

**Claiming Justice after Conflict:
The Stateless, the Displaced and the Disappeared at the Margins of the State**

**Preliminary workshop.
Paris, 20th of March 2019**

Organized by Yazid Ben Hounet (EHESS) and Judith Beyer (University of Konstanz)

The subject of conflict resolution in the aftermath of major conflicts – such as (civil) war, mass crime perpetration and major state repressions – has been studied mainly through the lens of national reconciliation mechanisms, in particular truth and reconciliation commissions, and more broadly through the lens of transitional justice (Teitel, 2003; Reiter 2010; Ben Hounet, Lefranc, Puccio-Den, 2014, Lefranc et Mouralis, 2014 ; Teitel 2015; Lefranc 2015; Richard and Wilson, 2018). Fieldwork-based studies adopt a critical stance, bringing to the fore that local conceptions of justice often vary and even compete with one another, and illustrating the difficulties that arise in attempts to actually implement theories of transitional justice (e.g. Hayner, 2001; Wilson, 2002; Lefranc, 2002; Stover & Weinstein, 2004; Jaudel, 2009; Robins 2011). One of the major findings is that despite the claim of them being ‘victim-centred,’ in practice these instruments are rarely driven by the needs of those most affected by conflict.

We want to engage with this latter body of literature and these empirical observations, but from a new angle that addresses the position of stateless, displaced and disappeared people, whose access to the state has been severely impaired or even made impossible (Bloom 2018; Bloom, Tonkiss, Cole 2017; Bradley 2014 ; Claverie 2011; Robins 2013 ; Kovras 2017; Jacobs & Kyamusugulwa 2018). Accordingly, such people not only regularly by the brunt of the ill effects of conflicts, but also are neglected in the aftermath: Their interests are little addressed and even less understood.

As the nation-state remains the main arbiter in terms of how transitional justice is set out to work, people who are stateless, displaced or disappeared are at a significant disadvantage when it comes to claiming justice. Somalia is an important case study in this regard as transitional justice mechanisms have been implemented in a de facto stateless society whose local justice mechanisms have been often idealized; see Schlee 2013. However, stateless and displaced people are often not able to draw on ‘local’ conceptions of justice either as they are uprooted, ‘on the move’ or confined within territories that are predominantly structured by international norms and laws, such as in refugee camps. Such is the case of the stateless Muslim Rohingya, who have been forcefully moved between Myanmar and Bangladesh for decades (Ahsan Ula 2016). Many have fled into exile and are stuck in asylum processes in Europe where their interest in staying is met with the interest of the respective nation state in rendering them citizens of another state, only in order to allow deportation (Cole 2000; Wellman and Cole 2011).

In the aftermath of major conflicts, the issue of disappeared persons also remains sensitive. As stateless and displaced, these categories of victims are problematic for the state which prefers usually not to take them into consideration, and which puts the families of the disappeared, *de facto*, into limbo. In Algeria, families of the disappeared still continue to demonstrate against the Charter for Peace and Reconciliation, which offers impunity for state agents who committed crimes and were responsible for enforced disappearances in the 1990s. President Emmanuel Macron's recent (September 2018) recognition of the killing of Maurice Audin (1957) - long-time officially considered as a disappeared – testifies to the power of the

blindness of the state, even if it is of democratic kind, when it comes to the issue of the disappeared. Here as elsewhere (for Chile see Diaz 2009; for Nepal Robins 2011), families of disappeared organize themselves and try to get support in local and international arenas (NGOs and international institutions) in order to claim justice, to establish the truth and to get reparation.

It is to such fields at the margins of the state that we want to draw attention when discussing the following main questions:

1. How do people who are or become stateless and/or displaced, or families of the disappeared, claim justice in situations of (post-)conflict? 2. How do these actors navigate between local constraints, their own conceptions of justice and international laws and human rights principles? 3. More generally, what are the minimal requirements for an abstract concept such as 'justice' to apply to their practice of claims-making? 4. Where 'justice' does not apply, what are other relevant categories of claims-making?

Rather than starting from a pre-established model of international and transitional justice, we want to take ethnographic and other empirical materials on the increasingly large and growing groups of stateless, displaced and disappeared people as our examples to contribute to wider debates in the anthropology of the state, the anthropology of conflict and anthropological approaches towards justice.

References

Ahsan Ullah, A.K. 2016. Rohingya crisis in Myanmar. Seeking justice for the 'stateless'. *Journal of Contemporary Criminal Justice*. 32/3 : 235-301.

Ben Hounet Yazid, Sandrine Lefranc & Deborah Puccio-Den (eds.), 2014, *Justice, Religion, Réconciliation*, Editions L'Harmattan. Collection « La religion en question », Paris.

Bloom, Tendayi. 2018. *Noncitizenism. Recognising noncitizen capabilities in a world of citizens*. London: Routledge

Bloom, Tendayi, Katherine Tonkiss, and Philipp Cole (eds.) 2017. *Understanding statelessness*. London: Routledge.

Bradley, Megan. 2014. Rethinking refugeehood. Statelessness, repatriation, and refugee agency. In *Review of International Studies* 40,1. 101-123.

Claverie, Élisabeth, 2011, « Réapparaître. Retrouver les corps des personnes disparues pendant la guerre en Bosnie », *Raisons politiques*, vol. 41, no. 1 : 13-31.

Cole, Philipp. 2000. *Philosophies of exclusion. Liberal political theory and immigration*. Edinburgh : Edinburgh University Press.

Diaz Paola, «La constitution de catégories dans la mobilisation de l'Association chilienne des Familles de Détenus Disparus (AFDD) : Les détenus disparus, victimes ou résistants ? », in

Sandrine Lefranc & Lilian Mathieu (dir.), *Mobilisations de victimes*, Rennes, Presses Universitaires de Rennes, 2009.

Hayner P. B., 2001, *Unspeakable truths*, Routledge, New York.

Höhne, Markus (ed.). 2013. The effects of 'statelessness'. Dynamics of Somali politics, economy and society since 1991. *Journal of Eastern African Studies* 7 (2). Special issue.

Jaudel E., 2009, *Justice sans châtement. Les commissions Vérité-Réconciliation*, Odile Jacob, Paris

Kovras, Iosif, 2017, *Grassroots activism and the evolution of transitional justice: The families of the disappeared*, Cambridge University Press.

Kritz N., 1995, *Transitional Justice*, 3 Volumes, Washington DC: United State Institute of Peace Press.

Jacobs Carolien & Kyamusugulwa P.M, 2018, Everyday justice for the internally displaced in a context of fragility: The case of the Democratic Republic of Congo (DRC), *Journal of Refugee Studies* 31(2): 179-196.

Lefranc, Sandrine. « La justice de l'après-conflit politique : justice pour les victimes, justice sans tiers ? », *Négociations*, vol. 24, no. 2, 2015, pp. 101-116.

Lefranc Sandrine et Guillaume Mouralis, « De quel(s) droit(s) la justice internationale est-elle faite ? », *Socio*, 3 | 2014, 209-245.

Richards, Katharine and Wilson, Richard Ashby, Truth and Reconciliation Commissions: Anthropological Perspectives (February 24, 2017). Forthcoming in the International Encyclopedia of Anthropology. Hilary Callan (ed.). Hoboken: Wiley-Blackwell.. Available at SSRN: <https://ssrn.com/abstract=2923387>

Robins Simon, 2011, "Toward Victim-centered transitional justice: Understanding the Needs of Families of the Disappeared in Postconflict Nepal", *International Journal of Transitional Justice*, Volume 5(1): 75-98.

Robins Simon, 2013, *Families of the Missing. A Test for Contemporary Approaches to Transitional Justice*, Routledge, London.

Schlee, Günther. 2013. Customary law and the joys of statelessness: idealised traditions versus Somali realities. *Journal of Eastern African Studies* 7/2 : 258-271.

Stewart M., 2010, "Une catastrophe invisible. La Shoah des Tsiganes". *Terrain*, 54: 100-121

Teitel R. G., 2000, *Transitional Justice*. New York, NY: Oxford University Press.

Teitel R. G., 2003, "Transitional Justice Genealogy (Symposium: Human Rights in Transition)", *Harvard Human Rights journal* Vol. 16 : 69-94.

Wellman, Christopher and Philipp Cole. 2011. *Debating the ethics of immigration. Is there a*

right to exclude? Oxford : Oxford University Press.

Wilson, Richard Ashby, 2002, *The politics of truth and reconciliation in South Africa. Legitimizing the postapartheid state*, Cambridge University Press.

Presentation Judith:

Accountability and justice in asylum claims. Debating the issue of statelessness in the UK.

Yazid :

The families of the disappeared in Algeria and their quest for truth and justice.

Possible participants:

Paola Diaz (EHESS)

Siri Lamoureaux (Paris)

Malika Rahal (IHTP, Paris)

Markus Höhne (Leipzig University)

Carolien Jacobs (Leiden University)

Alice Wilson (University of Sussex)

Catherine Allerton (LSE)