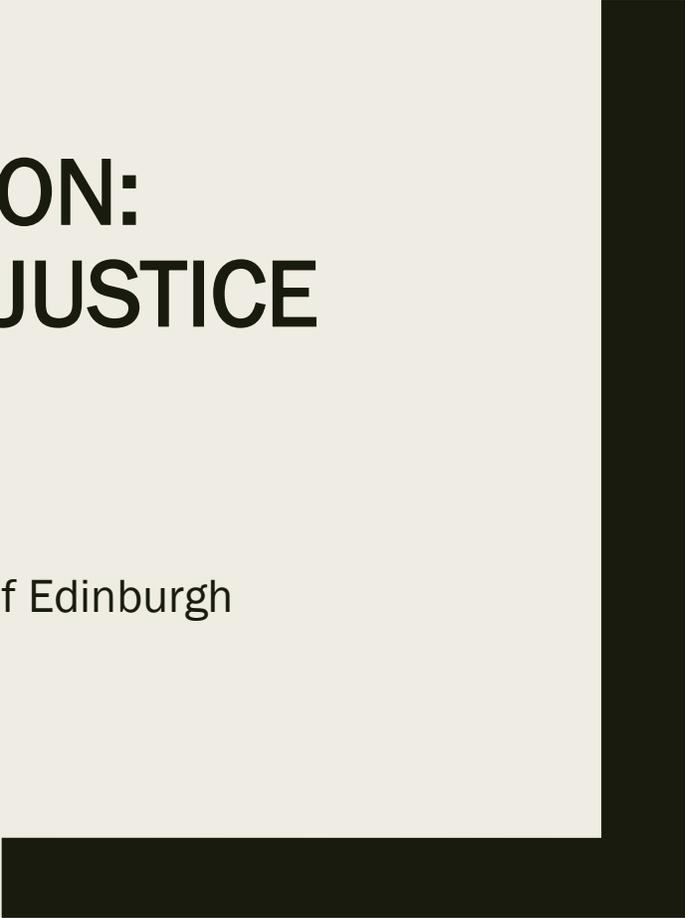


# **EXCLUSIVITY OF INCLUSION: VICTIMS AND TRANSITIONAL JUSTICE**

Dr Astrid Jamar

Political Settlement Research Programme, University of Edinburgh



# Presentation Outline:

## Inclusion of Victims in Transitional Justice: Who, How & Why?

- Retrace Evolution of Policy Discourse and Practice in relations to Inclusion
- Interrogate the relationship between legitimacy, empowerment and inclusion efforts
  1. Inclusion on Paper: Global Review of inclusion approaches in 1500 peace agreements
  2. Inclusion in Practice: Micro-politics through 2 years of fieldwork with Transitional Justice NGOs in Burundi
- Question to what extend decisions on who and how victims to include **reproduce, challenge, and/or transform power dynamics** between actors at the transitional justice table
- What are the effects of these inclusion conundrum?

“Like the notion of consultation, the idea of victim participation has become a mantra in the field of transitional justice. However, the rhetorical commitment to these ideas is not matched consistently by actual practice”

Pablo de Greiff, UN special rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, 2016.

“Despite all the talk about victim empowerment then, the victim produced by transitional justice NGOs and others in the international human rights movement is a hapless, passive victim dependent on NGOs and others to speak for her and argue her case... Politics of disempowerment and trusteeship – with a heavy missionary slant – are reproduced.”

Tshepo Madlingozi, 2010, p 213.

# Policy and Theoretical Debates

Policy consensus about long term and positive effects of being inclusive

## Nuanced Transitional Justice Scholarship

- Optimistic Legal Scholars: Victim-centred processes = window of opportunity
- **Grey zones** of these principles at conceptual and pragmatic levels, ethical and political challenges associated - false dichotomy between ideal victims deserving justice and perpetrators to punish
- Post-colonial Scholars: Reproduction of hierarchies reproduced between international, national elite and selected victims as the 'marginalised local'

## Inclusion Policy Efforts

- Selectively and opportunistically used by political protagonists
- Disempowerment with simplistic approach to 'add women/victims/etc and stir'
- Simplistic mantra to include victims will inevitably encounter political and ethical challenges

**Now we have victims on board and so what?**

# GLOBAL REVIEW – INCLUSION ON PAPER

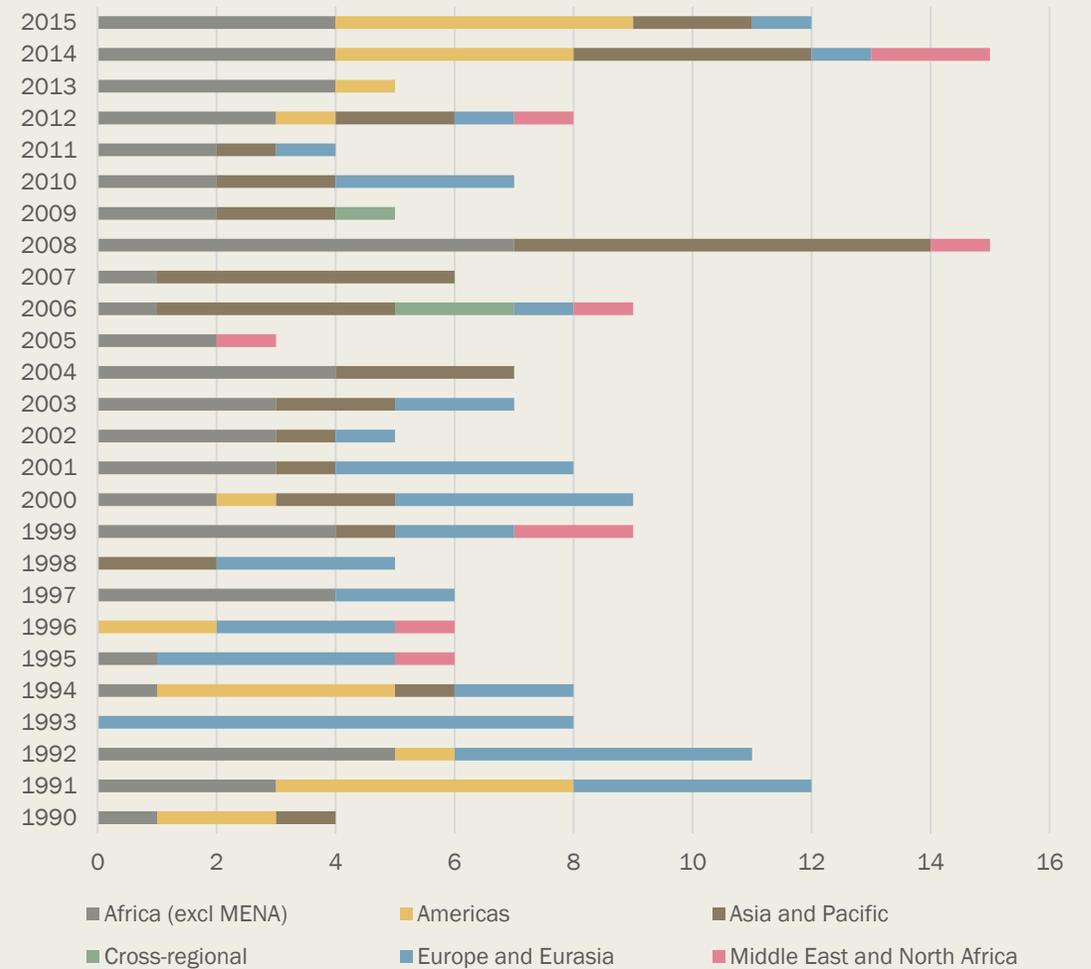
Victims provisions in Peace Agreements

# A Global Review – PA-X

*Global review of all provisions related to victims' inclusion in 1520 peace agreements signed since 1990*

*Thematic, Geographic and Chronological Mapping how victims have been addressed in peace processes and the integrated transitional justice processes*

Victims Provisions by Year by Region



<b>Sum of Victims</b>	<b>Column Labels</b>																											
<b>Row Labels</b>	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	Grand	
Africa (excl MENA)	1	3	5		1	1		4		4	2	3	3	3	4	2	1	1	7	2	2	2	3	4	4	4	66	
Americas	2	5	1		4		2				1												1	1	4	5	26	
Asia and Pacific	1				1				2	1	2	1	1	2	3			4	5	7	2	2	1	2		4	2	43
Cross-regional																	2				1						3	
Europe and Eurasia		4	5	8	2	4	3	2	3	2	4	4	1	2			1					3	1	1		1	1	52
Middle East and North Africa						1	1			2						1	1		1				1		2		10	
<b>Grand Total</b>	<b>4</b>	<b>12</b>	<b>11</b>	<b>8</b>	<b>8</b>	<b>6</b>	<b>6</b>	<b>6</b>	<b>5</b>	<b>9</b>	<b>9</b>	<b>8</b>	<b>5</b>	<b>7</b>	<b>7</b>	<b>3</b>	<b>9</b>	<b>6</b>	<b>15</b>	<b>5</b>	<b>7</b>	<b>4</b>	<b>8</b>	<b>5</b>	<b>15</b>	<b>12</b>	<b>200</b>	

- Emerging trends:
- Conceptual confusion
- Political Process in negotiating and implementing these provisions

# INCLUSION ON PRACTICE

Efforts to Include Victims in Burundian Transitional Justice Process



## Burundi

- Four decades of violence
- Exclusion had been central to the Burundi conflict
- International peacebuilding laboratory
- Transitional Justice: Tenuous Progress since 2000
- Truth and Reconciliation Commission launched in 2014 while country back in conflict since 2015
- Boosting legitimacy with Victims and Women Inclusion

# Inviting Victims to the Table

Search For Common Grounds (late 90's)

Reflection Group of Transitional Justice  
(2011)

FONAREC/JT (2012)

Inclusion Today



# Reshaping Civil Society:

## Creating Bigger Constituencies with Gender and Ethnic balance since late 1990

Based on the observation by SFCG in 1997-1998 that they were only Tutsi in the most active civil society group, SFCG trained Hutu and individuals with mixed ethnic background and also created a private radio committed to reconciliation. These trainees were in the fore front as involved in an inter-ethnic programmes. Millions of dollars were used to create Isanganiro and its inter-community movement. The first real sustainable effect was to give them experiences (Author's interview with international professional, Bujumbura, 2013) .

We have many representatives in each province. There is a committee of 4 people for each province. With 17 provinces, this is a total of 68 people. In addition, we have around 100 members.

We decided to create provincial relays. ... Each province has three elected members that represent the people. For each province, there is a president, a vice-president, a secretary. In [his province], we were 11 for the training [...]The vice-president is coming from XXX [a well-known Burundian NGO] and he is a Tutsi. The secretary is a Hutu women. We paid attention to gender and ethnic dimensions during these elections. ... In total, with 3 people for each of the 17 provinces, we are 52 people.

We are 18 organisations now. This is an increasing number, as we have an increasing visibility of the network at the national level.... We now 59 groups.



### *UN Efforts to Bringing Victims and Women to the Transitional Justice table*

- Leadership and Gender Dynamics
- Heavy political meanings
- Mistrust among civil society representatives
- Silenced Politics between Competing and Overlapping Networks
- Gradually victims became a legitimate actors in an increasingly illegitimate process

# Politics and Inclusion in Practice

The proliferation and co-optation of networks making victims available and prepared for the official transitional justice process

## Silenced and Invisible Politics:

- Overlapping of networks
- Political Lauded dates and places
- Incompatible Networks
- Participation and Co-optation
- Reshuffle Power in Civil Society politics

***ADDING THE  
RURAL VICTIMS:  
AVOIDING AND  
RESHAPING  
POLITICS***



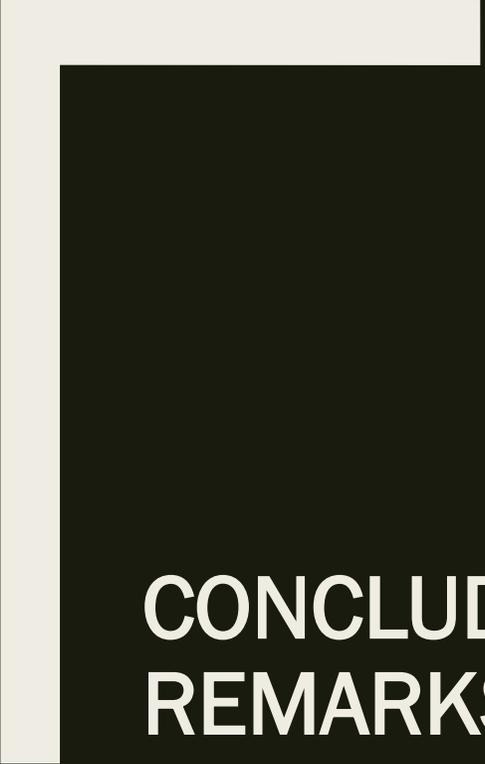
# Networkmania Conundrum

- Proliferation and formalisation of association: easy access to victims, create constituency, respond to participation expectation
- Expend the type of activities and capacities of their association beyond what they would usually do, including bureaucratisation
- Strengthen their capacities to formulate demands and statements about the transitional justice process
- Expose them to security and political risks
- Expose them to disillusionment due to increase of expectations

# Socio-Political Effects

- Technocratic demonstration/ numerical evidence of growing inclusivity with cultural, political and power blindness) To be connected in as many locality as possible with gender and ethnic balance is recurrent to appear as an efficient network. These networks rendered populations in rural areas as an audience available for actual and potential activities of both local and international peacebuilding and other types of emancipatory efforts.
- Initially Tutsi elite civil society with a Tutsi authoritarian regime – today Hutu elite civil society with Hutu authoritarian regime
- fluidity, the social and political experiences and identity of the individuals representing

- As a political fact containing moral claims, inclusion efforts are often pursued with political and socio-cultural blindness.
- Intervening on inclusivity implies entering webs of power dynamics with members who have fluid political and social identities and who adhere to overlapping and competing constituencies.
- While efforts to improve legitimacy are often based on simplistic binary or fixed identifiers (such as gender, age, ethnicity or group belonging), the political blindness might crystallise or destabilise further initial dis-balance of power that inclusion efforts claim to address, as well as reinforce the complexity of the web of the power dynamics .
- Conclusion-main contribution Impossible impartial mobilisation, Multi-hatting
- on increasing the diversity of representatives of constituency and expanding the size of constituency
- Go beyond binaries fixed identifiers when thinking about inclusion.



## CONCLUDING REMARKS

also 1) affected the (evolving) nature of entities representing victims ; and 2) intensified frictions between competing and conflicting positions of these constituencies. More importantly, 3) it underlines how interventions to include new actors impacted on internal power dynamics between actors involved in transitional justice discussions while operating in a changing wider political context 2) encouraged the phenomenon of 'multi-hatting' (individuals holding more than one role within these transitional justice networks),

Footnote here or earlier – victims, victims groups, civil society, NGOs, INGOS are conflated entities.

; which lead to unattended consequences – Which one be specific