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Arab Civil Society Actors and their Quest to Influence Policy-Making

Case Study #8

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CIVIL SOCIETY ORGANIZATIONS' INVOLVEMENT IN THE CASE OF THE MISSING AND THE FORCIBLY DISAPPEARED PEOPLE DURING THE LEBANESE CIVIL WAR

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The involvement, strategies and challenges that faced civil society organizations in their quest for the right to know regarding missing and forcibly disappeared people in Lebanon

BACKGROUND

The number 17,000 often circulates within international and Lebanese media when addressing the amount of people that have disappeared during the Lebanese Civil War and whose whereabouts are still unknown today. This number emerged because of a government report, published in 1991, stating that there were 17,415 cases of disappearances. Through time, this number has been adopted by civil society and the media as a symbolic figure for advocacy purposes, since no official or comprehensive list of missing people was ever established. However, the International Center for Transitional Justice (ICTJ) pointed out that the actual number is probably somewhere between 5,000 and 8,000 people, based on lists by families of the disappeared and the International Committee of the Red Cross (ICRC) (ICTJ, 2014).

"The right to truth" is recognized in several international treaties¹, conventions and protocols which many civil society organizations (CSOs) have been campaigning with. The lack of truth-seeking efforts can be explained by the absence of political will, especially because of the Lebanese political context in which politicians put forward that truth-seeking could "imperil the fragile balance of the country" (Jaquet, 2008). Also, many civil war actors or former war leaders are still publicly or politically active, which complicates the issue of accountability.

In Lebanon, a variety of CSOs have been persistent in keeping the missing persons issue in public view, mainly because many members of CSOs are personally involved in seeking answers about their family members: for them it is a daily struggle.

One of the pioneering CSOs committed to this case is the Committee of the Families of Kidnapped and Disappeared in Lebanon², founded in 1982. The president of this committee is Wadad Halawani, whose husband was abducted that year. She led a collective of other women going through the same ordeal. Since its foundation, the committee has been persistently organizing actions and raising awareness for them to receive answers, also together with SOLIDE³. Former director of SOLIDE, Ghazi Aad, was at the forefront with Halawani of the longest running sit-in in front of the UN house in downtown Beirut, to advocate for their cause.

Since the early 2000s, the Committee of the Families started to work closely with multiple international and local CSOs. For example, the ICRC was already present in monitoring this issue in Lebanon since 1976 and has provided help in identifying missing people, by gathering information on their appearance and disappearance, medical records, and collecting DNA samples from family members. The Act for the Disappeared⁴ played an important role in the provision of psychological support for the families.

¹ Lebanon signed the International Convention for the Protection of All Persons from Enforced Disappearance in 2007 but did not ratify it.

² In the following, the group will be addressed as "The Committee of the Families."
³ SOLIDE stands for Support of Lebanese in Detention and Exile. Established in 1989, SOLIDE has been active in its campaign against the crimes of arbitrary detention and enforced disappearance at the hands of the Syrian army and intelligence apparatus in Lebanon. SOLIDE was founded by activist Ghazi Aad.
⁴ Act for the Disappeared (ACT) is a Lebanese human rights association. Its mission is to contribute to the clarification of the fate of the disappeared and missing in Lebanon, to foster a sustainable reconciliation process and to prevent the recurrence of violence in the country.

From 2015, ICTJ started to map mass graves and take testimonies from witnesses in order to collect an abundance of data to be handed to the government once they are willing to handle the issue themselves.

From a legal perspective, the Committee of the Families worked closely together with ICTJ, the Legal Agenda (mainly with lawyer Nizar Saghieh), and SOLIDE to write a draft law in 2012. The Lebanese Center for Human Rights (CLDH)⁵ was also involved in drafting this law. According to a publication by UMAM Documentation and Research on the law, “the draft of 2012 deserves special mention since a comparison between this draft and the actual law 105 on the missing and forcibly disappeared [passed in November 2018] leaves no doubt that it was a major source of inspiration”.

In this case study, it is important to make a distinction between “missing people” and “enforced disappeared”, according to CLDH’s Wadih al Asmar. Law 105 says it will investigate both the missing and the enforced disappeared, something that not every CSO agreed upon. This is because the category of “missing people” is much broader and it can be more difficult to enforce justice and accountability for this category, since “missing” can also happen by accident, while enforced disappeared people are deprived of their liberty and their fate is concealed on purpose. This case study addresses Law 105 and CSO activity in Lebanon through decades of activism, in order to better understand recent achievements and the challenges ahead.

TIMELINE

Since 1982, there have been a few milestones to take into account in understanding current achievements and placing this case on the political agenda. Past governmental efforts in creating clarity on the disappeared were mostly ineffective in that they did not adequately address the concerns of the families. Three government commissions regarding the disappeared were established in 2000, 2001 and 2005 (ICTJ, 2014). Notably, the establishment of these commissions often followed some of the bigger campaigns that were set up by CSOs. For example, in 1999, the first large scale campaign was held by the Committee of the Families under the slogan “We Have the Right to Know”. There were planned activities in different regions, which included media campaigns, posters, and stickers. The campaign attracted new supporters, journalists, artists, and academics as support grew. The establishment of the first government commission on the forcibly disappeared in 2000 quickly followed this civil society campaign. Apart from the recognition of the existence of four mass graves for the first time, the report from this 2000 government commission was not very fruitful in finding answers. It stated the impossibility of identifying the remains of the disappeared and it denied claims that Lebanese are detained in Syria or Israel (ICTJ, 2014). Families rejected the outcome of this commission because it also declared that their loved ones were deceased without evidence of their death or knowing of the whereabouts of their remains.

In 2009, two petitions were filed to the State Council by the Committee of the Families and SOLIDE in which the state was requested to protect the mass graves (mentioned in the 2000 commission report). They sought to obtain a copy of the full report of the commission’s investigations and they demanded their right to truth to be respected (Legal Agenda, 2014). In 2014, the decision was taken by the State Council to release the full report and it was stated that the families of the disappeared have the actual “right to know”. This was a milestone in the CSOs’ persistent attempts at truth-seeking (Lebanon Support, 2016).



As mentioned, the Lebanese Parliament passed Law 105 in November 2018, promising to investigate the fate of thousands of people who have been missing through the establishment of an independent and impartial National Commission, made up of investigators, scientists, lawyers, and a representative from the Committee of the Families.

STRATEGIES AND TACTICS

Throughout the course of activism, the tactics and strategies took different forms and tackled different levels of the issue. Until the 2000s, the Committee of the Families – together with SOLIDE – was mainly raising awareness for pushing it onto the policy agenda. This was done by organizing peaceful protests in Beirut, press campaigns, sending letters to the president, having weekly sit-ins in front of the parliament and lobbying towards political authorities. An important strategy for CSOs during this course of activism was the attempt to transcend sectarian and partisan lines and portraying the issue as a uniting, national, emotional and legal issue. The Committee of the Families presented itself as non-confessional and non-partisan, in a sense that it was not connected to any political party, and it consisted of members from various Lebanese demographic backgrounds (Civil Society Knowledge Centre, 2015).

As the members of the Committee of the Families are aging, so are the memories of what they still know from the years of the civil war. That is why from 2005 onwards, many CSOs⁶, in addition to Halawani’s Committee of the Families, started to document and archive decades of their work in order to pass it on to future generations. All of this information can be used when an actual governmental research commences. The tactic of documentation is important in making the cause sustainable and that this issue does not fade away together with aging veterans who are advocating for this issue now.

Another important tool in this case was litigation, which proved that action can be taken via a legal path, even if the politics are against it.⁷ From 2009 onwards, the issue was framed as a legal rights-based issue, rather than a political one. Legal action as a tactic can be seen as a way to strengthen and legitimize the cause: it becomes more neutral, universal, and more difficult to contradict and thus more resistant to politicization.

INFLUENCING FACTORS

The passing of the law in 2018 would not have been possible without some of civil society’s important allies, which can be described as positive influencing factors. Throughout the years, some members of parliament were involved in introducing the law in parliament, but also several traditional media outlets – for example As-Safir, Al-Akhbar, Al-Jadeed – covered the advocacy closely, and finally, international funding also contributed to some of the successes. These three influencing factors of politicians, media and international support are elaborated on below.

⁵ CLDH, led by Wadih al Asmar, used to be known as SOLIDA, but became CLDH in 2006.

⁶ For example, ICRC, UMAM, ACT and ICTJ.

⁷ Saghieh, N. Personal interview.

The connections with some MPs, like Ziad Qadri, Ghassan Moukheiber or head of the Human Rights Committee, Michel Moussa, and finally president of the republic, Michel Aoun, helped to get the issue on the political agenda. These political figures were very receptive to speak with CSOs about the enforced disappeared issue. Qadri and Moukheiber presented the draft law of 2012 at parliament.⁸ It was also the result of extensive lobbying and advocating by CSOs aimed at these government officials, in the form of several meetings and offering petitions. These allies in the government are crucial for the challenges still ahead of implementing the law, however they did not come easily. The Committee of the Families had, in the past, received multiple threats for their work, while government officials would argue their cause would ignite civil strife. They experienced many false promises and were not regarded as a priority, which is why the Committee of the Families needed to keep lobbying.

Another factor of CSOs' success was the willingness of several media outlets from multiple backgrounds – television and newspapers – to cover civil society actions. There has been much interest, and still is, for the issue of the disappeared, however this attention mainly revolves around days of commemoration of the civil war (April 13) and International Day of the Disappeared (August 30). Media outlets were in general very willing to support the cause and the Committee of the Families, as media coverage and campaigns were often advertised at no charge to the Committee of the Families.⁹

The final positive influence is to be found in the international community, which acknowledges “the right to know” and supports Lebanese CSOs' efforts in securing the aforementioned right. Several European countries, such as Switzerland and Germany, but also the EU itself were willing to fund CSOs in their efforts.¹⁰ However, these funds have been decreasing in the past years, due to other priorities, such as the humanitarian crisis of Syrian refugees and other regional issues. The international involvement remains, with for example the help of ICRC, in facilitating discussion and prioritizing the issue in meetings with policy-makers, but there are also international funds made available for the archiving and documentation of the disappeared. Despite the positive influences mentioned above, it is essential to note the obstacles and challenges facing CSOs. Several CSOs have pointed out that funding is a sensitive topic in this case. In this sense, Wadih al Asmar said funding creates more problems than it solves. Voluntary activists tend to work better than paid staff. This is why al Asmar regards international NGO funding also as risky, because they might want to impose their own agenda and objectives on a Lebanese case. Wadad Halawani also cautioned that CSOs need to be careful in accepting money from local donors, because it can create a dependency and hinder the cause in the end.

Another possible obstacle that is challenging the implementation of Law 105 is Article 37, which concerns accountability.¹¹

The Committee of the Families is explicitly not prioritizing accountability, because they primarily want closure regarding their relatives. Different CSOs claim that the Ministry of Justice included this article as a result of political bickering to possibly delay and/or derail the entire legal process that comes with Law 105. The Committee of the Families, however, tries to make clear that they are just here to get answers about the disappeared and not to put people in prison.¹² At the same time, CLDH's Wadih al Asmar argued that Article 37 is a positive part of the law, because he sees accountability as an important part of creating a just society. This shows that different CSOs do not have the same view on everything. Although all the CSOs have a common goal now that Law 105 is here, there are small differences in how to approach this law. Halawani and her committee see their cause as a daily struggle, because not having answers about their loved ones affects them every day. However, some of the CSOs, such as ICTJ and CLDH, see the issue of the disappeared in a wider framework and justice discourse and how it is an essential step in creating reconciliation in a post-war society like Lebanon. In Wadih al Asmar's words: “No clarity about the enforced disappeared is not only a crime against the victims and their families, it is a crime against society.”¹³ ICTJ organized a trip to Bosnia for the Committee of the Families to be able to draw lessons from their post-war context, which was an inspiration for drafting the law in Lebanon. By drawing from other countries as an example, such as Cyprus and Bosnia that went through similar transitions, it becomes clear that Lebanon is not in a unique situation.

CONCLUSION

Civil society action took place on multiple levels: from governmental lobbying by organizing petitions and demonstrations to practical work such as documenting, mapping locations, collecting information on the disappeared and taking DNA samples. At the same time, legal help from Nizar Saghieh of the Legal Agenda, but also CLDH, helped create the draft law, which was the basis for the actual law that was passed in November 2018. Both the draft law and the documenting made it a sustainable case. All these factors contributed to the successes of the case on the disappeared, the success being that an actual law got passed, which gives CSOs a legal basis to progress with. However, the struggle for CSOs continues. With many pressing issues at hand in Lebanon, it is easy to forget the issue of the disappeared, while many family members are still waiting for answers.

⁸ Abou Jaoude, C. Personal interview.

⁹ Halawani, W. Personal interview.

¹⁰ Abou Jaoude, C. Personal interview.

¹¹ Article 37: “Any instigator, perpetrator, accomplice, or accessory in an enforced disappearance shall be punished by imprisonment with hard labor for five to fifteen years and fined between fifteen million Lebanese Pounds and twenty million Lebanese Pounds.”

¹² Carmen Abou Jaoude. Personal interview.

¹³ Wadih al Asmar. Personal interview.



LESSONS LEARNED

- The multi-level approach to civil society action contributed to this success. The draft law was written in close consultation with the families and the legal approach proved successful. Through time, different CSOs started to unify their voices in one clear non-confessional, non-partisan demand: answers about the fate of their loved ones. This unified demand is key to making it to the policy agenda. However, some conflicting conceptions of enforced disappeared, justice and accountability remain among civil society.

- Collaboration among different types of organizations, between civil society and the government, but also with the media and international human rights organizations, contributed to the success of the cause.

- Challenges are still ahead regarding the implementation of Law 105, because of the sensitive issue of accountability. Different CSOs have different visions on implementation of the law, which can turn out to be problematic.

- Tactics that contribute to the sustainability of the case are crucial, such as documentation and archiving, which is carried out by ICRC and ICTJ.

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BREAKING THE MOLD PROJECT

In mid- 2018, the “Civil Society Actors and Policymaking in the Arab World” program at IFI, with the support of Open Society Foundations, launched the second round of its extended research project “Arab Civil Society Actors and their Quest to Influence Policy-Making”. This project mapped and analyzed the attempts of Arab civil society, in all its orientations, structures, and differences, to influence public policy across a variety of domains. This research produced 92 case studies outlining the role of civil society in impacting political, social, economic, gender, educational, health-related, and environmental policies in ten Arab countries: Lebanon, Syria, Palestine, Jordan, Egypt, Morocco, Tunisia, Yemen, and the Arab Gulf.

Over two dozen researchers and research groups from the above countries participated in this project, which was conducted over a year and a half. The results were reviewed by an advisory committee for methodology to ensure alignment with the project’s goals, and were presented by the researchers in various themed sessions over the course of the two days.








THE CIVIL SOCIETY ACTORS AND POLICY-MAKING PROGRAM

at the Issam Fares Institute for Public Policy and International Affairs at AUB, examines the role that civil society actors play in shaping and making policy. Specifically, the program focuses on the following aspects: how civil society actors organize themselves into advocacy coalitions; how policy networks are formed to influence policy processes and outcomes; and how policy research institutes contribute their research into policy. The program also explores the media’s expanding role, which some claim has catalyzed the Uprisings throughout the region.

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