

JUSTICE VISIONS

JUSTICE FOR VICTIMS IN TRANSITIONAL SOCIETIES



Justice
Visions

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IN THIS ISSUE

5 Introduction

7 About the project


8 Q & A

10 The case studies

16 Research methodology

19 Meet the researchers

**23 International Advisory
Board**



**HOPE LOCATES ITSELF IN
THE PREMISES THAT WE
DON'T KNOW WHAT WILL
HAPPEN AND THAT IN THE
SPACIOUSNESS OF
UNCERTAINTY THERE IS
ROOM TO ACT**

REBECCA SOLNIT // 2016


INTRODUCTION

How do societies seek to come to terms with legacies of large-scale abuses in order to ensure accountability, serve justice and achieve reconciliation? And what role can victims play in this process? These are crucial questions for scholars and practitioners of transitional justice (TJ). Approaches to TJ are varied. Yet generally four pillars are emphasised: (criminal) justice, truth-seeking, reparations, and guarantees of non-recurrence. TJ practitioners and scholars alike have increasingly been turning to victim-centric, participatory approaches to increase the

legitimacy and “efficacy” of TJ processes. By giving victims centre stage, stakeholders hope to better address victims’ needs, enhance local ownership and transform victims into agents of change who can carry forth processes of justice seeking after international actors leave.

But what do we really know about how to best organize this victim participation, or what its long-term effects are?

This ERC-funded research project, coordinated by Prof. Dr. Tine Destrooper at the Human Rights Centre of Ghent University, examines this question.



**PROVING SILENCE
IS A DIFFICULT
TASK**

ZINAIDA MILLER // 2008

ABOUT THE PROJECT

The question of how to serve justice, facilitate peaceful transitions and empower victims of past large-scale abuses is about as old as the field of transitional justice (TJ) itself. Increasingly practitioners are turning to participatory approaches as a promising way to make advances regarding each of these issues. An oft-cited benefit of victim participation in TJ processes is that it allegedly increases the legitimacy of these processes by rendering them more locally

relevant, and that it empowers participants and turns them into ambassadors of the justice process. However, little is known about how to organize this participation in practice or under which conditions alleged benefits (for individual victims-participants or for society at large) are likely to materialize. As a result, participation is often organized in an 'add-victims-and-stir' way with little critical reflection about potential unforeseen or long-term effects.



Because formal and informal transitional justice processes often face significant practical, financial and political constraints, it is crucial to better understand how participatory approaches can contribute to a positive and lasting legacy. Especially in a world where a vast number of societies are emerging from or enduring violent conflict, failure to engender durable justice and peace may lead to more instability and violence. The main objective of this project is therefore threefold: (1) conduct a systematic empirical analysis of the scope, nature and role of victim participation in TJ processes, (2) develop the critical victimology framework that is currently missing, and (3) establish how this can be used to conceptualize victim

participation in ways that contribute to TJ's goal of working towards just, stable and secure societies. A multi-disciplinary approach, rooted in legal studies, social psychology, political science, public administration and anthropology is proposed, which allows for a multi-dimensional understanding of these issues, both in academic and in practical terms. The research findings will provide policy-makers with empirically-supported expertise on pressing policy issues, and, because of the project's attention to international dynamics as well as local contexts, findings will enrich our scholarly understanding of the interaction between these policy levels and will be relevant to a variety of (post-)conflict settings.

Q & A

Why do we need this research project on victim participation in transitional justice?

Despite the lofty rhetoric and instinctive appeal of this victim participation, little is actually known about how to best organize this, how it could positively affect victims' experiences of justice, or even how it could contribute to the positive legacy or durability of TJ processes. The need to study the effects of victim participation in an empirical manner is widely acknowledged but so far no research projects have done this in a comparative systematic theory-backed way. "For this reason, we developed this project, to help us obtain a better and evidence-based insight into how participation affects victims' experiences and perceptions of justice", explains Tine Destrooper. "The project has a threefold objective. Firstly, our team of researchers will conduct systematic empirical analysis of the scope, nature and role of victim participation in TJ processes to have a better understanding of what has been tried where and how. Secondly, we will empirically investigate in a limited number of cases what the long-term, and maybe unforeseen effects of this victim participation were for victims and their communities. Lastly, we will establish how these insights can be used to conceptualize victim participation in ways that contribute to TJ's goal of engendering just, stable and secure societies."

How will these questions be examined?

After our initial mapping of victim-centred TJ interventions, there will be one researcher per case study who will carry out fieldwork in a case where victim participation was claimed to have been of a particularly innovative nature. The initial cases we selected were Guatemala (where indigenous groups advocated innovative ways of participation in the Truth Commission); Cambodia (where the – so far – most far-reaching type of victim participation in international criminal proceedings is claimed to have been implemented), Tunisia (where the participation of civil society organisations has been instrumental in shaping reparation programs), and the Democratic Republic of Congo (where victims played an important role in institutional reform in certain provinces). To these four initial cases, we have added cases like Syria and Chile, to study specific dimensions of victim participation.

For each of the four initial cases, the fieldwork will provide insight into the ways in which victim-participants experienced their participation, how it shaped their rights understanding, and their perception of justice. What is innovative is that we will not only proceed on the basis of qualitative methods, but that we also work with a data-expert who will facilitate the gathering of quantitative information and the implementation of experimental research components that allow for a better understanding of causality.

Throughout, we pay great care to developing the methods in participatory victim-oriented ways so as to ensure the greatest degree of local relevance and stakeholder involvement, and to shy away from the kind of extractive research that often happens in these contexts.



How will victims benefit from this project?

“If we want to understand the long term effects of TJ interventions, we need to understand the impact of TJ mechanisms and narratives on victims’ understandings of justice”, argues Destrooper. The project is driven by a concrete and urgent information need. As result of the research we will better understand how interventions with a limited budget and scope can contribute to locally supported long-term processes of social change in post-conflict societies. “Furthermore, we aim at changing the perspective about which human rights are most relevant for TJ processes. In particular, we see that economic and social rights are often the ones deemed most important by rights-holders in post-conflict societies, but that most TJ mechanisms tend to focus on civil and political rights. We want to explore that tension in a way that is meaningful for victims and that potentially allows us to bring interventions more closely in line with their priorities”, states Destrooper.

**AS LONG AS WE DON'T
HAVE A BETTER
UNDERSTANDING OF
CAUSALITY, WE CAN HAVE
ALL THE VICTIM
PARTICIPATION WE WANT,
BUT WE WON'T BE ABLE TO
CREDIBLY PREDICT ITS
EFFECTS ON TRANSITIONAL
JUSTICE INTERVENTIONS**

THE CASE STUDIES

The cases that constitute the backbone of this project are cases which are often presented as notably innovative with regards to victim participation in - a specific mechanism of - transitional justice. We examine, in these cases where victim participation was allegedly a priority of policy makers and practitioners or where it took on remarkable forms for other reasons, what the nature, scope and effects of this victim participation were on victims' understanding of their rights and of justice more generally, and how this affects the long-term impact of victim participation on victims and their communities.

GUATEMALA

by Gretel Mejía Bonifazi

In Guatemala, victim participation in TJ has taken on various forms, both at the official and grassroots levels. For example, truth-telling projects have provided spaces for victims to give testimony and propose recommendations in culturally relevant ways. At the same time, in criminal prosecutions, victims have taken on an active role as civil parties, which allowed them to act as investigators and communicate with prosecutors. In all of these cases, human rights organizations and other stakeholders have intervened to either mobilize victims to participate, or to support them throughout the process. In spite of excellent scholarship regarding the nature, scope and impact of these initiatives, a critical and empirical understanding of how these different forms of participation in truth-telling and criminal prosecutions have affected participants' perceptions of justice is currently lacking. Therefore, this project will conduct an in-depth study on victims' experiences of participation, focusing on (a) the meaning victims give to their participation at the individual and collective level, (b) the shifts in their perceptions of justice and human rights due to their exposure to TJ narratives, (c) whether participation fulfills their expectations of accountability and reparations. This will be achieved by implementing an integrated methodology that includes, amongst other methods, fieldwork with victims who first provided testimony in truth-telling initiatives and then got involved in criminal prosecutions either as civil parties or as witnesses. The findings of the project have the potential to shed light on how victims understand and experience these processes and suggest better approaches to create meaningful interventions in practice.





CAMBODIA

by Sangeetha Yogendran

Victim participation before the Extraordinary Chambers in the Courts of Cambodia has often been applauded for the role foreseen for victims before the Court, stating that it is long overdue recognition, after many years and a history of hybrid tribunals, to not exclude victims from the justice that is being dispensed on their behalf. Many propositions have been made about the soothing effects of this kind of victim participation, and victims are said to gain among many other things, a sense of control, an ability to lessen their isolation and be reintegrated into their community, and the possibility of finding meaning through participation in these processes. Others believe that participation can restore a victim's dignity by instilling a sense of agency and capacity to act, which the original abuse sapped. An important dimension of participation is "truth-telling", which is considered by many as being fundamentally and necessarily beneficial. The notion that victims by definition, benefit from participation (in criminal justice processes) is powerful, but is also increasingly disputed.

The aim of this project is to ask (a) whether victims and civil parties before the Extraordinary Chambers in the Courts of Cambodia have benefitted from their participation before the tribunal in Cases 001 and 002, (b) how they believe they benefitted from their participation (if at all), and (c) what the significance is of the reparations orders made.

In doing so, the project aims to understand the impact of participation on the understanding of victims' rights and on their experiences of justice in Cambodia, and to question whether their participation was in fact beneficial to them and to transitional justice processes. This study will employ mixed-methods qualitative and quantitative approaches and will entail fieldwork in Cambodia with several groups of victims and civil parties, along with affiliates of the Tribunal and civil society.

TUNISIA

by Safa Belghith

Victim participation is at the heart of transitional justice debates. However, a victim centred approach that looks into the effect of the participation on the victims specifically remains relatively absent in practice. The recent Tunisian TJ experience incorporated a participatory approach toward designing the reparations programmes for the victims, by implementing national comprehensive consultations. The Tunisian process is also lauded for its focus on economic, social and cultural rights and the expansion of its mandate to include financial crimes. This innovative approach to reparations makes Tunisia a fitting case to explore the questions raised in this project. This study seeks to examine the scope and mechanisms of victims' participation in the TJ reparations programme, and the effect of that participation on the victims, their perceptions, their experiences, their expectations and the TJ process outcomes.

Through a social constructivist approach, and employing a critical discourse analysis, this study will explore the knowledge formation process of the victims. It will analyse the different discourses surrounding TJ and if - or how - the interaction between the different actors led to the re-shaping of the formal discourses, or a change in the views of the victims. As part of the larger ERC project, the Tunisia case study will also include quantitative and experimental components. This multi-method approach where the different components complement each other, facilitates delving into, and measuring the impact of the participation on the victims-participants and their communities. By focusing on the Tunisian case, this project will make a contribution to debates around TJ, human rights, legal studies and international relations in the MENA region.





DR CONGO

by Christian Cirhigiri

Victim participation has increasingly been foregrounded in TJ interventions in the past decade. In the same period, (elements of) the TJ discourse and toolkit, have increasingly been implemented in contexts that cannot be understood as post-conflict or post-authoritarian, like the DR Congo. Also in these cases the international community, and sometimes local actors, have been turning to, and experimenting with, mechanisms developed in the context of TJ to try and foster accountability for (past and ongoing) human rights violations, facilitate institutional reform and seek reparation for injustices.

In such a context, the matter of victim participation raises a whole new and specific set of questions. To date, it is unclear how victim participation can be turned to in order to consolidate, facilitate or upscale these attempts at accountability and transition.

Through an in-country comparison of institutional reform initiatives in the DR Congo, and using a mixed method of data collection and analysis, this project examines the relevance of victim participation in promoting guarantees of non-repetition of human rights abuses and explores specifically how victims have participated in various kinds of bottom-up and top-down institutional reforms. The case study seeks to both examine the relevance of the TJ toolkit in these cases of ongoing conflict, and to contribute to the development of sustainable TJ mechanisms centered on victim rights.



SYRIA

by Brigitte Herremans

Syria is one of the few countries where local and international actors are testing and advancing certain elements of the TJ toolkit while the abuses of international human rights law and humanitarian law are ongoing.

Before 2013, anticipating the fall of the regime, Syrian civil society organisations conceptualized a comprehensive approach towards TJ, insisting on accountability, remedy and reconciliation. As prospects for a transition faded after 2013, Syrian TJ entrepreneurs were compelled to focus primarily on fact-finding and documentation. The documentation efforts have laid the groundwork for the preparation of criminal cases, turning criminal prosecution into the dominant TJ mechanism.

This project will explore how artistic expressions can enrich TJ mechanisms in situations of unabated violence, where the implementation of traditional TJ mechanisms is marred by difficulties due to the continuation of the conflict. The main question is to what extent artistic practices, and literature in particular, can contribute to TJ, by countering the narrative silencing of victims.

It will tentatively be argued that there is scope to strengthen current TJ efforts in Syria. Firstly, cooperation between Syrian and international actors could be refined by strengthening the methods of data-collection. Secondly, artistic practices could play a role in the development of complementary, innovative strategies for seeking justice. The project foregrounds artistic practices based on the hypothesis that they can help rethink existing approaches to TJ by understanding and utilizing evidence differently, thus feeding the transitional imagination in ways that are more representative of victims' experiences.

CHILE

by Marit De Haan

Although Chile is currently considered to be a democracy, the effects of the military dictatorship are still present in society. This project analyses the ways in which victims of the dictatorship (1973-1990), participated in and perceived the post-1990 (and still ongoing) justice process. How were they involved? What were, and are, their experiences, expectations and needs? In order to answer these questions, a literature review, document analysis of truth commissions and court cases, and qualitative interviews with victims and professionals will be conducted.

The effects of victim participation in transitional justice on victims' perceptions and needs of justice will be addressed by comparing four groups of victims: (1) victims who participated in criminal justice procedures, (2) victims who gave truth commission testimonies, (3) victims who participated in both ways, and (4) victims who did not participate in any of these mechanisms. The project will provide insight into the effect of participation on victims' perceptions and needs of justice. It also contributes to understanding the long-term consequences of victim participation in post-conflict contexts and to better tailor future interventions. It furthermore addresses the more fundamental question whether victim participation is at all desirable if the core assumptions of transitional justice are not open to negotiation. Lastly, the research studies the potential for restorative justice in meeting the needs of justice and repair the harm of victims of human rights violations.





FEW AUTHORS HAVE
CONSCIOUSLY REFLECTED ON
HOW THEY CHOOSE TO
DEFINE WHAT TRANSITIONAL
JUSTICE SUCCESS OR
FAILURE MEANS

RESEARCH METHOD

by Elke Evrard

Victim participation and inclusion are widely regarded as cornerstones for the success of transitional justice efforts. Victim participation is thought to increase the legitimacy of interventions, stimulate healing and reconciliation, and even impart agency and empowerment to victims and affected communities in societies emerging from violent conflict. In reality, there exists little evidence-based research to support these claims. Few studies take recourse to innovative quantitative designs and advanced statistical tools to analyse victim-centred TJ

policies, let alone integrate such quantitative work with contextual qualitative inquiry into a holistic research approach. A core aim of the project is to address these gaps and contribute to methodological rigor and innovation in the Transitional Justice field, by developing an integrated mixed method research design, which is carried out in distinct stages. In a first stage, the researchers will carry out an analysis of the evolution, modalities, scope and nature of how victim participation has been implemented in each of the four TJ mechanisms under consideration.

In the second stage, four in-depth case studies are carried out, through a combination of three research techniques: qualitative work, text mining and (quasi-)experiments. The qualitative component will consist of semi-structured interviews and focus groups to gain an in-depth understanding of how victim-participants understand their experiences of victimization and their subsequent quest for justice and accountability. Text mining techniques including Topic Modelling and Natural Language Processing will support a quantitative discourse analysis, to investigate how the official space of victim participation in the

TJ mechanism was constructed and bounded: who could participate, what issues were foregrounded and what accountability was proposed? For this analysis, a large-n text corpus is built containing all the narratives pertaining to the TJ process, both produced by formal TJ institutions themselves and the mediatized or NGO narratives on this topic. Finally, to understand if and how participation in these TJ spaces affected victims' long-term strategies and priorities for justice, an experimental design rooted in political psychology will examine whether causal linkages exist between insights of the previous two components.




The methodological outcome of this project will be an integrated threefold methodological toolkit that allows us to understand impact and measure change in a holistic way. By disseminating the knowledge, experience, methods and tools

developed throughout this project with relevant stakeholders, we will enhance practitioners' capacity to support locally embedded long-term processes of social change through interventions with a limited budget and scope.

DIFFERENT RESEARCH METHODS SHOULD BE SEEN AS COMPLEMENTARY RATHER THAN COMPETITIVE.

PHUONG NGOC PHAM ET AL // 2016



**SILENCE
LOST ITS WAY
WHEN A HAND OPENED
THE DOORS TO THE
VOICE**

FRANCISCO MORALES SANTOS // 1987



MEET THE RESEARCHERS

The project is carried out by a team of Ghent-based international researchers with various disciplinary and professional backgrounds. They are supported by colleagues from neighboring fields working at the Human Rights Centre and local research institutions.

Tine Destrooper

Tine Destrooper is the Principal Investigator and scientific coordinator of the project. She is an associate professor at the Faculty of Law and Criminology of Ghent University and a member of the Human Rights Centre there. Her research interests are transitional justice, socio-economic rights and gender. Previously, she held academic positions at New York University, the European University Institute, Leiden University, Wissenschaftskolleg Berlin and the Universities of Antwerp and Leuven. There she conducted research on the consequences of violent conflict and the role of the international community in dealing with the aftermath of violent conflict. She was also the director of the Centre for Human Rights and Global Justice at New York University's Law School and of the Flemish Peace Institute. Her talks and lectures at various international conferences have highlighted the often unforeseen consequences that international interventions can have for local (groups of) rights-holders. Her most recent volume (with Sally Engle Merry, Penn University Press) explores how human rights norms travel and transform in today's world.



Gretel Mejía

Gretel Mejía is a PhD researcher at the Human Rights Centre. She holds an MA in Human Rights from the University of Erlangen-Nürnberg and a law degree from San Carlos University in Guatemala. Before joining Ghent University, she worked at the Max Planck Institute for Comparative Public Law and International Law. Previously, she worked on a wide range of human rights issues at the International Nuremberg Principles Academy, the European Center for Constitutional and Human Rights and the Nuremberg Human Rights Center.



Sangeetha Yogendran

Sangeetha is a PhD researcher at the Human Rights Centre at Ghent University. She is a human rights and humanitarian professional from Singapore, who has worked in Cambodia at the Khmer Rouge Tribunal, representing a group of minority victims. She has also worked in the occupied Palestinian territories on humanitarian law, as well as with refugee communities in Malaysia and in Australia. As a researcher, she previously worked on humanitarian assistance, rule of law, and business and human rights issues. Sangeetha is an Advocate & Solicitor in Singapore, holds an LL.M. in Public International Law from Melbourne, and an LL.B from Singapore.



Safa Belghith

Safa Belghith is a PhD researcher at the Human Rights Centre in the Law Faculty at Ghent University. Her research is focused on victim participation in the transitional justice process in Tunisia. She has a Master's degree in International Relations. The focus of her MA thesis was the effect of media and agenda setting on the transitional justice process in Tunisia. Safa also worked as an independent journalist and research consultant on issues related to Tunisian politics, women's rights and TJ.





Elke Evrard

Elke Evrard is a PhD Researcher at the Human Rights Centre. She holds a Master of Science in Comparative & International Politics and a Master of Arts in European Studies from the University of Leuven. The objective of her PhD research is to develop and test a mixed method research design for critically appraising the impact of participatory approaches in the implementation of transitional justice mechanisms. Before joining the Human Rights Centre, Elke held a position as Senior Research Manager for a global market research company.

Christian Cirhigiri

Christian Cito Cirhigiri is the Founder of Peacemaker 360, a communication nonprofit dedicated to connecting young peacebuilders worldwide through storytelling. He is a Congolese peace journalist, activist, and researcher with 8-years' experience supporting youth participation in peacebuilding processes in eastern Congo, Rwanda, Burundi, and Colombia. He holds a bachelor's degree in Integrated Community Development from Daystar University in Kenya and a master's degree in International Peace Studies from the University of Notre Dame in the US.



Brigitte Herremans

Brigitte Herremans studied Eastern Languages and Cultures at Ghent University and International Relations at the Université Libre de Bruxelles. From 2002 to 2018, she worked as a Middle East policy officer for the NGOs Broederlijk Delen & Pax Christi, doing advocacy from a rights-based perspective. In 2016, she co-published a book on the Israeli-Palestinian conflict: 'Israël en Palestina. De kaarten op tafel.' From 2017 to 2019, she coordinated the Mahmoud Darwish Chair at the Centre of Fine Arts in Brussels.

Marit de Haan

Marit de Haan is a PhD researcher (FWO-fellow) at the Human Rights Centre of Ghent University. Marit holds a Bachelor of Science in Psychology and Master of Arts in Global Criminology from Utrecht University. She has worked on international research projects in Chile, the United States and the Netherlands, focusing on restorative justice, victims' needs, more humane responses to criminal behavior and the reform of prisons. Before starting her PhD, she worked as a researcher for the Research and Documentation Centre of the Dutch Ministry of Justice.



**WITHOUT CIVIL SOCIETY PARTICIPATION, LITTLE
PROGRESS WOULD HAVE BEEN MADE IN THE
DOMAINS OF TRUTH, JUSTICE AND REPARATIONS.**

PABLO DE GREIFF // 2015



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