

Episode 3 (April 2020)

Who we talk about when we talk about victims

Welcome to *Justice Visions*, the podcast about everything that is new in the domain of Transitional Justice (TJ). *Justice Visions* is hosted at the [Human Rights Centre of Ghent University](#). For more information visit [Justicevisions.org](#).

Tine: Hey Brigitte, how are you?

Brigitte: I'm fine, Tine, thank you. And what about yourself?

Tine: Very well, surviving this, the lockdown, still. This is the second time that we're talking on Skype actually to record the podcast, right?

Brigitte: Yes, and it remains a bit of a challenge in this makeshift studio.

Tine: We're getting better with the technology, I feel. I'm also trying to get better at keeping myself busy. Today I actually found that [Valerie Arnould](#) of the [Egmont Institute](#) had posted a whole long list of [novels on the topic of transitional justice](#). So I'm really excited to dive into that and to actually get inspired for the weekend.

Brigitte: Are there any particular books that you would recommend?

Tine: There are lot of books on that list that I hadn't read yet. So that's really exciting to get to know all of those. On the narration of violence she was recommending 'Half of a Yellow Sun'. I've really enjoyed that. I think it's in that book that Chimamanda is also referencing Chinua Achebe whose book I just finished this morning, as it happens, 'Things Fall Apart'. So that was quite exciting. And you've also seen the list, right?

Brigitte: I saw that there were a couple of books I really liked. And one of them really stands out for me. It's 'Will' by Jeroen Olyslaegers, a Belgian novelist, about the Second World War, but quite an interesting perspective on perpetrators and it's been very popular in Belgium and I think worldwide because it really sheds a different light on, on the very kind of cliché visions on perpetrators.

Tine: Yeah. She has that whole section on perpetrators, which I thought was really, really quite interesting. She also has a whole section on victimology though. And that's actually quite a nice link to what we wanted to be talking about today. The topic of victims.

For today, I think it would be good to say up front that we don't just have one studio guest like we try to normally do. We actually have four people in the conversation, no less. Because when we started talking about this topic, I think we both quite soon realized that when we talk about victimhood, when we talk about victimization, that this is just such a multifaceted topic that we really wanted to show this multivocality in a way in this episode.

Brigitte Yes. And at the same time it was a bit of a challenge also to edit the material because we had so many fine conversations and it really struck me that everybody shed a light on their own field, but at the same time there were so many overlaps.

Tine: I think that the thing that for both of us really sparked our interest in doing this deep dive on the topic of victimization, is a conversation that we had after the recording of the first podcast episode with [Rudina Jasini](#), who is an Oxford-trained legal scholar and a lawyer. And her remarks actually inspired us to also talk to a number of other people for this episode. And one of them is [Simon Green](#), who is a Reader at Hull University, and who does this wonderful work, amongst many other things, the concept of tertiary revictimization. And then you also talked to two people, right?

Brigitte: I spoke to [Simon Robins](#) who's a research fellow at the [University of York](#), specialized in transitional justice and specifically in economic and social justice. Simon has successfully raised attention to grass roots perspectives, opening up the TJ architecture to voices from below. And then I also talked to [Habib Nassar](#) who is the director of Policy and Research at [Impunity Watch](#), an NGO dedicated to fighting impunity. As one of the leading experts on justice processes for Syrians, Habib brings along his experience in working with victim groups.

Tine: We'll listen to them in a bit, but maybe let's first listen to the piece when Ina was talking about her experience as an intern at the ICTY because that was so compelling what she said.

Rudina: When I first started at the [ICTY](#), I was an intern, was assigned to work on cases with a judge of the appeals courts doing work on the cases. And the judge gives me a witness statement to analyze it and it's an absolutely horrific scenario where a lady, a woman is describing her very good friend who had lost her life being gravely gang-raped. And then you think like, it shocks you. You are very early on in your career and you're part of this but the architecture of the courtroom and the process itself kind of preserves you from getting engaged directly with victims. You are there listening to their stories and then you'll focus on the technicality of your job.

Brigitte: I think this highlights that the legal realm might not always be the most appropriate venue for victim participation, neither for victims nor for practitioners, and that we really have to think more about is how to do justice to victims' experiences.

Tine: It's true, and this is also what [Marie-Bénédicte Dembour](#) and [Emily Haslam](#) have written about in their [article on witness testimony at the ICTY](#), which in many ways show what Ina was talking about: that legal practitioners often being ill-prepared, the setting being completely unaccommodating to having victims', not just voices, but victims' stories heard there in the courts. And to me what's really fascinating is that you can get quite cynical when you read something like that or hear an experience like Ina's, but the truth is also that it's not easy. Even if you are aware of victims' vulnerabilities, even if you are aware of their complex realities or complex identities, you're not always you're not always trained to know how to take that into account, or

you are not always in a position where you can really engage with victims at this deeper level.

Brigitte: Yes, that's true. For these reasons we often get stuck talking about rather than with victims. But the other things is that we're just sometimes quite imprecise when we use the very notion 'victim', or 'survivor' even, and that we need to be much more considerate and conscious about how and when we use these words, and what their effect is.

Tine: And I think that issue of labeling is actually probably where we should start the episode. What are we talking about when we're talking about a victim and is it even appropriate at all to assume this unified identity? And in a way even lock people up in that identity? And there I think I would like to listen to Simon Green. Who has been talking about exactly that topic, how people relate to that notion, that label of 'victim'.

Simon Green: Significant milestones in terms of how they coped was how they took ownership of how they thought about their own label. The label of the crime victim was something some of them rejected and some of them adopted and some of them gave an invested new meaning, and they did the same thing with survivor. And very few of them were comfortable with the language, which is a recovery. Actually, they didn't think about themselves as having been recovered because to be recovered is return yourself to a previous state, and none of them felt they had gone backwards to where they were before they were victimized. They all felt they'd gone forwards to something else. So for a lot of them, they wanted to think about themselves as victims, but not in the conventional way in which people have said that the label of victim is disempowering. They invested meaning in it for them and they took purpose for their lives from what happened to them. They then channeled that into trying to make a positive contribution to their communities, to victim services themselves. And many of them have gone on to work with organizations, charities, victim groups themselves. So they really were very self-consciously aware of the labels that existed and how they applied. What they disliked intensely with other people to blind labels to them. But they chose their own labels and what they meant by that. And I found that a really powerful and evocative aspects of how people describe their own agency, how they chose to make decisions about what the labels meant and how they took purpose forward into their lives.

Brigitte: It's really interesting to listen to Simon and how he talks about let's say classical crime victims in the United Kingdom, but it's really also relevant of course for us, because so many victims and groups of people that we're dealing with in our research were activists and they were targeted by regimes because of their activism and they don't identify often as victims in a more classical definition and they really feel that it's taking away of their agency and also pushing them to a very passive form of victim identity.

Tine: And this is actually part of a much broader analytical framework that he is proposing and I really regret that we can't, you know, have all of that played back here

in this episode. And what was most enlightening in a way to me was when he actually started to introduce this concept that we just heard him talk about. He says, well, you know, we've got victimization, we've got primary victimization. The very obvious one where he says, you know, someone hits you over the head with a club that's, that makes you, that's the primary victimization moment.

Brigitte: Okay. That's quite straight forward.

Tine: That's quite straight forward. And then he says there is another thing which we've now also come to see as pretty, you know, obvious, which is the secondary victimization, which might happen if you then go and report a crime, but because of institutional biases, sexism, racism, whatever, you are not treated the way you ought to be treated by the official instances.

Brigitte: Okay. I think most people would also relate to that notion.

Tine: And then actually he says, well, there's also a notion of tertiary victimization. And he does a great job at explaining the many ways in which that has been used already. But he himself actually has a really interesting take on this notion of tertiary victimization. Basically he starts by saying, we have to look at the history of the victims' movement, the history of victimology as a field of studies, which is quite young. And which as one of its first achievements has actually had that success in a way at showing that certain institutional settings, that secondary victimization is happening there. And that was a big achievement. But then he's also in a way problematizing the extent to which certain mechanisms that we've installed to better protect victims, whether they have not led to the pendulum maybe swinging too far towards the other end, towards the over-protective end. And whether that overly protective nature is not robbing victims of a certain kind of agency.

Simon Green: What we've actually started to do is overcompensate partially. There is a narrative around this and it's the victim-survivor narrative, and the victim-survivor narrative is that the very language and use of the word victim contains within it a pathologization of people who are victimized. It turns them into weak, vulnerable people in need of help. It takes what's been done to them and turns them into someone who is damaged, that needs help and can't recover without, because of their very label itself. And then from that you see the emergence of the survivor kind of language or alternative label, which is supposed to empower and enable victims.

Brigitte: Yeah. This also really strikes a chord with me because it reminds me very much of the situation in Syria where so many people have discovered their agency of after decades of living in a 'kingdom of silence' where it was very difficult to stand up for their rights. And what we see is that now since the start of the conflict in 2011 there's really a boom in civil society initiatives because so many people have come out to protest, but of course have also been victimized. There's hundreds of thousands of victims in Syria, mainly because of the violence of the regime. Very often victims' groups weren't organized. And what's Habib Nassar of Impunity Watch talks about

beautifully is the fact that victim groups have been organizing themselves much more and that there is a very rich debate about terminology as well. Are they survivors? Are they activists? Are the victims? And let's just hear what he has to say.

Habib: Some just define themselves as activists, they don't want just to be defined by their status of victim of violations. So, it's always a debate, honestly, and I think it's important for them to tell us how they want to be referred to. Some are a little bit bothered by some of this terminology. So, for example, some just also define themselves in relation to the violation, of the crime they face. So former detainees refer to themselves as former detainees, families of the disappeared as families of the disappeared, without necessarily using victim or survivor.

Tine: Actually what Habib was saying also reminded me of again what Simon Green was saying, where he says there are just so many people that are saying that they are working for the victims, but then they're doing it in a way, even if most of them do great work, some of them are doing it in a way that's actually involuntary disempowering people.

Brigitte: Yeah. There is indeed the risk of professionals becoming over-protective in their work with victims and also installing obstacles to reach out to victims for research. And it creates a certain form of bias that they're often not aware of at all.

Tine: Yeah. And this is actually also something where I would like to go back to Simon Green who describes exactly that dynamic.

Simon Green: At the time I was trying to develop my own research project to do in-depth interviews with the victims of serious physical and sexual violence. And I was finding myself hitting all sorts of obstacles, institutional obstacles that prevented me from reaching crime victims of serious violence. And now some of those were in terms of higher education research ethics and some of those were in terms of gatekeepers in the criminal justice system, and in fact in victims support agencies, which in the UK are overwhelmingly charitable, third sector organizations. And they all were very reluctant to broker access. And there was a sense of that those victims were property. And that led me to think about the notions of unconscious bias about the pathologization of victims. And that's where I started to think, maybe there's a form of tertiary victimization here, which is happening almost incidentally, but it's robbing victims of agency and resilience. And that was, those are the concepts I was most interested in exploring.

Brigitte: It's also very interesting for us to explore this issue of robbing people of their agency and erasing political activism involuntarily. And this is also clear in Syria where the international human rights movement stepped in and they're not always aware of the needs of local civil society, sometimes even eclipsing certain needs or in their efforts to support local civil society, they tend to even compete with them.

Habib: So we started to see really a mobilization among the victims in 2016 and it was very organic. They felt probably that they needed to organize, that they needed to come together. There wasn't enough support for them to do so. And this is why as Impunity Watch we are trying to invest in this, so that the voice of the victims in this kind of legal processes, but also outside of these legal processes is strong because justice is not only a courtroom and it's not only a commission of inquiry and it's not only a say a reparation, justice is a much broader process, that involves a lot of advocacy and activism that requires that victims are given the space to, one, recover their political agency. If victims are treated only as the passive beneficiaries of a process, I am not sure we are doing a lot of justice to them. They were often many were victimized as a result of a policy to silence them, to erase their role of citizens. And I think by allowing them to recover this role in the justice process, is already doing justice to them. A verdict from an international tribunal will do justice for victims, but it's not enough.

Brigitte: What I find compelling in what Habib had to say is that he goes beyond formal victim participation, which we often see in contexts where these labels are suddenly introduced. He tries to discover together with victims what their needs are but starting from their agenda.

Tine: This is a super difficult exercise. It's also a very ambitious exercise, but then, even at just the level of how do you make sense of all of this as a practitioner, as a researcher, even there, there are so many issues to navigate, because of course we can all understand that it's difficult to think about how you empower victims, so to speak. But then there's also all these things that you're not necessarily prepared for when you go and do field work and work with people who have gone through these inhuman kinds of abuse of a victimization. And, and that's the whole issue of researcher trauma in a way and of, also, how do you deal with all these stories? Maybe let's listen to Ina on this topic.

Rudina: Nothing had prepared me as a legal scholar to equip me with the necessary skills, both from a knowledge, but also psychological, perspective to conduct interviews with victims in Cambodia. I remember coming back to the hotel after each interview feeling really exhausted and I couldn't initially pinpoint whether it was, I thought perhaps, subtropical climate. And I've felt very tired. But, in fact, what was happening is that going through interviews where, sitting for hours listening to people's stories, horrific stories of individuals who have lost 30 or 40 members in their families, whether you like it or not, they had landed on you. So you in a way have become part. You have become part of their narrative, of their story at that moment in time. As a researcher, we are left to your own devices. Of course you go through the process of getting the ethical approval from the university. You have answered all the questions. You think you have very clear ideas of what you're going to do, semi-structured questions ready, ready for the interview, and there is a different reality. There you understand that, for me to be able to ask questions to any victims, I'd have to allow them to tell me their story the way they wanted. Sometimes for hours before

I interject and ask a specific question, which is relevant to my research. I have to do this. They don't owe me anything. I am there extracting, actually bringing them back to 35-40 years ago to tell me a very painful story.

Tine: This is beautiful, right? "They don't owe me anything". I mean, we sometimes forget that, right? To me, it also brings me back to actually one of the first times I was doing research in the Global South in a group was when I took six master students from the university where I worked back then to India. And one of the first days actually we were talking to a priest who ran an orphanage there and who was the most wonderful, soft-spoken, accommodating person and who just asked these six young students: so you've been talking to the people under my care, now what are you going to give back to them? And these six very ambitious, eager faces, they just went blank. Nobody had even thought about, you know, what are we now owe to this community, to this group of people that has given us their time. And to me that says a lot about how a lot of the mainstream education is actually thinking about research. And, and I'm so happy when I see that this topic of non-extractivist research is actually becoming more and more mainstream and is more and more entering actually also the curriculums.

Brigitte: Yeah. And how not to instrumentalize people for your research is not something that gets addressed very easily because it's such a sensitive topic.

Tine: It's true. And I think in a way actually the issue of instrumentalization, it's a much bigger issue and it's not just about how we as researchers or practitioners act. It's about the whole topic of victim participation. Are we certain that when we are talking about victim participation that we're not just instrumentalizing people? And there I think we really need to talk about victim participation, what happens to structures? Do people have an influence on the structures and the way in which the whole process, the process of transitional justice, in this case, is organized? Who decides on that? Who gets access? And there of course, inevitably, we ended up talking to Simon Robins, right, who's been problematizing this very topic in a very convincing way for years now. And I would actually like to listen to what he had to say about that topic of access and who sets the agenda.

Simon Robins: The agenda is driven by people who are remote from victims remotely and all sorts of ways remote geographically. But remote in terms of where they are in a power structure. And I think we can see this by looking at transitional justice as a global discourse with origins in policy circles in the capitals of the Global North. Transitional justice is done by states and state institutions, supported by, or pressured by, a civil society, but the civil society has already internalized the priorities and values of that global transitional justice discourse, and that civil society is typically elite, because you need a certain form of education to have effective access to the rights discourse, and that's unfortunately denied to those most in need of it: the poorest, the most marginal. And the very important element I think is to understand that victims in their communities are always addressing legacies of human rights violations within their communities using local traditional leaders using traditional cultural forms, engaging with their communities to seek acknowledgement. But these are all invisible

at the national and international level and not considered part of transitional justice, which is limited to these few institutional mechanisms.

Brigitte: Yeah. This also relates to the topic one of our colleagues Marit De Haan is working on: the meaning of justice for victims and what various groups of victims want and what they really aspire from justice processes.

Tine: Yeah. Marit's is a really exciting project because she tries to really do a deep dive on what it is that certain groups of victims want, in this case from the Chilean justice process, because we always have these assumptions. She's really trying to understand what the place of, for example, socio-economic needs is, or the place of social justice. And this is also what we talked about with Simon and he had this to say about that topic.

Simon Robins: Personal integrity rights are prioritized over socioeconomic rights. Individualized approaches are prioritized over systemic violations, that is, victims are seen as individuals, perpetrators are seen as individuals, rather than being members of communities who were targeted collectively. I mean, one thing I would say is that the one problem with the transitional justice being entirely rooted in human rights discourse is that many victims have values, religious values, for example, as well as relationships with their community or even spiritual relationships, that frame, how they perceived that victimhood, and this is absolutely invisible to a liberal secular rights discourse, where everybody is individualized as somebody divorced from their community and from their religious values.

Tine: Yeah, this is really interesting and that notion of how we often enter with a preconceived notion of what justice means, to then find that that understanding is out of touch with people's realities, that's also something that Ina talked about.

Rudina: I conducted most all my interviews in pagodas, which are Buddhist shrines. And before every interview I had to offer food to the Buddha, and then that was a ritual. So it made me more mindful of what justice means in the context of an overwhelmingly Buddhist society. So my understanding of justice per se shifted from the very narrow definition of justice linked with pursuing a guilty verdict, to something much broader where you have a justice that is intertwined with a concept of truth, a concept of telling one's story, educating the world, seeking reparation, reconciliation. It was all of the above.

Brigitte: And this also relates to what Habib has to say about involving communities in setting the agenda, ensuring that their priorities are really taken into account. Their priorities should really set the agenda much more.

Habib: When we look, for example, at what big human rights organizations, big international human rights organizations are doing today on Syria, we realize that most of it is about judicial accountability. They want to see the perpetrators arrested and prosecuted. Of course this is something that a lot of them want. But also there is what

the victims themselves, for example, the families of the disappeared have defined as a short-term justice, because for them there is a long-term justice, which is prosecutions and short-term justice, which is to determine the fate of those who disappeared. For them, this is the more immediate need and priority. And if we want to serve the cause of justice, to listen to the primary beneficiaries of justice. The purpose of our programming is to help them be visible but not for the sake of visibility. They are not looking for visibility for the sake of visibility. It's a matter of how do you get to the different victim rights and what are the most urgent needs of the victims?

Brigitte: Habib talks very much about families of the disappeared and families of certain victim groups who are really upfront in setting the agenda. And what is interesting is that often they don't talk that much about the concrete priorities because there's no scope for that in the discussions, for example, on reparations and that is not only about compensations and financial handouts, but that there are also other needs: the need for psychosocial support. And these needs are not at all taken into account by the international community and also often by victims' groups. So we do have the danger lurking there that certain needs get erased and that victims shy away from talking about that. And so what Habib is saying there is that when we seek justice, we need to associate victims to the process. It helps them not only to overcome their victimhood but to really start setting the agenda, recovering political agency and in that way they are also contributing to the justice process, as agents and not merely as passive recipients of aid.

Tine: And this is also maybe a good note to end, because for the end of the episode we always ask people where they are looking for inspiration, what leaves them hopeful or what avenues they're inquiring into. And I think his position about how political agency is already really contributing to the justice process, I think that's very inspiring. I think we can't probably have all four speakers on the note of, you know, where they are looking for inspiration. We'll post some links to what they have told us and the enhanced transcript. But one piece that I would maybe like to listen to as a last closing thought for this episode is one by Simon Green where he talks about the importance of self-awareness amongst researchers and practitioners because that I think really gives us something to chew on for the next episode.

Simon Green: And we were pursuing a particular methodology, called appreciative inquiry, in our research that was designed to talk about how people found their own ways to recovery, what constituted an important moment in how they coped with something awful that happened to them, then actually we, we, we found that people were more than happy to talk to us and found the process itself edifying and empowering. Whereas every other person we tried to go through it, whether it's our own research, it's going to, whether it's the police or victim support agencies, they all tried to stop us reaching their a that people they saw as their victims.

Tine: So this notion of appreciative enquiry, I think, is very inspiring, and the way in which Simon talks about it, really shows that we are not trapped in this zero sum game, that it's not because we are becoming more aware of the agency and resources of

victims that we are now all of a sudden offering them less protection, and that to me is a really important take-away of what he was saying.

Brigitte: And I think it's a very, very energizing thought. Habib also talks about this, and how it really helps us to contribute to justice for victims. And what we are seeing now these days is that universal jurisdiction cases that just started in Germany – the first of their kind against state torture in Syria – that these are really the fruit of all these efforts of countless ‘victims’, and they really feel acknowledged in their activism – and that is a beautiful way forward.

Tine: Yeah. So there's definitely a lot to follow there. We'll do that in a run up to the episode of next month. But for now, I really wanted to thank Simon Robins, Simon Green, Rudina Jasini and Habib Nassar for talking to us and for sharing all these insights with us.

To our audience, if you're interested in the unedited interviews, please let us know and we'll see how we can accommodate that because it was so rich, the conversations that we had with these people. And I feel that actually some of these topics might well be returning in next month's episode. So I look forward to that.

Brigitte: So do I.

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The podcast is produced by Katharina Smets. You heard the voices of Tine Destrooper Bridget Herremans, and our studio guest.