Enforced disappearances in Lebanon: a nation's unyielding legacy

By Lynn Maalouf Beirut, July 2009

"The missing are the war memory that can't be wiped out, no matter what" Adnan Houballah, psychiatrist

« Une fois le déni passé, on peut commencer à soigner ses blessures et se reconstruire une identité transformée qui aura intégré ces évènements de manière constructive. » Maha Rabbath, clinical psychologist

When on November 17, 1982, 31-year old high school teacher Wadad Halwani made a radio call to those who had "lost" members of their families, she believed she was throwing a bottle out to the sea. "I thought that if we were two or three [people] visiting officials asking for help, we would be stronger than me or someone else doing this on their own¹." Instead of the handful she expected, over a hundred persons showed up – men, women and children all of whom had lost relatives of their own. Wadad was taken aback: "I thought that all of the world's problems were on me and my children's shoulders. I was shocked to see all these people; none of whom knew each other before then." She had no idea that her case was replicated across the country's religious, geographic and political divides – and that like her, other citizens felt alone and helpless in their search for their beloved ones in the midst of raging violence.

The war, which was ignited in April 1975, was marked by successive rounds of massacres, killings, forced displacement and abductions. Between 1975 and 1977, newspapers featured special sections dedicated to reporting abductions; this was one of the dominant features of the war in its first two years, which in most cases resulted in the disappearance of the victims. These kidnappings were practiced by all armed groups (militias and armies) and often in coordination between groups (for instance, Lebanese militias, or members of the Lebanese army, handing over victims to Syrian or to Israeli forces).

Victims – most of whom were civilians – were abducted at checkpoints, as well as taken from their homes or from the streets. They were abducted for a variety of reasons: in exchange for other prisoners; for money or for revenge; and, some observers contend, for the very purpose of creating internal displacement that separated people along sectarian lines.

Apart from abductions, many people are thought to have disappeared as a result of mass killings, to have been victims of armed conflict and buried in mass graves or – according to unofficial reports - were disappeared and later thrown into the sea². The practice of disappearances continued even after the

¹ Interview with the author, July 2009

² Sneifer, 2006.

war ended in 1990, though at a smaller scale. All this had created a severe and systemic problem of enforced disappearances throughout the country and across its borders.

According to a police report published in 1991, 17,415 Lebanese disappeared between 1975 and 1990³. Though this has been the figure maintained since, there are strong reasons to believe that a thorough documentation effort would see it downsized, since it is based on the relatives' reports to the police only, without any investigative follow-up. Another official reference point for estimating the scale of the problem is the number of cases filed by relatives of the missing before the two official commissions of inquiry that were created in 2000 and 2001. The first commission received 2,046 cases, while the second commission – which imposed more restrictive criteria of disappearance - received 780 cases. These most probably don't reflect the true dimension either, since many families refrained from filing their cases due to the commissions' lack of legitimacy and restricted mandate.

It remains that the victims of disappearances and their families are part of the widespread nature of the conflict's consequences on the Lebanese people, who were left reeling with a hefty legacy that it is only starting now to address. In a more general sense, a recent ICRC study concluded that 75% of Lebanese citizens had had "personal experience" of armed conflict. This figure does not include those who were affected in a more indirect way⁴.

Frozen grief and victimhood of families

Wadad Halwani 'lost' her husband Adnan on September 24, 1982. Adnan was abducted from his home, in front of his wife and two sons. He wanted to be reassuring, and said that he'd be back in five minutes. Adnan never returned. And she regrets having stayed calm. "Maybe if I had screamed, yelled, made a fit, the neighbors would have come out, the men taking him would have let him go."

Not only did she have to deal with the anguish of the uncertainty, but as days went by without news from her husband, she found herself becoming an uncertain single parent, with no explanation to give to her children about the sudden 'disappearance' of their father. She had to support herself and two sons alone, in addition to actively looking for her husband. Almost thirty years later, Wadad still writes to her husband, talks about him in the present. As long as she has no proof of death, she cannot begin a mourning process. Today, her family has borne a new generation as she became a grandmother and still, she cannot grieve her husband.

The difference between coping with the death of a loved one or his/her disappearance is what psychologists call "frozen grief." This state of frozen grief is in fact what turns the families into victims in their own right. Most often in fact, the relatives of disappeared persons are women, with gender-specific problems that require attention. Like Wadad, hundreds of thousands of women across the world, are locked in a dead zone – they live de facto like widows, but are not legally recognized as such, and therefore are unable to assume any caretaker role of their children, benefit from inheritances, or

³ MAKAREM, 2002

⁴ ICRC. 2009

even remarry. Additionally, they generally have to take on the financial support of their families overnight, and without necessarily the skills to do so, and are deprived of inheritance, custody and other rights that would otherwise be afforded to widows⁵.

Sonia Eid is a mother whose son Jihad went missing in 1990. She still keeps the piece of cloth that remained from the sleeve of Jihad's military uniform the day he left the house for the last time. He was a 20-year-old student and had joined the army. At 6:30 am on October 13, 1990, Jihad's friends came to get him. His father wouldn't let him out of the house. "He had a bad feeling. He never stopped him before. That day, he was clutching on to his son, trying to hold him back from getting out the door. But Jihad left, and all that was left of him was a piece of his sleeve, that stayed in his father's hand." When he didn't return that afternoon, his parents went to look for him. They found out that he had been taken to Hotel Beau Rivage, controlled at the time by the Syrian army. Eyewitnesses said he had been shot in the leg and the shoulder. His mother saw him once after that — and after paying up to 30,000 USD in bribes over the years. She had been able to secure a visit to the prison but was not allowed to see her son up close: he was the seventh in a line of prisoners, all blindfolded, with their hands tied behind their backs, "like a herd of sheep", she says. She wasn't allowed to talk to him. He probably didn't even know she was there.

Lebanon's willful drift into forgetfulness

Fifteen years of violence, of a gradual breakdown of state structures, of a shattered economy left the Lebanese people desperately wanting to resume any form of normalcy – leaving the confrontation with their recent traumatic history on hold.

With years of one conflict succeeding another, one region engulfed by violence at a time, different actors involved at different times, it was difficult at first for them to grasp that this was the end. In fact, the very terminology used over the years, the "hawadeth" or "events" translated a perception of vague notion of unrest that was ill-defined in time and space. By 1990, the Lebanese were also deeply subservient to the state of affairs. The lack of a definite ending to the war coupled with a measure of resignation drew the society at large into an overriding logic of forgetfulness. In parallel, the political class – composed primarily of the former warlords - presented a swift turning-of-the-page as a necessary precondition for reconciliation and national unity.

In August 1991, a general amnesty law came to sanction this logic and supply it with the necessary backbone for sustainability. (With regards to disappearances however it is important to note that one clause in the law renders judicial procedures possible if "these crimes are repeated or uninterrupted." ⁶ And indeed, one of the most important aspects of disappearances is that is considered to be a continuous crime).

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⁵ CRETTOL, M. and LA ROSA, A, 2006.

⁶ Amnesty Law 1991, Article 2.3.f

In this context, marked by the continuing occupation by Israel of South Lebanon and by Syria of the rest of the country, there was neither the security nor political preconditions that would have allowed raising the issue of the disappeared in a viable manner.

In 1994, Law 434, also known as the "law on absences" drew an outcry from the families of the victims: the law allowed the relatives of all those who had been missing for over four years to legally declare them dead. Policymakers presented this as a way of addressing pending problems of inheritance, marriage, and other civil affairs. But most families refused to comply, as long as they had no proof of death.

Victims defined by perpetrators' identities

Because so many forces and actors were operating in Lebanon, the fate of a victim is generally thought to have depended heavily upon the identity of the perpetrator:

- 1- Individuals disappeared by Lebanese or Palestinian militias, security agencies, or the Lebanese army (these, however, were also at times affiliated with Israeli or Syrian forces and may have transferred victims to them). Many of these are assumed dead.
- 2- Individuals taken by the Syrian army or its local allies. Many relatives still hold the hope that some of these are still alive in Syrian prisons, and as a result the victims are often described as "detainees" rather than missing or disappeared.
- 3- Individuals taken by the Israeli army or its now dismantled ally, the South Lebanon Army. The Israeli army withdrew from a 22-year long occupation of south Lebanon in May 2000.

Each of these groups of victims has seen a different human rights organization or victims' group formed, with separate solutions, heavily contingent on perpetrators' identities, advocated for each of the problems. Only recently has this started changing, in light of a transitioning political situation that has allowed for the victims' groups to come together to work on drawing a collective strategy that focuses on the right to know of the families.

The Committee of the Families of the Kidnapped and Disappeared (hereafter called the Committee)

On that day in November 1982 when they gathered at Bourj Abi Haidar in Beirut responding to Wadad Halwani's call, the families of victims of enforced disappearance - not fighters, in most cases, not even political activists – simply civilians who had seen their lives shattered by pure twist of fate - had taken the first step in what was to become a struggle they would sustain 30 years on through what became known as the Committee in Lebanon. During the days of violence, the Committee held sit-ins, had symbolic meetings at the Green line; in February 1984, when Nayfeh Najjar committed suicide after her 13-year old son had been abducted at a checkpoint, the Committee burned tires, shutting down one of the capital's main roads linking East and West Beirut, where many abductions took place. After the war, they put pressure on the post-war government to set up a commission of inquiry; and continue to this day to hold yearly demonstrations calling for the commemoration of the day the war started as well as to the right of the families to know the fate of their relatives.

Today few of the members of the Committee hold any hopes of seeing their beloved ones alive (unlike the family committee of those believed to be in Syria); yet most of them continue to struggle for their rights as victims in their own right – for their right to know what happened to those who were taken from them, but also, for their right to some form of an acknowledgment by those who survived the war, whether by the state or the society at large.

The Support of Lebanese in Detention and Exile (SOLIDE)

SOLIDE was formed in the late 1980s, when a group of activists realized that there were several instances of Lebanese being abducted and transferred to Syria. The group decided to carry out a campaign to bring the public's attention to what they saw as an increasing and alarming practice. They held a press conference and asked all families who had relatives they believed had been transferred to Syria to come forth, and submit to them a letter signed by two relatives, with all the relevant information they could gather. On December 29, 1989, a 24-kilometer human chain was formed from the Presidential Palace to the Vatican embassy – this was the official beginning of SOLIDE, says its founder and spokesperson, Ghazi Aad⁷. SOLIDE received over 200 letters, some of which related several names of victims. In total, they had a list of 300 names of persons, from various Lebanese regions, suspected to be detained in Syria.

On October 13, 1990, the Syrian army, backing the regime of Lebanese President Elias Hrawi, ousted the rival government of General Michel Aoun from power. The Syrian invasion of areas that were under General Aoun's control was followed by a wave of abductions and summary executions that mainly targeted opponents of the Syrian occupation. A few months later, in May 1991, Lebanon and Syria signed the Treaty of Brotherhood, Cooperation and Coordination, and four months later, the Defense and Security Agreement, thus in effect setting the stage for what many took to calling the *Pax Syriana*. Since then, says Aad, "all our connections with the relatives were cut off. No one dared talk anymore. And particularly since the successive governments were all against us. We were politically labeled at the time as being anti-Syrian."

During the 1990s, President Hrawi, Prime Minister Hariri as well as other officials publicly denied there were Lebanese detained in Syria. In 1996 however, President Hrawi retracted from his position announcing that 210 Lebanese were detained in Syria. But Hrawi's retraction was short-lived and followed by several counter-statements from the Lebanese general prosecutor, the minister of justice and others⁸.

SOLIDE focused its advocacy efforts on the international community instead, reaching out to INGOs such as the International Federation of Human Rights (FIDH), Human Rights Watch (HRW) and Amnesty International (AI), as well as Western embassies, mainly the French, British and American. In 1997, HRW published the report "An Alliance Beyond the Law". In 1998, the Syrian president issued an amnesty, after which 121 Lebanese were released. "Only four of these 121 were on our list. This proved to us that

⁷ Interview with the author, July 2009.

⁸ MEIB. 2001

we really did have a case," says Aad. That same year, the EU parliament adopted a resolution asking Syria to release all Lebanese detained in its prisons. In 1999, AI released the report "The Lebanese Detainees in Syria: Victims of a Regional Conflict".

It was only with the withdrawal of the Syrian army and security services in April 2005 that the political recognition came through. "Since 2005, this has become a national issue, in the sense that all political parties have recognized it. But they are still unable to find a technical solution, and it has become one other issue open to political exploitation," says Aad. Also, in the weeks succeeding the withdrawal, SOLIDE saw a surge in the number of families filing cases with them. Today, it has a list of 600 persons whose whereabouts remain unknown.

SOLIDE today believes that even though Lebanon is no longer under Syrian occupation, there is little hope that this issue will be resolved by the Lebanese or Syrian authorities, especially since many Lebanese parties are suspected to have been involved by transferring prisoners to Syria or to Syrian armed forces when they were present in the country. As such, its strategic outlook for a resolution differs from that of the Committee of the Families to a certain extent; while it is convinced that a mechanism to determine the whereabouts of disappeared persons in Lebanon and the identification of remains would bring answers to some of the families who hope that their relatives are detained in Syria, it also maintains that prosecutions and an international commission of inquiry are necessary to determine the fate of those believed to be in Syria. Since 2005, it has set up a permanent tent in front of the UN building in downtown Beirut to demand such a commission of inquiry.

The Follow-Up Committee for the Support of the Lebanese Detainees in Israeli Prisons

The Follow-Up Committee was founded in 1999, a year prior to the withdrawal of the Israeli army from most of Lebanon's territory. At the time, hundreds of Lebanese and Palestinians (formerly based in Lebanon) were believed to have disappeared at the hands of the Israeli army or its Lebanese proxy the South Lebanon Army. The Committee focused its efforts on providing support to the families of victims of disappearances and on advocacy.

Following the withdrawal of the Israeli army in 2000, the Committee converted into the Al Khiam Center for the Rehabilitation of Victims of Torture (named after the Israeli-held Khiam detention camp in southern Lebanon, and from where 150 persons were released the day of the Israeli withdrawal). Today, the Center offers medical and social support to former detainees and victims of torture.

The issue of those believed to have disappeared at the hands of Israel or its Lebanese allies has been handled by the Lebanese party and armed group Hezbollah, which has on several occasions, negotiated swap operations with Israel aimed at securing prisoners and remains. The latest such operation took place in July 2008, through the ICRC, when Israel released five prisoners and handed over 185 coffins containing the remains of Hezbollah fighters. Israel then announced that it had delivered all the remains it had, and had no more Lebanese prisoners. As for Hezbollah, its Secretary General announced that he considered this file to be closed. Shortly after however, it appeared that a number of corpses had not been identified, while the Communist party said that there were still a number of cases of persons who disappeared during battles with Israel and that have not been addressed.

Commissions of inquiry

In 2000 and 2001, two commissions were set up to address the issue of the disappeared. Both SOLIDE and the Committee believe however that these were designed to fail and shut the case once and for all.

The first one was created following pressure from the Committee by a decree of Prime Minister Salim al-Hoss. But its very composition and mandate attested to a body that would be acting in bad faith. Presided by a police officer, its other members represented the different intelligence agencies and the army. After six months, the commission issued a two-page report that basically concluded that none of the disappeared were alive and advised the families to legally declare them dead. The report adds that the commission "inspected mass graves of unknown persons" and "extracted sample bones from corpses buried in these graves." But that, given their state of decomposition, it was technically impossible to identify the bodies buried in the mass graves found in both parts of the capital. 11

A few months later however, the Syrian authorities released 54 Lebanese who had been detained; including people whose fate had supposedly been established as deceased by the 2000 commission. This spurred outrage and led Hoss' successor, Prime Minister Rafiq Hariri, to set up a second commission. Though this one's composition was an improvement compared to the first, namely with the involvement of the Bar Association, the Prosecutor and a Minister, its mandate was limited to the investigation of cases in which the families had conclusive evidence that their relatives were still alive in Syria or Israel. This backwardly placed the burden of proof on their families, who were themselves demanding that the state determine the fate of their relatives. Despite spending eighteen months collecting evidence, receiving complaints from families and conducting hearings covering 700 cases, it did not publish a report. No official reason was given for this; however, according to Fouad al-Saad, the former Minister who presided over the commission, then President Emile Lahoud had pressured him not to release the report, so as not to implicate the Syrian authorities in some of the disappearances¹².

In June 2005, in the aftermath of the Syrian withdrawal, a joint Lebanese-Syrian commission of inquiry was created, ¹³ consisting of three members, two judges and one police officer, ¹⁴ whose mandate is primarily information-gathering about Lebanese suspected to be in Syria (including those detained on criminal charges). In June 2009, the commission circulated a list of 23 names of Lebanese citizens who were released from Syrian prisons. However, human rights organizations immediately issued a statement saying that none of these were victims of enforced disappearance¹⁵.

Cracks in the wall of amnesia

⁹ Decree No. 10/29000, Jan. 21, 2000

¹⁰ Commission Report, July 2000

¹¹ Ibid.

¹² L'ORIENT LE JOUR ; Détenus en Syrie ; 15 Septembre, 2005

¹³ Decree No. 43/2005, June 22, 2005.

¹⁴ Decree No. 43/2005, Art. 1

¹⁵ Joint press release by CLDH and SOLIDE, June 24, 2009

Despite these layers of human rights violations that remain without accountability; despite layers of speedy "reconciliations" and fragile truces, the period from 2005 onward saw some changes in terms of dealing with the past. Left to deal with each other after the withdrawal of Israeli and Syrian troops (notwithstanding an ongoing occupation by Israel of the area known as the Sheba'a farms and what some see as continuing Syrian influence in Lebanon), the Lebanese flirted dangerously with a past they thought they had buried long ago. In May 2008, the sight of snipers on building rooftops, militia men shooting from street corners, civilians fleeing their homes under indiscriminate gunfire, checkpoints manned by masked gunmen shocked the Lebanese to their core. These were the sort of images that they thought had long disappeared... and the swift manner in which they resurfaced overnight, almost 20 years after the end of the war, came as a realization that the course undertook since 1990 of an amnesia both imposed and desired had failed.

In this sense, Lebanon post-2005 can be seen as a new phase, and while the contours of this transitional phase have yet to mature, a number of signs are indicating today that it has become possible to start addressing issues related to the 1975-1991 war.

New momentum

In January 2008 the newly appointed ambassador of the Palestinian Liberation Organization (PLO) to Lebanon, Abbas Zaki, made a memorable statement regretting the harm that the Palestinians "had unintentionally caused all through their stay in their country." In April 2008, a high-profile political meeting brought face to face members of the PLO with members of the Christian Phalange party. Although this meeting failed to have any more wide-reaching consequences, mainly due to a context of spiraling internal crisis, it was symbolically important in the sense that it brought together the two main groups that were seen as instigating the war in April 1975.

Another notable instance of public apology came in September of 2008, when Lebanese Forces leader Samir Geagea made a public apology for his war-time involvement, saying "I fully apologize for any mistakes we committed when we carried out our duties during the Lebanese [civil] war." A few days later, in a televised interview, he called for the establishment of a fact-finding committee to investigate wrongdoings committed during the Lebanese civil war.

More than anything else, it was the inauguration speech of President Suleiman that translated a shifting official approach towards the war. Following pressure and lobbying by a number of NGOs, including a memorandum signed by 17 Lebanese human rights organizations, the President pledged an official commitment to this issue in his inauguration oath: "Let this [National Day of Liberation and Victory] be a motive for us (...) to work hard to release the prisoners and the detainees, reveal the fate of the missing persons."

The NGOs' memorandum demanded the following: the issue of the disappeared to be made a national priority and included in the ministerial statement; April 13 to become an official holiday to

¹⁶ http://www.lebanonwire.com/0805MLN/08052922NL.asp

commemorate the victims of Lebanon's wars; an investigation to be initiated based on the archives of the state institutions, militias, and the 2000 and 2001 commissions; mass graves to be located and exhumed across the Lebanese territory; a DNA database of the relatives of all those disappeared be created and housed within the ministry of Justice; a comprehensive reparations plan for the victims of enforced disappearances and their families be developed; a "Truth and Reconciliation Commission" be set up; and that a national, independent and neutral commission be created to manage and implement this plan, and to be composed of lawyers, civil society representatives, forensic specialists, and international NGOs.

A few weeks later, when the cabinet was formed, it did indeed pledge to "follow up on the issue of missing Lebanese and detainees in Syria, and is determined to deal with it with all the required responsibility in order to resolve it as soon as possible."

Banking on these new and quite unprecedented developments, the Parliamentary Human Rights Committee, the Committee, SOLIDE and the Centre Libanais des Droits de l'Homme (CLDH) developed a plan for a "National Commission to reveal the fate of the disappeared". The mandate of this commission would be to gather information in a centralized place, build a DNA and post mortem and ante mortem database and locate suspected sites of mass graves¹⁷. It gained President Suleiman's approval, who then referred it to the Ministries of Justice and Interior for approval before it went to the cabinet for final ratification. However, on the eve of the June 7, 2009 parliamentary elections, the project had gained approval from both ministries but had not made it onto the cabinet's agenda. At the time of writing, the cabinet is assuming a caretaker role until a new cabinet is formed. Both Human Rights Watch and Amnesty International reminded the outgoing cabinet's pledge to address this issue and urged the parliamentary candidates and incoming cabinet to adopt the National Commission¹⁸.

In the meantime, it remains crucial to be able to determine the very scale of the problem and undergo a thorough verification process. Human rights organizations have been acutely aware of this need to document, but have lacked the needed resources to do so individually, or the willingness to work collectively. As a result of a workshop about enforced disappearances held in May 2008, the ICRC decided to provide technical help to the relevant NGOs in their database creation efforts, pending the creation of this National Commission and of a possible unified database.

On another note, following discussions with the NGOs around possible prosecutorial strategies that would seek some measure of justice for the families, the International Center for Transitional Justice commissioned two Lebanese lawyers to prepare a report on strategic litigation around the issue of disappearances in Lebanese law. Based on this report's recommendations, the families of the victims of enforced disappearances (represented by SOLIDE and the Committee) filed two motions in May 2009 before the State Consultative Council, seeking to confirm their right to know, and compensation for the state's non-disclosure of information (based on the 2000 and 2001 commissions of inquiry undisclosed findings). At the time of writing, the litigation process is ongoing. This is the first time that this kind of

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¹⁷ Interview with Ghazi Aad, July 2009

¹⁸ HRW, 2009; AI, 2009

judicial path is undertaken, and both organizations are hoping that they will gain the judiciary's acknowledgment of their right to know – something they have been waiting for the politicians for decades to do so.

Conclusion

A lot of headway has certainly been made in the past year; the NGOs, after two and more decades of advocacy, are now working jointly and taking concrete steps, be it with regards to the National Commission project or the strategic litigation process. There is greater awareness of other similar contexts where disappearances are being addressed in a technical and humanitarian manner, be it in neighboring Cyprus, in Morocco, or in Bosnia-Herzegovina; and much can be derived from these experiences, starting with the much needed development of domestic legislation for the missing and their relatives that would replace the current law on absences. A shifting political and societal context that is slowly overcoming its amnesic phase could give better chances for the NGOs to push through their demands.

The challenges remain extremely important however, mostly on behalf of the state, which has yet to take concrete positive steps. Also, while there is certainly a need for a comprehensive mechanism to address the fate of the disappeared, the inter-state dimension remains highly contingent on political developments. In as far as the situation of former detainees, the state should start developing a reparations strategy that puts on equal footing formed detainees from Israel and from Syria, which is not the case today.

It is not the concrete result itself that is important only – but the symbolic acknowledgment of the plight of the victims and their families, the process whereby these families are engaged and involved and the process which brings together the state, the judiciary, NGOs and victims' groups – not only would such a process gain legitimacy in its inclusiveness but also contribute to a much needed process of building trust between victims of the war, between the society at large and between the state itself.

Today, almost 30 years later, Wadad Halwani no longer has hope of seeing her husband alive. But she still wants to know what happened to him, who to took him, where, what they did to him, where and if he was buried – and with very little chance, still hopes even that his remains will one day be found, and returned to her so that she, and her two sons and her grandson, would be able to bury him in manner that restores her husband's dignity and gives recognition to her struggle.

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