoned, and the definition of an unforgivable crime. Illustrating her arguments with rich and fascinating historical examples--some scandalous or funny, others inspiring or tragic--Moore examines the philosophy of pardons from King James II's practice of selling pardons for two shillings, through the debates of the Founding Fathers over pardoning power, to the Reagan Administration's record low number of pardons.

Moore carefully analyzes the moral justification of pardons, discussing how to distinguish between justifiable, even morally obligatory, cases and unjustifiable abuses of clemency power. Viewing pardons as a means for correcting injustices, and not as arbitrary acts of grace, she argues in favor of pardons only to make amends for the punishment of an innocent person, or of a person who has committed a crime under mitigating or justifiable circumstances, or for anyone who has received an unfairly severe sentence.

Focusing particularly on presidential pardons, Moore reveals that over and over again--after the Civil War, after Prohibition, after the Vietnam War, and after Watergate--controversies about pardons have arisen at times when circumstances have prevented people from thinking dispassionately about them. Her groundbreaking study concludes with recommendations for the reform of presidential pardoning practices.

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