

Notre Dame University - Louaize

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THE PROTECTION OF PEOPLE FROM ENFORCED DISAPPEARANCE

*AN OVERVIEW OF CIVIL SOCIETY INTERVENTIONS ON TRANSITIONAL JUSTICE AND
HUMAN RIGHTS IN LEBANON*

M.A. Thesis

by

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The Protection of People from Enforced Disappearance

An Overview of Civil Society Interventions on Transitional Justice and Human Rights in Lebanon

by

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List of Acronyms

EID	Enforced and Involuntary Disappearance
CSO	Civil Society Organization
NGO	Non-Governmental Organization
ICPPED	International Convention on the Protection of People from Enforced Disappearance
IHL	International Humanitarian Law
IHRL	International Human Rights Law
DGGS	Directorate General of General Security
FEDAFAM	Fighting Against Forced Disappearances in Latin America
CLDH	Centre Libanais des Droits Humains
IACrtHR	Inter-American Court for Human Rights
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
WGEID	Working on Enforced and involuntary Disappearances
LF	Lebanese Forces
FPM	Free Patriotic Movement
TJ	Transitional Justice

List of Interviewees

1	Ghazi Aad,
2	Ziad Abdel Samad
3	Fadi Abi-Allam
4	Ali Abou-Dehn
5	Wadih Al-Asmar
6	Ali Al-Chami
7	Julien Courson
8	Fadi Daou
9	Marie Daunay
10	Hikmar Dib
11	Darine El-Hajj
12	Friederich Ebert Stiftung Beirut Office
13	Nizar Ghanem
14	Wadad Halawani
15	Justine Di Mayo
16	Ghassan Moukheiber
17	Makram Oueiss
18	Maha Shuayb
19	Lokman Slim
20	LAF Former Soldier, Previously Disappeared
21	Carina Svelfelt

Chapter I: Introduction

Relevance

The outcomes of Lebanon's civil war were the spring of continuous violations in which victims remained victims, and remedies are far from being provided to them. Among these groups of incessant victims, individuals enforcedly disappeared and their families are seldom still awaiting solutions that will put an end to decades of victimhood. Families of victims, Lebanese NGOs, previous victims, and occasionally political parties have throughout the civil war and until today exercised unnumbered efforts to put an end to this grave human rights violation and abuse. Lebanon's turbulent history has resulted in various documented cases of enforced disappearance and forced exile. A 1990 survey indicates that 17,415 people are missing in Lebanon as a result of the war. (NDH Liban 2002) Approximately 2,300 were registered as missing in the aftermath of registration efforts led by the International Committee of the Red Cross (ICRC 2016). Uncertainty about the missing people's situation makes the mourning process impossible, especially because it is still possible that some missing people are being held as prisoners, or their fate still unknown. A number of families, who live in materially precarious situations, have formed the Committee of Kidnapped or "Missing People's Parents" in Lebanon. They have constantly asked the Lebanese authorities for an independent investigation into the disappearances. Disappearances in Lebanon included events such as summary executions, mass graves, targeted killings and the illegal transfers of prisoners to Syrian prisons. This explains the Lebanese government's attempts to close the missing people's files, which would also include those of Lebanese prisoners in Israel, Syria, Iraq, and Libya, and of people kidnapped by militias.

Following the civil war, the government established several committees to provide information on the fate of the disappeared each with different results, all superficial and aiming to falsify information, as repeated by different Human Rights NGOs. (NDH Liban 2002) ¹Rafic Hariri's government appointed another Commission of Inquiry on missing people in January 2001. The commission was charged to collect parents' complaints. It was no longer composed of security agents and security services officers, but composed of the chiefs of those services and others. It included Adnan Addoum (the General prosecutor), General Jamil Sayyed (General Director of the Sûreté Générale), General Edouard Mansour (Director of State Security Services), General Marwan Zein (General Director Interior Security Forces), General Raymond Azar (Director of the army intelligence agency), and two members of the Bar Associations of Beirut and North Lebanon respectively. It was presided over by the State Minister of Administrative Reform, Fouad es-Saad. It was supposed to have drawn conclusions after six months of work. This did not occur and its mandate was extended three times. In 2005 new calls for uncovering the fate of the disappeared gained new momentum. The withdrawal of the Syrian troops from Lebanon, and the change in the leadership of the judicial and security institutions in Lebanon created an environment in favor of advocacy on that matter by numerous political parties. The Saad Hariri government, formed in 2008, prioritized this matter as well by establishing a Lebanese-Syrian committee to follow up on numerous files in particular the issue of the disappeared. Then minister of State Mr. Jean Ogassapian spent on several shuttle visits meeting each time with the Syrian authorities requesting to receive information on the Lebanese allegedly detained in Syrian prisons, Lebanon claims to be in Syria. The meetings were eventually interrupted and yet no clear findings have been reached. While Syrian authorities

¹ NDH-Liban "Several Lebanese political figures, who have been in power since 1990, were implicated in the massive events that happened during the war. These events include summary executions and the illegal transfers of prisoners to Syrian prisons"- Annual Report 2002

deny, Lebanese would eventually be released, George Chamoun and Hassan Hdayfe respectively 2012 and 2018. On the other hand, the exact figures of Lebanese detained in Syrian jails are unknown and the Lebanese Government has been criticized for its slow response regarding the disappeared. NGOs working on the return of Lebanese detainees in Syrian prisons have documented 627 cases supposedly enforced and involuntary disappeared by Syrian authorities (Abou-Dehn 2017).

The problems of enforced disappearance in Lebanon overtake the theoretical concepts of transitional justice, international criminal law, international human rights law and international humanitarian law. The process undergone to find salvation for victims within transitional justice has also helped in elaborating other concepts that would constitute transitional justice in post-violent countries. Among these elements and objectives of transitional justice arises the concept of “truth recovery” or the better-known term in Lebanon “the right to know” (Robins 2011).

Moreover, the international practices and the development of international human rights law on this issue have been completing the ongoing progress of international criminal law. This has created no major disparities between the different body of norms applicable on the issue of enforced disappearance and/or missing people. Different state practices, legal practices and court cases have allowed this violation to develop its customary norm nature. The ICRC has determined series of practices to determine this customary nature from the Inter-American Court of Human Rights, to the Rome Statute, the court cases of the ICTY, the processes of Nuremberg and others, such as conventions and local legislations (Study on Customary International Law). The interdependent relation between the absolute prevention of torture, the fundamental principle of impartial access to justice, the non-discrimination principles and the jurisprudence developed on these principles constitute from the right to protection of people

from enforced and involuntary disappearance a principle of *jus cogen*. (Trindade 2002) Despite this legal homogeneity the major challenges affecting the trajectory of that issue in Lebanon has been the political complexities.

The Lebanese Civil War was both an internal Lebanese affair and a regional conflict involving a multitude of regional and international actors. It revolved around some of the issues that dominated regional politics in the Middle East in the latter part of the 20th century, including the Palestine-Israel conflict, Cold War competition, Arab nationalism and political Islam. Conflicts over these issues intersected with longstanding disagreements in the Lebanese political elite, and in parts of the population, over the confessional division of power, national identity, social justice and Lebanon's strategic alliances. According to a statistical data collection published in 1994, the fifteen years of conflict resulted in 90,000 people dead. (Rjeily 1993) In addition to the extensive human losses much of Lebanon's infrastructure was destroyed, as was Lebanon's reputation as an example of cross-sectarian coexistence in the Middle East. The devastating conflict left a number of political and social heritages that make it principal to understand why it involved so many instances of atrocities. In the view of activists revisiting the Civil War and trying to shape its memory, the war has continued through other means in the post-war period, and the periodic rounds of violent conflict plaguing Lebanon since 1990 are directly related to the Civil War. (Sune 2011) Remembering, analysing and understanding mass violence in Lebanon, therefore, is not just an academic exercise, but for many Lebanese an urgent task directly linked to political reform and reconciliation.

The events of 1975-1990 are seldom the major hurdle leaving behind a permanent victimhood of enforced disappearance. The complexity of the war, the number of national and international actors involved, the changing alliances, and the interrupting settlement agreement all resulted in confusions and impunity (Hanf 2014; Menargue 2004; Traboulsi 2012; Fisk 1990; Friedman

1989) The diagram in figure 1, also tries to represent such complexities beyond the 1975-1990 conflict.

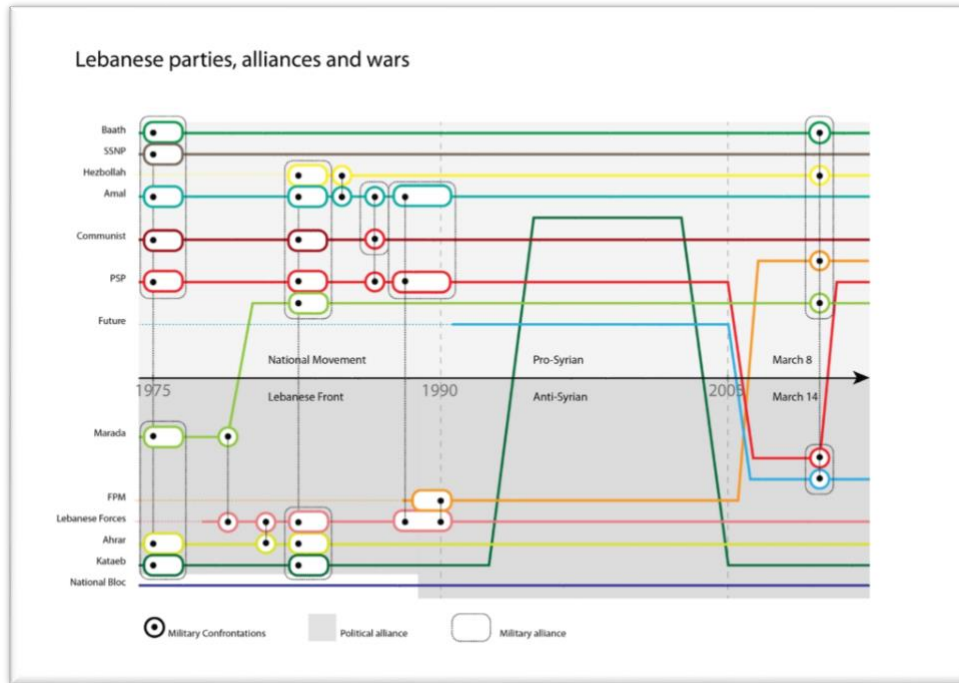


Figure 1 Lebanese Parties, Alliances and Wars - Karl Sharro, October 2011 (Sharro 2011)

The diagram above, prepared by Karl Sharro a Lebanese blogger, showcases the ever-changing alliances throughout the civil war and beyond it. As an example, the Kataeb party had a strong relation with al-Marada in the beginning of the Civil War, however since 1978 the tension grew and escalated to a level of mutual assassinations. The tension peaked following the massacre of Ehden that resulted in the death of al-Marada leader, Tony Frangieh and his family, during an operation ordered by the Kataeb leadership. Kataeb's conflict with al-Marada was essentially based on differing views of the Syrian role in Lebanon. Kataeb that was anti-Syrian primarily became pro-Syrian in the post-Taef period.

The period following the entry into force of the agreement is also a period of relative negative effect on post-conflict reconciliation. The Taef has formalized the stabilization role of the Syrian army and intelligence. (Taef 1989) Beyond formality, Syria played an influential role in post-war Lebanon. Syria had a decisive role in dividing political roles and decisions. (Khazen 2000; Hanf 2015) Elections held in post-Taef period insured that who sits in parliament and in the cabinet is supportive of Syrian role in Lebanon. Post-Taef, the manipulation of the electoral laws resulted with parliaments which enabled the new regime supported by the Syrian “guardianship” authority to control political life and decision-making in Lebanon. The manipulation of the law of the early elections of 1992 was obvious, as the number of representatives increased to 128, clearly deviating from the Taef Agreement; additionally, the seats and representatives were distributed to the benefit of the new regime and its local allies, both compliant to the guardianship of the Syrian regime. Three different electoral laws were enacted for three consecutive elections in 1992, 1996 and 2000, and they were characterized by inefficiency and manipulation (Majzoub 2002)². The electoral law for the year 2000 was comparatively the worst from many perspectives; from the creation of the ballots to the division of electoral districts, monitoring and oversight³. In addition, “the Global Information Network” has confirmed the corruption in Lebanon is the result of corruption within the political class, which was obvious in the results of the elections, and it estimated that non-governmental expenses during the electoral process ranged between 160 and 240

² The law of 1996 for example, was appealed before the Constitutional Council by some of the opposing representatives, but the Parliament quickly met in secrecy and adopted an appealed law under the slogan of “Exceptionally, for one time only”. In addition, 17 losing candidates appealed to the Constitutional Council challenging the results of the elections presenting evidences of violations, manipulations, bribery and mis-counting. Four of these appeals were accepted.

³ see Safir newspaper, 31 August, 2000; Ghassan Matar, El Lewaa newspaper, 17 January, 1999 for Prime Minister Salim el-Hoss’ opinion whose government should have enacted the law; Annahar newspaper, 21 September 2000 for the opinion of the Council of Maronite Bishops; Annahar newspaper, 11 December, 2001 for Patriarch Mar Nasrallah Boutros Sfeir

million USD.⁴ The 2000 electoral law was used again for the 2005 elections because the parties failed to agree on a new one. As for the election law for the 2009 elections, it was agreed upon after the military clashes in Beirut in May 2008 and the different Lebanese leaders met in Qatar and came up with the Doha agreement. (Al-Hindy 2014) The 2009 law was practically a return to the 1960 law with minor adjustments on the districts and the technical process which made it a step forward from the 2000/2005 law but far from being a good one.

On the other hand, the dissolution of the militias also became the primary focus of post-war state building. Throughout the Civil War, the issue of dissolution of the militias was synonymous to restoration of stability and imposition of power.⁵ (Picard 2012) The dissolution of the militias however came at an instance of order enforcement projected by the Taef sponsors and not by military defeat. However, the decree of March 28, 1991 and its implementation and the reactions that were witnessed directly shaped up the political landscape and the projection of power taking shape in holding or withdrawing weapons. For example, straight after the promulgation of the decree Iranian diplomats quickly dismissed its application on their militias announcing that they “reject any attempt to disarm before a complete withdrawal of Israeli troops”. (Agha and Khalidi 1995) The Taef agreement gave the sense of applicability only on the Lebanese militias, in July 1991 the Lebanese army was able to confiscate Palestinian heavy weaponry but failed to completely control Palestinian militias, and only resolved in a situation similar to the aftermath of the 1969 Cairo Agreement. (Picard 2012) The progression of dissolution and reintegration was described in law 88 of 13 June 1991, to go hand in hand with the progress of stabilization highlighted in the Taef agreement. However, while Syrian forces

⁴ The report was published in Annahar newspaper, 23 January, 2001

⁵ Even during the civil war, stability and projection of power were determined by the recollection of arms and dismantling militias. For example, after the election of Bachir Gemayel, the latter announced to dissolve the Lebanese Forces and empowering the Lebanese Army. Similarly, General Michel Aoun launched a campaign to collect militia's weapons.

did not withdraw to the Bekaa up to that point, the dissolution and control of the Lebanese army, during the early 90s, took place in an environment of control and intimidation from the Syrian troops, generating a sense of defeat for many. Additionally, the government failed to integrate many militiamen in the regular forces resulting in grave socio-economic deprivation and an increase in emigration. Following the elections of 1992, and what could be considered the “complete takeover” of Syria on Lebanon, the integration prospects were completely halted due to rigorous security vetting and exclusion.

In such a context of projection of power, talks about reconciliations and truth seeking have gone down the drain. While major Christian leaders and parties were in exile, imprisoned, or banned, effective balance to restore memory was completely absent.

This research aims at exploring the role of Lebanese Civil Society Organizations (CSO) in advocating for the protection of people from enforced and involuntary disappearances (EID), and providing a critical review of interventions between 2005 and 2016 and produce series of propositions in order to produce recommendations on how to enhance the CSO intervention and achieve better results. The year 2005, in addition to representing a turning point in Lebanese politics is also highly relevant for the work of human rights organizations in advocating for the right of people to be protected from enforced and involuntary disappearances.

The presence of the Syrian regime along with the Syrian-Lebanese security apparatus restrained to a large extent the work of NGOs and human rights defenders in Lebanon. As an example, on such restrictions Mrs. Samira Trad, director of Frontiers, was facing ongoing judicial harassment between 2003 and 2005, as authorities charged her with defamation of the state. (International Federation for Human Rights 2006) Similarly Mr. Ghassan Abdallah, from the Palestinian Human Rights Organization, was also facing slander and intimidation for a

prolonged period of time. (World Organisation Against Torture 2005) Similar to the restrictions on human rights defenders, the rights to freedom of association were also limited and a number of political parties were closed and their members persecuted. As a clear reference of that, Ramzi Irani, engineer and in charge of the Lebanese Forces (Christian anti-Syrian opposition restricted party) students' section at the Lebanese University, was found dead in the trunk of his car on May 31, 2002, in the Caracas area of Beirut; and yet up to this date authorities have not uncovered any investigation explaining his death. When found, his body was in an advanced state of decomposition. He had been kidnapped on May 7, 2002 while leaving his office, on Clemenceau Street, Beirut, near where his car had disappeared. His personal belongings, such as his cell phone, have not been found. In the days following his disappearance, police officers confirmed that they conducted investigations to locate him and interrogated residents in the area where he had been kidnapped. (NDH Liban 2002) Journalists, who conducted similar investigations, stated that the police used routine measures of investigation that fall short in this situation. On May 31st 2002, some hours before Irani's body was uncovered after receiving a call indicating its place. Jihad Ahmad Jibril, Popular Front for the Liberation of Palestine official (PFLP - general commandment - pro-Syrian and based in Damascus), died in a car bomb in Beirut. The bomb was placed in the Palestinian leader's car. (NDH Liban 2002) This description indicate to which level political action was restricted and to which extent the post-Taef governance witnessed several violations and impunity.

The changes in the political dynamics in Lebanon after the withdrawal of the Syrian troops and the restructuring of the Lebanese security institutions after April 2005 established a new dynamic of work. Activists and families of the victims of enforced disappearances anticipated changes and good momentum to have drastic results, directed towards finding solutions to the violations they are continuously living or at least to change the status quo. This has been clear

in the series of events lead by activists and families in 2005. These events culminated in a sit in. Since 11 April 2005, SOLIDE has erected a protest tent in downtown Beirut, the longest standing protest tent in the Middle East demanding to know about the fate of the missing Lebanese in Syrian detention centres. (SOLIDE 2008)

Literature Review

With the beginning of the Lebanese civil war in 1975, series of enforced disappearances and abductions started to take place. Such acts not only failed to provide closure for family members but also until today the situation of the civil war disappearances remain an open debate with no ending whatsoever. Many Lebanese today are still exposed to the continuous civil war victimization. Michael Young has worked closely on the issue of disappearances in Lebanon as part of a project on civil society implemented by the Lebanese Center for Policy Studies. Young reports that there are three reasons behind the abduction of individuals in Lebanon, the first being their political value facilitating high profile exchange with the countering party. The second, most rampant, the retaliation against previous attacks or territorial competition. The third reason according to Young would be the financial importance of the target allowing the group financing through extortions. (Young 1992) The political spectrum reigning at that time was also highly relevant and greatly affecting the role of civil society protecting and advocating for the rights of people EID. Young argues that the first committee of families established in 1982 was of a reaction to the Lebanese Forces and Lebanese Army abductions in West Beirut and used to meet regularly in Dar el Fatwa headquarters, while organizations in East Beirut were established in 1985. (Young 1992)

By the end of the civil war, the Lebanese government in its contribution to provide closure for the Lebanese disappeared accounted the disappeared to 17,415 individuals. This number relied

heavily on yet open cases of police complaints with regard to disappeared between 1975 and 1990. (Centre Libanais des Droits Humains (CLDH) 2008). The Lebanese Center for Human Rights (CLDH) argues that this number is overestimated referring to excessive double reporting to the police stations and other administrative recordings that might affect the formal accounting. (Centre Libanais des Droits Humains (CLDH) 2008) The report further indicates that the governmental commissions charged with accounting the actual number of individuals disappeared have referred to a total of 2312, however the reluctance of family members to report might indicate that this number itself is also inaccurate. (Centre Libanais des Droits Humains (CLDH) 2008)

Civil Society Organizations (CSO) have utilized different UN mechanisms to protect people from EID. However, the international framework lacked any reference to define the concept between 1975 and 1985, the year of the promulgation of the Declaration on the protection of people from enforced and involuntary disappearances. The latter was very visible in the comments addressed to the government of Lebanon in 1983. The Human Rights Committee referred in its review on the situation of human rights in Lebanon on the deprivation of liberty in *incommunicado* fashion - without providing information on the whereabouts, reasons of arrest, or authority for a limited time - and asked clearly on the occurrence of such deprivation by “private actors”. (Human Rights Committee 1983) In that regard the representative of the State of Lebanon affirmed that state institutions could not “prevent arbitrary arrests by other groups.” (Human Rights Committee 1983) The Working Group on Enforced or Involuntary Disappearances (WGEID) since its establishment has received cases of enforced disappearance. In its report to the General Assembly in 1998, the WGEID reported that the majority of cases to be registered occurred between 1982 and 1983 accounting to 287 cases.

(Commission on Human Rights June 1998)⁶ The WGEID referred that alleged perpetrators ranged from Christian political parties, the Lebanese Army, Syrian Intelligence, and a group called the Islamic Holy War. (Commission on Human Rights June 1998) As of the date of the WGEDID report in 1998, the Lebanese government was only able to provide information on two out of the 287 cases documented. This practice shows the absence of an efficient official government mechanism for families to learn about the fate of their relatives and seek remedy. (Commission on Human Rights June 1998) As of 2009 the WGEID received additional cases totaling the amount to 320 cases with still no answers by the Lebanese government on the fate of these individuals. (Human Rights Committee 2009)

In addition to the work of Lebanese CSOs to refer the cases to the international community, Lebanese NGOs have also been active on shaping a public opinion and working on national advocacy. Bojana Djokanovic from the International Centre for Missing Persons (ICMP) explains that Lebanese NGOs have been “persistent” to sustain the cause of missing people in the public domain. (Djokanovic 2016) In her article, Djokanovic presented series of civil society activities in relation to EID: (Djokanovic 2016)

Act for the Disappeared	“Fushat Amal” Project aiming at releasing personalized stories of missing people in the public domain (media and newspapers)
International Center for Transitional Justice (ICTJ)	<ul style="list-style-type: none"> • Providing legal and technical advice to Lebanese NGOs on the issue of transitional justice and disappearances

⁶ Commission on Human Rights, *Report of the Working Group on Enforced and Involuntary Disappearances*, 12 June 1998, E/CN.4/1998/43, §249.

	<ul style="list-style-type: none"> • Providing reporting on gendered perspective on missing people
ICRC	<ul style="list-style-type: none"> • Documenting information on missing people in Lebanon
ICTJ/ICMP	<ul style="list-style-type: none"> • Activities in Bosnia and Herzegovina (BH) allowing Lebanese NGOs and decision makers to have a view on the how BH has managed the problem.
UMAM	<ul style="list-style-type: none"> • Working on memory projects

The work of Djokanovic as summarized above tries to show the different approaches and activities used and adopted by civil society in Lebanon in the last few years. However, the article fails to represent the trajectory of the work of CSOs in that regard, and how it will take shape in the future.

In a paper published by Lynn Maalouf, “Enforced disappearances in Lebanon: a nation’s unyielding legacy”, Maalouf presents the first step undertaken by Mrs. Wadad Halawani which created the committee of the families of the disappeared. Lynn reports, the response of families of the disappeared to a radio announcement by Wadad that, against the latter expectations, united hundreds of family members. (Maalouf 2009) Maalouf describes further in her article the first steps taken by this newly established committee. During the time of the war the families used to hold sit-ins in the most intense zones of Beirut were most of the victims were abducted and disappeared. The Green Line as it was called witnessed improvised sit-ins by the

committee. (Maalouf 2009) Following the war, Maalouf reports that the families accompanied the changes in the political landscape and started to advocate for an independent commission to inquire about the fate of the disappeared. (Maalouf 2009) In addition to the committee of the families of the disappeared, Maalouf also describes the work and genesis of SOLIDE. Ghazi Aad, the founder of SOLIDE, expresses to Maalouf that SOLIDE was established following the redundant news and trend of people being detained and allegedly taken to Syria during the war. The first activities of SOLIDE were to document cases and raise public opinion. Aad explains that the birth of SOLIDE was the 24KM human chain from the presidential palace in Baabda to the Vatican Embassy a step that attracted public opinion and motivated families to report cases of disappearances. (Maalouf 2009) Maalouf explains the hard times SOLIDE has faced in the early 1990s after the “Pax Syriana” when families were reluctant to approach SOLIDE to document what happened to their family members. Maalouf explains that at the time SOLIDE role was to network with other local and international NGOs to be persistent in addressing the case despite the dangers. In that regard Amnesty International released a report in 1999 "The Lebanese Detainees in Syria: Victims of a Regional Conflict". (Maalouf 2009) Maalouf explains that 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. (Maalouf 2009)

Research Question

This research seeks to provide a timely read on the work of Lebanese NGOs on the fate of the missing and disappeared people. It will present the work, impact, and strategic plans following more than 11 years of work, culminating in the adoption of the law establishing the national

commission on the fate of the disappeared and missing People in November 2018. To provide this overview the research will seek to answer whether the combined efforts of NGOs was thoroughly focusing on all aspects of Transitional Justice. Strategies adopted by civil society in Lebanon on transitional justice and the protection of people from enforced disappearance could have been designed to more effectively create public support and secure political will.

While the research would help provide a lessons-learned overview and suggest measures to increase the results. The research will also aim at influencing practitioners in the MENA working in environments of increased human rights violations and atrocities in conflict. As conflicts in the region will hopefully reach an end, lessons learned from Lebanon become more relevant.

Methodology

With the aim of answering the above-mentioned questions and in order to provide the appropriate set of propositions and recommendations in a comprehensive fashion, the research will first engage in a thorough review of the development of international instruments with regard to the protection of individuals from EID. The paper will highlight in that scope the development of this norm under International Humanitarian Law and International Human Rights Law, while essentially emphasizing on the available mechanisms of protection. This phase will be followed by a review of two case studies with respect to post-conflict modalities. The first case to be studied would be the South African post-apartheid period, while the second would focus on the conflict in Bosnia-Herzegovina. The purpose of this phase is to provide an overview of the standing of transitional justice and victim reparation, in particular, in the conflict settlement period.

The third phase will include a thorough desk research on the available initiatives, research, that took place in Lebanon. This step will be include series of interviews with specific stakeholders

with the aim of providing additional qualitative data on the initiatives. A major component of the research undertaken to inform this thesis came from semi-structured, key informant interviews conducted with relevant civil society actors identified throughout the research process. In addition to representatives from relevant INGOs, political parties, and academia. The sampling frame was initially confined to approximately 10 individuals identified as active in the field of enforced disappearances. From here, snowball sampling was employed wherein these 10 participants were asked to identify additional actors from among their acquaintances that they considered relevant to the scope of this research. This technique yielded an additional 11 study participants, which amounted to a sum total of 21 consultative interviews. Interview questions were designed to elicit background information per issue area, information about the interviewee's current work, their perceived challenges, intended next steps, opponents, allies, needs, and recommendations. In order to elicit this information, interviewees were initially asked to introduce themselves and the work of their organizations, which typically provided a point of entry to discuss one or more of the four issue areas initially targeted by this research. Depending on the interviewee's work the conversation may have explored one issue area in depth or multiple. In some cases, interviewees brought up different issues they considered as urgent or neglected but relevant to the scope of the thesis.

This phase has provided a descriptive trajectory of the work of civil society in Lebanon on the issue of enforced disappearance, highlighting as such the main events the changing nature of the work and the environment generating change one way or another.

The fourth and final phase of the research will seek to provide propositions and recommendations for CSOs in Lebanon on particular areas of focus that will enhance their interventions in the protection of people from EID. This phase will also be helpful for advocacy

groups and donors' agencies to promote better strategies in funding and advocacy interventions conducted on that matter.

Delimitations

As mentioned in the research question, the paper will not seek to examine the legal notions behind the norm of Enforced and Involuntary Disappearances (EID). However, the paper will provide an ample legal overview necessary to provide the reader with a generous legal explanation required to answer the above stated research question. Also, the paper will not provide the reader with a convoluted overview of the Lebanese Civil War but would only rely on phases necessary to respond to the questions above.

The interview process was also hampered with the death of Mr. Ghazi Aad, director of SOLIDE, which has limited the ability to conduct follow up interviews. Ghazi Aad has accompanied the plight of families' victims of enforced disappearances for decades. His work in documentation, promotion and advocacy has set the cause as part of the mainstream post-war activism in Lebanon. His sickness, and his death made reaching out and re-visiting the archives of SOLIDE impossible.

Chapter II: The International Landscape on the Protection of People from Informed Disappearances

A- The Development of the Norm under International Law

1- Sources in International Humanitarian Law (IHL)

Brian Finucane argues in his paper “Enforced Disappearance a Crime Under International Law: A Neglected Origin in Law of War” that prior to enforcement of the prohibition of EID within human rights law, the norm of this prohibition is heavily rooted and put under state practice through International Humanitarian Law (IHL) norms. The Nuremberg tribunal, in particular the criminalization of Nazi officials responsible of the implementation of the *Nacht und Nebel Erlass* (The Night and Fog Enactment), was responsible of setting the first roots for the definition of EID. (Finucane 2010) Based on the policy instructions the Tribunal was able to highlight elements of the crime of EID and eventually be able to determine a definition for the norm: “The prisoner will vanish without leaving traces, and no information will be given as to their whereabouts or their fate” (Memorandum from High Command of the Armed Forces to Office Foreign Countries, Counter Intelligence/Departments 1946)

Through this policy the Third Reich accordingly wished to motivationally create a general feeling of “fear and anxiety”. (Finucane 2010) The court accordingly provided the first source of law for the prohibition of EID, however this prohibition remains within the framework of the IHL. Finucane argues further in his paper that IHL norms regulated the protection and the prohibition of EID within family protection norms. (Finucane 2010) Such usage of the norm could be verified in the ICRC report with regard to the IHL violations committed by the United States of America within the scope of the War on Terror. The “ICRC report on the treatment

of “High Value Detainees in CIA Custody”, published in February 2007 utilizes IHL norms for the prohibition of EID. The report argues that the detention of individuals without proper documentation and the acknowledgement of the detention results in addition to the purposeful act of removing the detainees from the protection of the law, *inter alia* constitute an act of enforced disappearance a violation of IHL customary law. The report argues that these acts have violated among other principles 16 and 19 of the Body of Principles for the Protection of all Persons under any Form of Detention or Imprisonment (1998), and rule 37 of the Standard Minimum Rules for the Treatment of Prisoners (1977). (ICRC Report of the Treatment of Fourteen "High Value Detainees" in CIA Custody)

On the other hand, there has been a consistent development of customary law with regard to the prohibition of EID and the protection of people from EID. The ICRC study on customary law also provides a relevant body of law that verifies the roots of the prohibition of EID under different sources of law. This section will only provide sources of law falling under IHL. Rule 98 of Customary IHL (Rule 98) argues that IHL law treaties do not refer to this practice as “enforced disappearance” per se, however practices satisfying this notion violates or threatens other rules of IHL such as:

- The prohibition of arbitrary deprivation of liberty (Rule 99)
- The prohibition of torture and other cruel inhuman and degrading treatment (Rule 89)
- Requirements of registration, monitoring visits, sharing of information (Rule 37)
- Registration of individuals deprived of their liberty in non-international armed conflict (Rule 123)
- Rules requiring the respect of family life (Rule 105)
- The obligation to account for missing persons and provide information to family members by all parties to the conflict (Rule 117)

The description of Rule 98 on enforced disappearance show how symbiotic the prohibition of EID is to the respect and fulfillment of other norms.

2- Sources in Human Rights Law

The development of the prohibition of EID in human rights law (IHRL) took different forms; the paper will focus on two main elements the development of the prohibition in soft law instruments and the prohibition of the norm, in matter of criminalization, in hard law and court proceedings. It is essential to note, that although the norm was previously referred to under IHL, however many state and non-state practices in post-WWII utilized EID in a context falling outside a situation of an armed conflict eclipsing the use of the IHL norms to protect victims of EID in times of peace.

Prior to the International Convention for the Protection of all Persons from Enforced Disappearance (ICCPED), which entered into force in December 2010, IHRL lacked any definition for EID. (UN 2010) The pre-convention period shows extensive role of civil society and human rights defenders analyzing and creating precedents in order to give a theoretical meaning for EID and as such they pioneered in giving a definition for the criminal act of EID. However, all EID non-UN definitions remained to be very contextual and have very limited *modus personae* and *modus operandi*. Civil Society Organizations (CSO) became as such very involved in the negotiations internationally leading to the creation of statutory definition of EID.

In 1983 Amnesty International recommended EID to be defined when it occurred “whenever there are reasonable grounds to believe that a person has been taken into custody by the authorities or with their connivance and the authorities deny that their victim is in custody”. (Dieterich 1986)

The situation in Latin America with the plight of victims of EID to put an end to state practices widely utilizing EID to crackdown on opposition showed the creation of the Fighting Against Forced Disappearances in Latin America (FEDEFAM). (Dieterich 1986) FEDEFAM became a regional network of organizations who closely focused on elaborating an international narrative defining EID. The process has pushed the United Nations to develop a convention on EID. (Linghammar 2008) Negotiations have constantly been blocked and eventually failed. FEDEFAM proposed a comprehensive definition within the negotiations:

“[A]ct or omission which is designed to conceal the whereabouts of a political opponent or dissident, of whose fate his family, friends or supporters are unaware, and is committed with intent to suppress, prevent or impede opposition or dissidence by persons in government office, by government officials at any level or by organized groups of private individuals acting with the support or permission of the foregoing[.]” (WGEID January 1985)

The role of CSO and the pressure put on the international community was catalyzed by important achievements most importantly jurisprudence from the Inter-American Court for Human Rights (IACrTHR). These successes eventually peaked with the unanimous promulgation of the United Nations Declaration on the Protection of All Persons from Enforced Disappearance (hereinafter referred to as “Declaration), on December 18, 1992. (UNGA 1992) The declaration, a soft law instrument, promoted as such a unified definition for EID to be adopted as a minimum set of elements for all states.

On the other hand, Antonio Cassese argues that prior to the Rome Statute in 1998, and its entry into force four years later, the criminalization and the prohibition of EID was never correctly defined. (Cassese 2003) However beyond its criminalization in times of armed conflict (refer to IHL section), different regional practices have provided progressive prohibition of EID at the regional and the national level.

In that regard, in the *Velasquez Rodriguez* case the IACrTHR provides a definition although largely based on the Nuremberg proceedings however develops additional guidelines that would promote a myriad of elements:

“[D]isappearances are not new in the history of human rights violations. However, their systematic and repeated nature, and their use not only for causing certain individuals to disappear, either briefly or permanently, but also as a means of creating a general state of anguish, insecurity and fear, is a recent phenomenon. Although this practice exists virtually worldwide, it has occurred with exceptional intensity in Latin American in the last few years.” (Veslaquez Rodriguez (Merits) 1988)

The court accordingly expanded the model of prohibition not only to protect direct victims but by expanding the victimization prospect to include families, friends and other individuals affected by the disappearance. “[G]eneral state of anguish, insecurity and fear” (Veslaquez Rodriguez (Merits) 1988), provides a criminal motive on perpetrators and provides the impact of the violation on society at large.

In 1998, the development of the Rome Statute took into considerations the developments, and negotiations reached so far. The statute of the International Criminal Court (ICC) considered the practices of EID falling under crimes against humanity. (Rome Statute)⁷ The Court defined accordingly EID as a human rights violation which definition would also be applicable during armed conflicts. The Statutes as such has closed the gap between disappearances occurring in times of conflict prohibited under IHL body of norms and disappearances occurring beyond the armed conflict. Additionally, the Statute also ended years of debate on the responsibility of state and non-state actors. “Political organizations” are accordingly as responsible as state

⁷ “Enforced disappearance of persons’ means the arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time.”

actors and can equally be prosecuted for their acts. (Rome Statute) Manfred Nowak argues that the role of non-state actors is essential to be mentioned as separate from the yet prominent definition stating the “authorization, support or acquiescence of a State”. Nowak argues that the nature of the crime is surrounded by secrecy making the collection of evidence and burden of proof validating the “authorization, support or acquiescence of a State” almost impossible (Nowak 2002), and therefore providing impunity for many perpetrators. The discussion was also similar during the negotiation of the UN Convention on EID where different delegations reflected that States couldn’t be held responsible of violations committed non-state actors. (UN Commission on Human Rights 10 March 2005)

Although it is a modern instrument and was promulgated following the cloture of most global systematic crimes of EID, the International Convention for the Protection of All Persons from Enforced Disappearance (ICCPED) created an international framework for the prohibition and prevention of EID that is built on strength and gaps of past instruments. The convention is constituted of three parts and a preamble with a total of forty-five articles.

Article 2 of the ICCPED defines EID as “the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law”. (ICCPED December 2010) The convention reaffirms certain positions taken in the ICCPR and the ICESCR recalling the application of the convention even in times of conflict and emergencies, an alibi used by several governments in order to violate basic human rights. (ICCPED December 2010)

Although the convention defines EID when the latter is acted by State officials however, Article 3 of the convention widens the scope of responsibility vis-à-vis the duty bearer by imposing on the state to take necessary measures to investigate acts of EID and take those responsible to justice. (ICCPED December 2010) The ICCPED similarly to the United Nations Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (UNCAT), imposes on member states to criminalize EID in their national legislations. Accordingly, the ICCPED creates a vertical legal obligation on the state cross-cutting all levels of the sources of law for the state. (ICCPED December 2010) In brief, part one of the convention constitutes the legal conditions, amendments and legal obligations of the states, to prevent, monitor and criminalize EID. The first part also includes rehabilitation and compensation measures for the victims of EID, very similar to the UNCAT. (United Nations December 2010)

The second part of the ICCPED mainly focuses on the role of the Committee on Enforced Disappearances and the reporting mechanism instructed in the convention. State parties are requested to submit their initial report within two years after the entry into force of the convention. (ICCPED December 2010) The Committee will review the submitted reports and shall issue as such comments, observations or recommendations as it may reckon appropriate. The comments, observations or recommendations need to be communicated to the concerned state party of the convention, the latter may respond to them, on its own initiative or at the request of the Committee. (ICCPED December 2010) The convention also widens the reporting mechanism by including the ability of individuals to report and raise cases to the committee. This procedure is required, when like in the case of Argentina, EID have been widespread due to governmental policy to violate the rights of individuals, and state reports solely will not be responded and will not show the true picture of the issue. However, the convention sets limits

to the above-mentioned rights by stating that “[a] State Party may at the time of ratification of this Convention or at any time afterwards declare that it recognizes the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction claiming to be victims of a violation by this State Party of provisions of this Convention. The Committee shall not admit any communication concerning a State Party which has not made such a declaration.” (ICCPED December 2010) Under article 33, the Committee can also conduct visits, also very similar to the content of the UNCAT and the role of the Committee against torture.

The third part of the convention is a standard legal clause determining in brief, the number of signatures required for the convention to enter into force, its international law force on the state party, the amendments required, etc. (ICCPED December 2010)

Louise Doswald-Beck summaries the main provisions of the ICCPED to include the criminalization of EID under national law, the prohibition of the deprivation of people in unrecognized places of detention and insure contact with their lawyers and family members. Doswald-Beck adds the importance of the registration of individuals in official records. Additionally, the author adds to the summary provisions with regard to the proper training of law enforcement and the role of the committee on enforced disappearances. (Doswald-Beck 2007)

In that regard and looking at the several definitions and jurisprudence available, Maria Fernanda Perez Solla affirms that out of all the definitions there are common elements that would establish constitutive elements defining EID. (Fernandez 2005) The constitutive elements according to Solla can be divided into four parts:

1. The deprivation of liberty against the will of a person,
2. Involvement of government officials or with acquiescence of the government,
3. Absence of information and refusal to acknowledge the whereabouts and the fate of the disappeared,
4. The person must be placed outside the protection of the law.

Historical events and the development of Latin American politics were of great importance to the protection of people from EID. The Latin American trajectory provided three main pillars essential to respond to the research question provided earlier. The first pillar describes the development of the criminalization and the prohibition of EID under human rights law and therefore the establishment of human rights instruments essential to protect people from EID in all circumstances. The development provided above also reflects the second pillar that highlights the role of civil society organizations (CSO) in the reporting, documentation and advocacy required to promote rules and instruments seeking the protection of people from EID. The third pillar provides the role of accountability for human rights violations in the provision of vigorous transitional justice exercise.

B- The Protection of People from EID and the Achievement of Transitional Justice

With the trend of increased internal tensions and frequencies of internal political violence on the increase, concepts of transitional justice have taken shape and place providing societies with ways forward into democratization and state building. Human rights have had a primary position in the transition phase especially when societies have been witnessing high levels of mass human rights violations or abuses.

Manfred Nowak argues that the redundancy of state practices to utilize Enforced or Involuntary Disappearances (EID), as recourse to curb down political opposition or to intimidate the enemy, goes back to the rampant culture of impunity that has failed to put in place deterrent and accountability frameworks. In that regard one might highlight great similarities between certain human rights obligations such as “accountability”, and victims’ “remedies” and other principles of rule of law.

Accordingly, former UN Secretary General argues in a report published in 2004 on the importance of rule of law in maintaining peace and security in societies in transition or post-conflict societies. Anan affirms, “Institutional actors may prove to be incapable or unwilling to pursue accountability for serious crimes of the past.” (Anan 2004) Anan further discusses the role that transitional justice can bring to reinforce accountability in general and therefore maintaining a sustainable peace in post-conflict societies. The report recognizes the different forms that transitional justice may take widening its scope to cover judicial and non-judicial mechanisms. Such mechanisms include “individual prosecutions, reparations, truth-seeking, institutional reform, vetting and dismissals.” (Anan 2004)

In that scope, one might notice great overlap and differences between the obligations under human rights principles and the elements of transitional justice. Louise Mallinder argues that in order to enforce reconciliation and put an end to impunity, mechanisms have to be initiated promoting peace, reconciliation and most importantly fulfilling victim's rights. (Mallinder 2007) From Mallinder paper we seek to extract driving elements of transitional justice that would be essential for studying in reference to Lebanon's context in later chapters. Such elements are highly interlinked with the International Legal Principles to combat impunity.

1- The Right to Remedy

An important core element of transitional justice is fully integrated and constitutive of human rights principles in particular that the process of transitional justice is victim centered and therefore the primary element here to be discussed would be the *right to remedy*.

As established earlier, this element is an integral part contained in general human rights treaties. The International Covenant on Civil and Political Rights (ICCPR) highlights such right in a superior part of the treaty. In Article 2 of the covenant, state parties have the obligation to recognize the right to effective remedy for victims' whom rights and freedoms have been violated. The article further incorporates and strengthens the respect to this right by affirming the role of independent judicial authorities in fulfilling the right and insures that effective remedies have been implemented. (ICCPR 1966) Redress being one form of effective remedies is further explained under the International Convention for the Prevention of Torture and Other Cruel Inhuman and Degrading Treatment (UNCAT) whose Committee has provided extensive explanation on the right to redress and effective remedies. In General comment No.3, the Committee reaffirms the victim-centered approach to remedy by emphasizing the "importance

of victim participation in the redress process, and that the restoration of the dignity of the victim is the ultimate objective in the provision of redress.” (Committee Against Torture 2012) Furthermore the Committee promotes the importance of redress in combating impunity and deterring future violations. (Committee Against Torture 2012)

The right to remedy was further described in the *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law* (hereinafter referred to as *Basic Principles and Guidelines*). The latter instrument although clearly affirms the right of victims to recourse independent judicial authorities, however also highlights the right of victims to access administrative and other modalities as prescribed under national laws. (UNGA 2005) The *Basic Principles and Guidelines* stipulates further that perpetrators found guilty of violations amounting to crimes under international law have to be persecuted and the state has the duty to punish them if found guilty. (UNGA 2005)

Reparations seek to respond to the impact caused by these violations. They can take different forms such as compensation, or rehabilitation or other forms. The remedies as such solve past, present and future of the violation helping as such victims to reintegrate in the society. The human rights principle that individuals are inherently right-holder is publicly affirmed and maintained when effective remedies are insured in a public manner.

2- Duty to Prosecute and Punish

Since the end of World War II, the international community has fortified the principle of prosecution as a way forward in sustaining peace and security. The progress of this notion now

constitutes a core element of transitional justice seeking to provide accountability for mass human rights violations and several violations of international humanitarian law.

With respect to human rights violations Batenkas and Oette argue that international criminal law is “largely driven by compromise and selectivity and is seldom proactive.” (Oette 2013) They discuss further challenges to the enforcement of international criminal law; under human rights regimes victims entitled to reparations easily seek reparations against the perpetrator (states and agents of the state). Under international criminal law the victims and their families have no access to complaint and their participation remains as a plea rather than a formal complaint. (Oette 2013) The authors refer to three highly inflicting problems affected the success of international justice. The first problem persists as the closest advocate to impunity, being the redundant use of immunities for high-level state officials and widespread amnesty. Additionally, the authors refer to the persistence of state actors to be reluctant in hampering their sovereignty and therefore hesitant to provide jurisdiction or universal jurisdiction. The third most practical problem according to the authors would be the absence of a strong international actor that holds great credibility and admissibility to prosecute, surrender, and extradite. (Oette 2013)

On that note, and with respect to the case of Lebanon in particular, amnesty has been considered by several actors in Lebanon to be a setback providing impunity and be the primary obstacle in front of justice. (Jaquemet 2009) However, the usage of Amnesty in post-conflict societies is highly contested, proponents of the use of amnesty laws argue that international prosecutions is unlikely to contribute to reconciliation in a polarized society, whereas amnesties might help to reduce the violence and create a climate in which moves towards reconciliation. (Alfonsin 1993; Sadat 2006) However, Mallinder argues that with the different setbacks and problematic behind amnesties in fostering the culture of impunity, amnesties have to be promulgated with

particular conditions protecting the rights of victims. Mallinder initiate the listing of conditions by arguing that a democratic process within fundamentals of rule of law should promulgate amnesties. The author continues to promote that amnesty is not a solution to the violence per se, however is a tool that shall be utilized when there is genuine desire to promote peace and reconciliation. Thirdly Malinder promotes that amnesty should be limited in scope and therefore does not provide ambiguous jurisdiction leading to increased impunity. Fourthly and in order to provide restrictions to the latter point, the author argues that amnesties have to be conditional. Conditionality could be a standalone element of the amnesty or could be linked to other mechanisms of transitional justice such as truth commissions. As the process is highly victim centered, as highlighted above, the conditionality seeks to provide a mechanism that would bring victims as close to the truth as possible. Therefore, amnesty would be the catalyzer for the success of non-judicial forms of transitional justice. Finally, the author reorients the conditions of amnesty laws on the central part of discussion: victims. The author conditioned that amnesty should be accompanied by effective remedies to the victims. (Oette 2013)

3- The Right to Know

Transitional justice allows proper resolution of violations in post-conflict societies, following situations qualifying as International Armed Conflict or Non-International Armed Conflict. In these settings, IHL is considered as the primary body of norm applicable in these situations. As such, based on *lex specialis*, it is important to look at the relevant rules applicable referring to that right.

The right to know, although not explicitly affirmed it is strictly interrelated to the respect of family life. (Rule 105) In the third parameter of rule 105, customary IHL imposes the obligation to provide information on the whereabouts of family members.

“There is extensive practice on the measures to be taken by authorities to account for missing persons and on the duty to inform families of the whereabouts of persons when such information is available. Deliberately withholding such information has been found to amount to inhuman treatment in human rights case law. This practice is to be found in the commentary to Rule 117, which provides that each party to a conflict must take all feasible measures to account for persons, reported missing as a result of armed conflict and to provide their family members with any information it has on their fate.” (Rule 117)

The importance of the right to know is further strengthened with preventive steps to be taken by parties to the conflict to prevent the occurrence of EID to one extent, and increase the availability of systems that would prevent family members from not fulfilling the right to know. On that note, Lieutenant Colonel Nick Larkin addresses the importance of records and documentation in the applicability of the right to know. Lt. Narkin explains the main functions of the National Information Bureau (NIB) and the role the NIB plays in satisfying the right to know and decrease the occurrences of EID. According to Narkin the NIB is a storehouse of information and data on people deprived of their liberty and constitute and national focal point for inquiries. In order to keep track of people deprived of their liberty the NIB collects all data available from the chain of command and NIB will share the latter information with the ICRC, allowing the latter to continue in its mission to contact family members and share information on the whereabouts of their loved ones when the armed forces are unable to play that role. Most importantly the NIB software provides quick access to information to respond to inquiries or additional information and provide exchange of correspondence between the protected persons and the ICRC. (Larckin 2007)

The right to know is a major obligation in the ICCPED, Article 24 stipulates clearly the right of victims to know the truth regarding the circumstances of EID. Additionally, the right to know as per article 24 also includes the right to know progress of inquiries and most importantly the fate of the disappeared person. (ICCPED December 2010)

The development of the norm for the protection of EID has further engraved the importance of this right. The working group on enforced or involuntary disappearances (WGEID) published a general comment in 2010 dedicated on the right to know, or right to truth. The WGEID differentiated between the right to know applicable for victims of EID, and the right to information closely linked to the obligation prevention of arbitrary detention, *Habeas Corpus*, a non-derogable obligation. The WGEID discusses further the role of the right to truth in providing justice and reconciliation.

“Indeed, in States where systematic or massive violations of human rights have occurred as a result of internal armed conflict or political repression, legislative measures that could lead to finding the truth and reconciliation through pardon might be the only option to terminate or prevent disappearances.” (General Comment on the Right to Truth in Relation to Enforced Disappearance 2010)

Although the right to truth indicates the obligation of states to provide unlimited access to all available information, allowing the tracing of the disappeared individual. However, the right to know would not hamper other mechanisms judicial or non-judicial to deal with justice in post-conflict transitions. Not revealing data on the perpetrators shall not be in contradiction to the right to know.

In that regard, the three elements of transitional justice, utilized in this paper, orbit around the victim of human rights and humanitarian law violations. The elements stated provide justice, reparations and truth to the victim. Such victim-centered approach will support forms of reconciliation and justice in post-conflict societies. Victim’s stuck between a rock and hard place repeatedly unaccounted for and not provided with justice shall not be actively involved

in the future of the society they live in. Such alienated role in society might expose communities to new rounds of political violence.

C- Overview of Transitional Justice in Different Post-Conflict Settlements

The atrocities of World War II and the development of international law in brief were strong constituents that established modalities to respond to violations and provide reparation for victims. Although forms of reparation and settlements were not alien, however they were never addressed in a victim centered approach, transitional justice. The absence of strong documentation that represent clearly how History showcased transitional justice, or to the least any form of post-conflict reparations, it is important to understand how conflict settlement's in contemporary history was prioritized and mentioned solutions and reparations for violations committed during conflict. The reconciliation in South Africa, and the settlements in Bosnia-Herzegovina are textbook models in transitional justice. The below paragraphs will seek to provide an overview on the level elements of transitional justice, enforced disappearances and victim reparations, in particular were addressed in the post conflict situation. The contextual references and overview will help provide analytical insights on community buy-in and levels of articulation of the response by decision-makers operating the settlements.

1- The Case of South Africa

In South Africa, Apartheid was a system of political rule that was formalized in 1948. It resulted in a pervasive system of racial discrimination and segregation in South African government. The legal frameworks that emerged since 1948 aimed at forming a framework for political and economic dominance by the white population and severely restricting the political rights of the black majority. (Mayne 1999) Between 1960 and 1990, the African National Congress (ANC) and other mainly black opposition political organisations were banned. (War Won 1961) As

the ruling party cracked down on black opposition to apartheid, most leaders of ANC, among whom Nelson Mandela, and other opposition organisations were killed, or imprisoned or went into exile. (Harisson 1987)

With time, and mostly in response to the violence, increasing local and international pressure on the government, as well as the realisation that apartheid could neither be maintained by force forever nor overthrown by the opposition without considerable suffering, eventually led both sides to the negotiating table. The Battle of Cuito Cuanavale created a window of opportunity to create the enabling conditions for a negotiated settlement, recognized by Dr Niel Barnard of the National Intelligence Service (NIS). (Turton 2010) Throughout the early 1990s both the South African NIS and the ANC started negotiating informally for a peaceful settlement, this culminated in the signature of the National Peace Accord of 14 September 1991. The accord was a critical step toward formal negotiations. It was signed by representatives of twenty-seven political organisations and national and homeland governments, and prepared the way for the Convention for a Democratic South Africa (CODESA) negotiations. (National Peace Accord 1991) The blueprints for reconciliation are evidently referred to in the National Act. Articles 1.7, 1.8, and 1.9 propose a model for prevention of violence that is strongly rooted in other conflict resolutions methods. Particularly article 1.9 stipulated to have “an instrument to investigate and expose the background and reasons for violence, thereby reducing the incidence of violence and intimidation.” (National Peace Accord 1991) The latter reference being a cornerstone even of modern methods of reconciliation. Moreover, article 1.13 also sets the benchmarks of reparation for victims: “promote the restoration of peace and prosperity to communities, freeing them of the ravages of violence and intimidation”. (National Peace Accord 1991)

Following series of interruptions, continuation, challenges and opportunities parties generated new laws, repealed some of the apartheid legal frameworks, and conducted free elections. The election held on 27 April 1994 resulted in the ANC winning 62% of the vote, and Nelson Mandela becoming president, with De Klerk and Thabo Mbeki as deputies. The National Party, with 20% of the vote, joined the ANC in a Government of National Unity. (US Department of the Army 1994) Following the elections the South African invested their focus in developing a new constitution, and most importantly established the Truth and Reconciliation Commission dealing with politically motivated crimes committed during the apartheid era.

The work of the Truth and Reconciliation Commission focused on three main entry points: (Promotion of National Unity and Reconciliation Act 1995)

1. The Human Rights Violations Committee investigated human rights abuses that occurred between 1960 and 1994.
2. The Reparation and Rehabilitation Committee was charged with restoring victims' dignity and formulating proposals to assist with rehabilitation.
3. The Amnesty Committee considered applications from individuals who applied for amnesty in accordance with the provisions of the Act.

As expressed in the above paragraphs the process of settlement in South Africa focused essentially on a mutual recognition that the persistence of the apartheid and the continuous violence will not create a breakthrough. Most importantly the reconciliation was the central track led in the process of post-apartheid. In that sense South Africa provides a model where discussions on settlements, informal negotiations, agreements and institutions established were mandated and focused on reparation and reconciliation. In that sense once can conclude that

the relevance of reconciliation and victim reparation were centrepiece of the post-apartheid system.

2- The Case of Bosnia-Herzegovina

From 1992 to 1995 with the breakup of Yugoslavia series of conflict erupted on grounds of political identities of newly created republics. The signature of the Dayton Agreement put the end of the conflict in sight. The General Framework Agreement for Peace in Bosnia and Herzegovina, also known as the Dayton Peace Agreement (DPA), Dayton Accords, Paris Protocol or Dayton-Paris Agreement, is the peace agreement reached at Wright-Patterson Air Force Base near Dayton, Ohio, United States, in November 1995, and formally signed in Paris on 14 December 1995. These accords put an end to the 3 1/2-year-long Bosnian War, one of the armed conflicts in the former Socialist Federative Republic of Yugoslavia. The current Constitution of Bosnia and Herzegovina is the Annex 4 of the DPA. For the scope of this thesis, several aspects of this agreement were of great relevance in setting the benchmarks of truth and reconciliation in the post-conflict period. Particularly article 6 of the agreement seeks the “establishment of an arbitration tribunal, a Commission on Human Rights, a Commission on Refugees and Displaced Persons, a Commission to Preserve National Monuments, and Bosnia and Herzegovina Public Corporations” (Dayton Agreement 1995). In annex 6 of the agreement focusing on the agreement on human rights, the human rights chamber established as part of this agreement will have jurisdictions to address violations of human rights committed.

The Bosnian example, similar to the process described in the South African end-of-apartheid, consecrate a great focus on the protection of human rights, reconciliation and reparation for victims. The dedication to these principles of transitional justice were strongly linked to the

conflict settlement agreements bringing all actors commitment for their enjoyment. On the other hand, Lebanon's Taef Agreement, *de facto* the equivalent conflict settlement agreement, lacks any focus on reparation for victims during the civil war. Only victims of internal displacement were recognized in the agreement. In section D of "Other Reforms", the Taef Agreement stipulates that "[the problem of] evacuees shall be solved fundamentally, and the right of every Lebanese evicted since 1975 to return to the place from which he was evicted shall be established." (Taef 1989) However this completely lacks a reconciliation focused approach, adopting solely an approach of fiscal provisions, not in the form of rehabilitation or reparation for victims.

Chapter III: the Situation of EID in Lebanon

The Lebanese civil war did not only end with a legacy of displaced individuals, martyrs and wounded, it also left behind unfinished stories of thousands of missing people. The latter situation resulted in a consistently increasing numbers of victims throughout the civil war and the shaken peace in the years following it. The work of civil society on the issue of enforced disappearance and the fate of missing people took also the same kind of trajectory.

Development of Civil Society Work on Enforced Disappearance in Lebanon

The work of civil society in Lebanon on the issue of the disappeared had four different natures, each benefiting from the contextual space available to advocate on the issue of disappearances but most importantly differing on the scope of work and founding nature. These categories can often be described as:

- **Victim lead associations:** Such associations have been founded by direct victims of the disappearance. Either previous missing people or most commonly victims identified as the family of the disappeared or people directly affected by their disappearance.
- **Associative Support:** These organizations could be best described as organizations working closely with the victim lead organizations and have an established mandate advocating on these issues. These organizations could be single purpose organizations or could have accumulated experience and track record on that regard.
- **International Organizations:** This category is often described as being the international civil society that implemented programs and initiatives on the issue of the disappeared in Lebanon. Such organizations can also be either single purpose or mandated on the issue of the disappeared.

- Political Parties: As often disregarded to be part of the civil society landscape, political parties have played an important role on the issue of the disappeared and this study will represent the work the latter have done.

1- Victim Lead Associations:

a- The Committee of the Families of the Missing People

In September 1982 following the kidnapping of her husband, Wadad Halawani started her own life-changing journey. This event, in addition to making her a victim of enforced disappearance, has also generated the first step to civil society's work on enforced disappearance. The initiative taken by Wadad sound natural as a caring wife looking for her loved one. Following series of meetings with the president of the republic, Prime Minister, Ministry of Justice and the Mufti, Wadad understood that the issue of disappearances and missing individuals is not a single event however mothers and wives have been going around the same track as her trying to find answers to the disappearance of their loved ones. The stagnating progress on her husband's disappearance pushed Wadad to announce on the radio a gathering for all the ones with a missing person to join her in Corniche al-Mazraa. To her surprise hundreds of mothers, sisters, and wives accepted the invitation and joined the meeting, constituting the first gregarious act of the families. (Halawani 2016) (WGEID 1983) The families of the missing people, requested as such a meeting with the Prime Minister which after series of arguments was finally granted and a number of the women were able to meet Mr. Chafic al-Wazzan who naturally announced his readiness to put an end to the suffering of the families and find solutions to the missing people. This meeting in November 1982 constituted the nativity of the Committee of the Families of the Kidnapped and the Disappeared;

hereinafter referred to as the Committee. The Committee started to dispatch calls in newspapers requesting families to approach the committee to document the cases of disappeared individuals. Between 1982 and 1990 the calls of the Committee were essentially to liberate those kidnapped which disappearance was only contextual and families were not yet familiar with the normative nature of the acts. (WGEID 1983) During the civil war period and until the Taef Agreement the families were active on several fronts.

The primary one was to put pressure at the national level; this has permitted the establishment of a follow up commission established by the Mufti of the Republic of Lebanon in 1983. The latter commission was chaired by Mr. Salim al Hoss, and included Mrs. Wadad Halwani, representing the families of the disappeared, and the membership of Mr. Malek Salam and Dr. Mohamad Yassin among others. The commission requested to discuss with the ICRC the role it can play in coordinating with the different militias fighting in Lebanon for the release of he kidnapped and missing people. (WGEID 1983)

At the international level, the Committee was also active in reporting cases to the Working Group on Enforced and Involuntary Disappearances (WGEID). (WGEID 1983) The working group documented and archived the cases brought to its attention by the Committee and Mrs. Halawani presented twice on the trend, the growing concerns, and the protracted violations victims of EID are facing in Lebanon. The working group studied extensively the cases brought to its attention and has transmitted information with regard to 205 missing people to the Lebanese Government. (WGEID 1983) The WGEID provided extensive information to the Government of Lebanon facilitating the government role in providing clarifications. The WGEID has provided information on the identity of the persons reported missing (first name and family name), date and location of the arrest or disappearance and, generally, information about the persons responsible for the disappearance. In few cases, the occupation of the person

was also provided. (WGEID 1983) The government according to Mrs. Halawani has failed to provide any clarification. (Halawani 2016) The report of the WGEID also confirms the lack of responsiveness of the Lebanese government. In the WGEID report of 1983, 1984, respectively 206 and 228 cases were transmitted to the government and to none of these cases the government has ever responded. (WGEID 1984)

The period following the signature of the Taef agreement contained series of disappointments and optimism. The signature of the Taef agreement brought plenty of hope to the Committee and the families of the disappeared; “the war that took our loved ones is over, our struggle is over” the Committee thought at the time. (Halawani 2016) However with the promulgation of the amnesty law, families have quickly understood that the return of their loved ones will not happen soon. Series of public pressure increased systematically to culminate in November 1999 with the national campaign of the Committee of the Families of the Kidnapped and Disappeared known as Hakna Naaref, Our Right to Know, that lead eventually to the establishment of the first National Commission. The government lead Commission, referred to as Commission I, concluded its work after six months, reporting that all missing people in Lebanon have died in mass graves. The report of Commission-I shocked the families, “we started grieving” Wadad announced. (Halawani 2016) The findings of Commission-I were quickly dismissed following the release of 46 Lebanese and 7 Palestinian prisoners from Syrian prisons and handed over to the Lebanese authorities. (NDH Liban 2002) The latter event made the report of Commission I lose all its credibility, as it opened the door for new theories confirming the different assumptions and annulling the findings that all missing people are in mass graves. Wadad explains that with the reactions received a second commission was established and Commission II eventually saw the light.

Commission II was a never-ending exercise explains Wadad, its mandate was constantly renewed and no findings were ever officially published. (Halawani 2016) However in 2005 the Beirut Bar Association (BBA), a member of Commission II, released the draft of the commission uncovering the lack of work of the commission. (Halawani 2016)

In 2005 a lot of calls went public requesting justice and the right to know, “who hears these calls after February 2005 will think that those political groups are more active than the Committee itself” (Halawani 2016). The calls from the different fractions allowed the cause to gain a new momentum. (Halawani 2016) Unfortunately the calls for justice and the right to know was only to political leaders, Wadad considered that “as the Taef and the amnesty provided justice only to political leaders victims of political assassinations, these new calls were exclusive for them as well.” (Halawani 2016) In 2005 a third commission was created, it also didn't bring the families any news, this has showed the families the importance of also investing efforts with the judicial power. (Halawani 2016)

The judicial power, at the criminal level, also brought some challenges. In the case of Muhieddine Hashisho, his wife complained to the court in 1991 and the judicial proceedings were not terminated till 2013 at the level of the court of first instance. (Kuntar 2013) In support to the case of Hashisho and the blatant treatment of the judiciary to the case, the Committee decided to submit collective cases. (Halawani 2016) In that scope the families submitted in 2009 a court case to the State Council with regard to the outcomes of the investigations of Commission I requesting the State to submit their evidence to the people of concerns: the families. The families trapped the government with regard to the assumed mass graves, “if they have decided that all the missing people are in mass graves, then let us see the evidence”. (Halawani 2016) The case focused essentially on the right to know and the right to access information and has created a strong precedent in protecting this right in the court of law. (Legal

Agenda 2015) Two tracks were as such adopted through the judicial proceedings, criminal cases through the case of Hashisho and collective rights through the right to know in State Council.

As a focus on the third power, the legislative, the Committee focused on establishing a legal framework more sustainable to provide remedies and solutions to the disappearances. In 2010 Frederick Ebert Stiftung, and the International Center for Transitional Justice (ICTJ) organized a field visit to Bosnia. The field visit united Ghazi Aad, Wadad Halawani, Nizar Saghie, Judge Joseph Maamari, MP Ghassan Mokheiber and MP Ziad al Kadidri. The visit also included other key stakeholders such as journalists and ministerial representatives. The visit entailed visiting different activities of the International Commission for Missing Persons (ICMP) with regard to the fate of missing people after the war in Bosnia. (Frederick Ebert Stiftung 2016) The activities of ICMP included excavation, management of human remains, forensics, administrative reform and memorialization. (ICMP n.d.) All these activities are guaranteed under a strong legislation that grants authority to the commission in conducting this work. This comprehensive work attracted the participants in the field visit to use this path and drafting legislation that encompass such a wide and holistic approach to dealing with the issue of the disappeared in Lebanon. (Halawani 2016) (Frederick Ebert Stiftung 2016) SOLIDE, the Committee and Nizar Saghie drafted a law that is comprehensive and responding to the challenges of Lebanon, which was published in 2012. (Daleel Madani 2012) The law was then presented to the parliament and series of lobbying and follow up sessions were carried. For the time being a draft law combining different proposals was confirmed by the human rights parliamentary commission. (Moukheiber 2016) The law presented seeks to set up an institute for collecting and documenting information, as well as establishing central records and taking practical steps to identify the location of collective graves as a preliminary measure to

identifying the victims' identities. Given how sensitive this issue is, and in a bid to maintain the institution's credibility towards the families, the Bureau of this Institute shall be autonomous and structured as "an independent administrative body", formed by representatives of the relatives and of civil society, in addition to a judge and individuals appointed by ministers of category A; while taking the appropriate measures to preserve their independence. (Daleel Madani 2012) The law argues that it shall lay down procedures for guarding and searching collective graves, as a preliminary for identifying the bodies interred therein. Special committees, comprised of the relatives of the missing and representatives of the local authorities, shall be formed and work under the Bureau's supervision, without interfering with the work of the competent judiciary. (Daleel Madani 2012) For the time being the law is still at the stage of being promulgated by the parliament, a stagnation that is frustrating the Committee. (Halawani 2016) In that scope the Committee prioritize mobilizing public opinion in order to pressure the parliament to validate the draft and promulgated the law establishing the independent commission. (Halawani 2016)

***b-* SOLIDE**

Support of Lebanese in Detention and Exile (SOLIDE) is a Lebanese organization that was established as a reaction to long-standing civil war and as a reaction to the escalating violations committed by the Syrian army at the time. (Aad 2016) SOLIDE members and founders were worried about the increase news, reports and stories circulating among Lebanese regarding the disappearance of neighbors or family members. The organization wanted people to document these cases and to mobilize a public opinion on the matter.

In December 29, 1989, SOLIDE launched a campaign by television and radio calling on the people to come forward and report the missing of their loved ones. On the same day the group distributed a manual describing human rights violation at the hands of the Syrian security forces

in addition to the torture methods in Syrian prisons. The major activity of the day was a large 'human chain' that spread from Beirut to the Pontifical embassy in Harisa – Jounieh (17 kilometers to the north of Beirut). The mobilization brought attention to the issue of disappearances and victims now found a place to resort to, when local militias, Syrian army and the Lebanese government were unable to find solace. (Aad 2016) In a period of 2 months, hundreds of cases were reported to the group. Since the beginning of 1990 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. Ghazi Aad the director and co-founder of SOLIDE, became a “charismatic figure in the fight against disappearances” (Soldier 2016) One major effort of SOLIDE is to establish a mechanism to facilitate uncovering the truth and the return of the disappeared Lebanese, “ever since we launched our campaign we have been calling for the establishment of an official mechanism to look into the thousands of cases of enforced disappearance in Lebanon”. (Aad 2016) The consecutive Lebanese governments never established such a mechanism and Ghazi confirms that the real number of the missing people will always be estimated and subject to political manipulation. (Aad 2016) SOLIDE emphasized a lot on public mobilization and the importance of keeping the cause as part of the public discourse. The organization and its volunteers took part in a number of protests between 1990 and 2005. In 2005 SOLIDE and the Committee of the Families of the Missing and Disappeared united to surf on the current mobilization and supportive public opinion, both organizations started their open-ended sit-in in front of the ESCWA building in downtown Beirut calling on the international community to form such a mechanism based on the failure of the Lebanese authorities to live up to its responsibilities. (Aad 2016) Similar to the calls to establish a Special Tribunal for Lebanon and international Commissions of Inquiry, SOLIDE expected to create similar pressure to establish such commissions of international nature to discover the fate of the disappeared. The establishment of the new government created

for SOLID a new dynamic to lobby and advocate on the cause, “since 2005, the consecutive Lebanese governments have all mentioned in their inaugural statements the issue of the missing and disappeared and in all our meetings they repeated the prioritization of the issue” (Aad 2016). SOLIDE in cooperation with the Committee of the Families of the Missing and Kidnapped and the Lebanese Center for Human Rights (CLDH) presented in 2009 a memo to the Minister of Justice, Ibrahim Najjar, asking for the establishment of the commission. (Press Release 2009) With a new government in place, the new minister of Justice took further step in that regard and produced a draft decree on the establishment of a commission to follow up on the issue of the disappeared. The changes of government on constant basis pushed SOLIDE to reinitiate dialogue with the ministries over again. (Aad 2016)

c- Association of Former Detainees in Syrian Prisons

After spending thirteen years in Syrian detention centers, Ali Abou Dehn and a number of previous detainees that spent similar time in detention in Syria regrouped under the *Association of Former Detainees in Syrian Prisons*. (Abou-Dehn 2017) The activities of the association are focused on three main layers of work: documentation, mainstreaming and advocacy. (Abou-Dehn 2017)

At the documentation level the association has published a 6-volume report documenting more than 600 cases of individuals him and his colleague have met in detention facilities in Syria)Abou-Dehn 2012(Additionally Abou Dehn also adopted a methodology of story-telling to further document his experiences during detention.)Abou-Dehn 2014(. Abou-Dehn also seeks to expend his sources and collect series of evidence to keep track of people detained in Syrian prisons. In an interview Ali described how some documents are proof that Lebanese were detained in Syria, countering the position of the Syrian regime. (Abou-Dehn 2017) “The first document is signed by General Ali Dawab, the former head of Military Intelligence Division,

and dated April 10, 1996. Dawab orders that Mr. Boutros Khawand be moved to Palmyra prison.” Abou-Dehn argues that the Intelligence Council in Syria shows that Boutros Khawand was handed to the Air Force Intelligence about one year after he was transferred to Syria. In his documentation, Ali was also able to track that that journalist Nizar Nayouf handed the Lebanese Cardinal Boutros Sfeir a list of thirty-three Lebanese detained in Syria during a visit to Paris in October 2003. Ali considers that all these ad hoc evidences and many others are being documented by the Association to build their case of enforced disappearances of Lebanese in Syria. (Abou-Dehn 2017). At the level of mainstreaming, the association has worked closely with UMAM to produce series of cultural work showcasing the experiences of Lebanese during their incommunicado detention. Faraj Bayrakdar, Ali Abu Dehen, Baraa al-Saraj, Mohammad Berou and Wael al-Sawah are five former detainees who were all held in Tadmur, and they worked together on the movie TADMOUR. The movie shares their personal stories of life in Tadmur prison and it was clear that its effects had yet to be erased from their souls or bodies. (Tadmour 2016) According to Abu Dehen, showcasing the different torture practices is not the key message they intend to show as they are common for all the perpetrators. The important thing, according to Abou Dehen, is for detainees to break the silence and share their experiences. (Abou-Dehn 2017) In the synopsis the directors explain that they were unaware on how to speak about the “carceral system and about the rawest of emotions, such as fear, terror, hate, disgust, shame, pain, weakness, helplessness, boredom, resistance, hope and strength? The answer came from them, the survivors themselves. In Tadmor, they guided us and we followed.” (UMAM 2016)

The third level of work by the association covers advocacy and lobbying. As a victim centred association, the focus of their advocacy is on pushing the Lebanese government to pressure the Syrian authorities to release the Lebanese enforcedly disappeared in Syria for decades, while

also working on remunerations and financial support for those that have been released. Abou-Dehn explains that “no one looked at us when we came out, we were still considered as enemy of the state and still faced constant inquiries by the military intelligence”. (Abou-Dehn 2017) Ali further explains that families of the previous detainees were shattered and many of those released have been released to see their families destroyed. Moreover Abou-Dehn explains that “we just want to be treated like other Lebanese detained by foreign forces”, through that Ali explain the double standards of the Lebanese authorities when it comes to those previously detained by Israel. (Abou-Dehn 2017)

2- Associative Support:

a- SOLIDA-CLDH

The Lebanese Center for Human Rights (CLDH) is a local non-profit, non-partisan Lebanese human rights organization based in Beirut. CLDH was created in 2006 by the Franco-Lebanese Movement SOLIDA (Support for Lebanese Detained Arbitrarily), which has been active since 1996 in the struggle against arbitrary detention, enforced disappearance and the impunity of those perpetrating gross human rights violations. (Al-Asmar June 2016)

CLDH monitors the human rights situation in Lebanon, fights enforced disappearance, impunity, arbitrary detention and racism and rehabilitates the victims of torture. CLDH regularly organizes press conferences, workshops and advocacy meetings on human rights issues in Lebanon and collects, records and documents human rights abuses in reports and press releases. (Al-Asmar June 2016)

CLDH team on the ground supports initiatives aimed at determining the fate of all missing persons in Lebanon. CLDH regularly follows up on numerous cases of arbitrary detention and torture in Lebanon in coordination with Lebanese and international organizations, and with the

United Nations Working Group on Arbitrary Detention WGAD and the UN Special Rapporteur on Torture. CLDH keeps strong links on the media developments with respect to cases of EID and detainees in Syria. Marie Daunay, a board member at the centre, explains that the slow progress on the causes pushes organizations to keep constant documentation that are of use and help in the future. (Daunay 2016)

CLDH is a founding member of the Euro-Mediterranean Federation against Enforced Disappearance (FEMED), a member of the Euro-Mediterranean Network of Human Rights (REMDH) and a member of the SOS Torture Network of the World Organization against Torture (OMCT).

b- NDH-ALEF

ALEF – Act for Human Rights is a Lebanese non-profit, non-partisan human rights watchdog organization that works on documenting, and promoting human rights violations and values in Lebanon. It first came together in 1996 when a group of like-minded activists, after witnessing the deteriorating human rights situation in Lebanon and the role that mobilized youth should play in creating social change, began to volunteer with the support of Paris-based INGO Nouveaux Droits de l’Homme and under the name of Nouveaux Droits de l’Homme – Liban (NDH Liban). The group took the lead in documenting human rights abuses and reporting on thematic violations in Lebanon. NDH-Liban, released a series of annual reports on the human rights context in the country and issued press releases and urgent appeals on a myriad of topics such as enforced disappearances, torture and freedom of expression. Security crackdown on NGOs and human rights defenders in Lebanon encouraged the group to partner with other local and international organizations to work towards improving the human rights record in Lebanon. (Abouaoun 2016)

In addition to monitoring the human rights situation, the team was also engaged in human rights education and pioneered the development of different training modules for different audiences, including schools, universities, Scout movements, and other activists. Between 2000 and 2003, the group worked on several other projects, notably “Ana Mouaten” (I Am a Citizen) in Roumieh Prison, and the establishment of human rights clubs in schools (3D). (Courson 2016)

These experiences marked important milestones and fortified the role of NDH Liban as a leading human rights organization in Lebanon, most notably through its work with the Lebanese Association for Democratic Elections (LADE) on the 2000 parliamentary elections. The work led to breakthroughs in the monitoring of the electoral process, and led to the publication of reports identifying gaps and concerns. (Courson 2016)

In 2003, the group volunteering under NDH Liban created ALEF. It received its first institutional funding and hired its first part-timer in 2005. That same year, a series of political and social developments on a national scale marked a new phase in the civil society sector in Lebanon. ALEF began to engage in a series of internal capacity building and strategic planning activities, and work within the scope of two main programmatic pillars: monitoring and advocacy, and human rights education and outreach. (Abouaoun 2016) By 2006, the organization had expanded to include several full-timers and was working monitoring human rights violations during the 2006 war. (Abouaoun 2016) (Courson 2016)

Throughout this period ALEF was active on the issue of the disappeared and work closely on supporting NGOs such as SOLIDE. ALEF also worked closely on increasing the knowledge around the topic of transitional justice, by working on projects covering issues such as reconciliation in South Africa and others. (El-Hajj 2017)

c- Act for the Disappeared

Act for the Disappeared, hereinafter referred to as ACT is a Lebanese organization working essentially on advocacy and programmatic work with regard to the issue of the disappeared in Lebanon. In 2010 ACT was established to work towards clarifying the fate of the missing and disappeared persons through promoting the right to know and advocating for sustainable solutions. (ACT 2017) The work of ac for the disappeared focuses accordingly on a series of priority elements that are essential for the satisfaction of the right to know. Accordingly, the strategy of ACT has three main pillars the first being the satisfaction of the right to know, the second the support of the families of the disappeared and the third is to develop knowledge on the issue of the disappeared. (Mayo 2016) The second pillar is considered to be an essential role to support the civil society, and victims in advocating on the right to know. Families are as such in need of psycho-social support. (Mayo 2016) On the other level ACT focuses also on the structural changes needed to better deal with missing people. This strategic priority is built on the approach of preparing stakeholders on the role of a Commission on the Disappeared, as described by Mrs. Justine Di Mayo, co-founder of ACT, “we cannot wait for the law to be issued”. (Mayo 2016) In that regard ACT is working on establishing recommendations on how to deal with human remains, as such stakeholders have the knowledge to and technical rationale on how to deal with this issue. (Mayo 2016)

d- Kamal al-Batal

Although specified by the name of the activist, Kamal al-Batal worked with and through a number of organizations providing support and assistance on the issue of the disappeared. A founder of MIRSAD a Lebanese NGO, Kamal has provided support to victims of disappearances most notably former prisoners in Syrian prisons. (Abou-Dehn 2017) MIRSAD (Multi-Initiative on Rights: Search, Assist & Defend) is an independent non- governmental organization dedicated to serve the human being in Lebanon by focusing on improving the

recognition of human rights, integrity, fundamental freedoms, and good governance. Kamal provided strategic help, assistance for a number of victims to convene them and help them to structure a victim-lead organization, the Association of Lebanese Formerly Detained in Syrian Prisons. (Abou-Dehn 2017) The support of MIRSAD allowed victims to report on their experiences in international venues such as the European Commission, and the U.S. Congress. (Abou-Dehn 2017)

e- UMAM

UMAM Documentation and Research, UMAM, was established in 2005 with an exclusively Lebanese focus. However, the work of UMAM and its inception as a mission started in 2000 after the withdrawal of the Israeli troops. “The justification of the Syrian occupation was no longer valid” (Slim 2016) explains Dr. Lokman Slim, founder of UMAM. The change in the political atmosphere allowed many of the members of the civil society to question the Taef Agreement and the Syrian Occupation. An atmosphere UMAM considers as an enabling environment for its work. (Slim 2016) Its guiding philosophy was based on the notion that serious, sustainable change was all but impossible, and that real modifications to existing sociopolitical practices could not be anticipated in the future without first conducting a detailed audit of Lebanon’s past—particularly its near-term, conflict-laden, war-loaded past. In that scope UMAM considered that in order to reach the right-to-know or at least properly call for the right to know, and important exercise of “deconstructing events” (Slim 2016) has to be done. However this requires to fight a strong current of opposition to the discussion of the past, a violent past that Lebanese consider as an “interruption to their peaceful [times]” by foreign intervention. (UMAM 2017) Accordingly UMAM is engaged on a clear track to collect data from open and closed sources and “exploit it, preserve it, and make it accessible”. (Slim 2016) UMAM’s core work on the civil war, Memory at Work, seeks to provide numerous narratives

on the events of the civil war. Memory at Work is a database centered primarily on the history and recollections of the Lebanese wars. The website seeks to provide personalized accounts of the civil war, or “wars” (UMAM 2016) as UMAM would refer to, those stories constituting a personal or collective memory will seek to provide the nature of these acts and the experiences lived by their authors. (UMAM 2016) The website dedicated to the work and intention of Memory at Work also addresses the war’s presence, and how the war has affected people’s lives differently and sometimes “silently”. (UMAM 2016) On the issue of missing people, UMAM collects a large archive of stories and cases documented to be victims of EID. Since 2007, UMAM has launched an exhibition comprised of possibly the largest collection of photos of those who went missing during the war. Regardless of the sex, age, sect or citizenship of the individuals involved, or of the particular event that may have prompted their abduction, the photographs help tell the ugly story of those gone from among us, never to return. (UMAM 2016)

3- International Organizations:

a- International Committee of the Red Cross (ICRC)

The work of the ICRC in Lebanon on the issue of the missing people was divided into two phases. The first focusing essentially on the period of the armed conflict, in which the ICRC worked on documenting cases and following up on missing people in line with the Geneva Convention. (Svelfelt 2016) The second phase, and the interest of the paper focuses on peacetime following the cessation of the hostilities. In the period of 2011 and 2012, the ICRC interviewed 312 families to uncover the main challenges and needs after the lengthy period of the disappearances. Based on these findings the ICRC took a more active role in the files, primarily to conduct anti-mortem data that is very detailed. (Halawani 2016) (Svelfelt 2016) The interviews include meticulous details on the victim and the moment of the disappearance.

The interview also includes drawing a family tree to figure out closest living relatives. In parallel to that, the ICRC started in 2011 to document names of missing people, through a myriad of references. The sources include NGOs, Families, Media, and political parties, law enforcement agencies. (Svelfelt 2016) Another work of the ICRC also includes conducting bio data collection by storing saliva. This project that seeks a pro-active role by the government to store the data and take responsibilities has been on hold from the side of the government since the ICRC approached the government. Until June 2016, 200 samples have been collected and stored for many years. (Svelfelt 2016) The bio-data could be stored for 10 years, optimistically expecting that the fate of the missing people would be discovered by that time. (Aad 2016) The work and collection of the ICRC also seeks to cover Lebanese in the diaspora, a more comprehensive population sample, however one big problem remains the issue of outreach. (Svelfelt 2016) The ICRC approach is strictly linked to approach or the *raison d'être* of the system to take place. The ICRC can only handle such information to a strictly humanitarian structure insuring that the findings will not be used for judiciary or political means. (Svelfelt 2016)

b- International Centre for Transitional Justice (ICTJ)

The International Center for Transitional Justice, ICTJ, is an international non-profit organization specializing in the field of transitional justice. ICTJ supports and advice to civil society actors and policymakers working on Lebanon's legacy of human rights violations, including forced disappearances. The involvement of the Center in Lebanon aims to enable CSOs to be more effective in advocating the government and law makers in take concrete steps in addressing the issues of the legacy of political violence and forced disappearances.

With regard to the Legacy of Conflict: In the struggle to break cycles of violence in Lebanon, ICTJ worked with its partners on a multi-year project, “Addressing the Legacy of Conflict in a Divided Society” (ICTJ 2015) to collect and map past violations (ICTJ 2013), analyze the consequences of impunity on society and to survey Lebanon's residents' perceptions and expectations of truth and justice. (ICTJ 2014) Based on the findings of these studies, and on research and advocacy work carried out by a consortium of practitioners, experts, and victims’ groups in Lebanon, a set of policy recommendations to policymakers and the general public were developed for constructively dealing with the country’s violent past. (ICTJ 2014) ICTJ has also contributed to public understanding of the operations and ongoing work of the Special Tribunal for Lebanon (STL) through workshops, public lectures, and a field trip for journalists and publications. The ICTJ produced a handbook on the STL in 2008. (ICTJ 2008)

On another level, ICTJ was also active with regard to Truth-seeking and the Right to Know: ICTJ encourages the creation of a truth-seeking process to address the enforced disappearances that occurred during the civil war. To implement the latter objective, ICTJ was active in aiding local actors, civil society organizations in particular victim lead organizations such as the committee of the families of the disappeared through providing research and experience to their advocacy and campaigning for that cause. In that regard and as mentioned above, ICTJ supported the work of Mr. Nizar Saghie, the Committee of the Families of the Disappeared and kidnapped and SOLIDE to develop a Draft Law for the Missing and Forcibly Disappeared Persons. (Daleel Madani 2012) The ICTJ has also been active in developing an oral history project Badna Naaref (We Want to Know) through which students are engaged to record the experiences of their immediate family members with regard to their experience of war and violence. More recently, based on interviews conducted with 23 wives of missing or

disappeared persons during Lebanon's civil war, a report was produced examining the impact of disappearance on wives of the missing in Lebanon. (Yakinthou 2015)

4- Political Parties:

Several political parties have major work on the issue of EID in Lebanon. For some it has been the focus of their political plight. The Free Patriotic Movement (FPM) could be considered as one of the central parties working on the issue of EID in Lebanon. At the primary level, partisans of the FPM strongly consider the party leader and the beginning of the movement as a legitimate actor in the Civil War that did not act in reprisals and atrocities. Having said that, their work throughout the 1990s focused at large on the issue of solving the problem of EID. While MPs belonging to the FPM have been the most vocal on the issue and presented series of draft laws, (Moukheiber 2016) (Dib 2017) they have not been able to create a breakthrough in that sense.

Similarly, the Lebanese Forces have also presented several draft laws and showed support at several occasions to the Association of Lebanese Detainees in Syrian Prisons, and conduct annual commemorations. Both parties currently hold, combined, 39 seats in parliament, and the presidency the inability to achieve outcomes on that scope would clearly confirms the actual lack of political will.

On the other hand, other Lebanese parties have taken the issue of disappeared and utilized their powers inside the government and parliament to achieve unilateral results. The Amal party have prioritized the work on uncovering the fate of the disappeared Imam Moussa el Sadr. The Lebanese judiciary has issued several arrest warrants of people suspected to have information on the disappearance of Imam el-Sadr. (Al-Sadr Centre for Research and Studies 2015) The

Lebanese Government also established a commission that would enhance the cooperation with the post-Kadhafi Libyan government. The commission conducted several visits to Libya in search of evidence and clues on the disappearance of Imam el-Sadr. The Commission also collected several forensic samples that were sent to the forensic laboratories of Sarajevo to compare results with family of the Imam. (Al-Chami 2016) While no new information has appeared on the fate of Imam al-Sadr, the role undertaken by the Lebanese authorities is exemplary when it comes to its obligations to find information on the whereabouts of its citizens.

The description presented above provide ample of strategic view on the efforts dedicated over the period between 2005 and 2016. Despite constant aims to regroup and formulate strategic partnerships and priorities, Unfortunately, little progress has been achieved in transforming these into policy at the state level. The work on enforced and involuntary disappearances faced small years of stagnation. This dormancy is the by-product of many factors, but relates in part to the desire of many CSOs to see this work as organic to the Lebanese public discourse as possible. (Aad 2016; Mayo 2016; Slim 2016; Abi-Allam 2016; Daou 2016; Shauyb 2016; Oueiss 2016; Ghanem 2016; Abdel Samad 2016; Dib 2017) In light of this consensus, CSOs tried to rehabilitate the common work they have together. Moreover, key informants expressed concern that these legislative approaches, strongly adopted by CSOs during the last few years, lack widespread public support and emphasized the need for civil society actors working on these issues to more directly engage the broader Lebanese public in their lobbying strategy. One informant expressed openly that the Lebanese society does not see the issue of the disappeared as a priority in dealing with the past. While CSOs have prioritized the issue of disappearances in their strategies of dealing with the past, the Lebanese were essentially concerned of other elements. (Slim 2016)

The most important divergence in the work of CSOs working on EID, could better be described by the divisions between SOLIDE and the Committee. The first adopted a strategic line that is mostly based on the fact that “we saw Lebanese arrested by Syrians, and then Syria never recognized them, this is clearly EID”. (Aad 2016) SOLIDE as such adopted a narrower advocacy that is deemed by many to be more targeted and with higher success rate. (Abouaoun 2016) While the Committee thought that, by elimination Lebanese that are not found in Lebanon would be in Syria. A strategic focus on truth commissions in Lebanon that could find the fate of thousands should be prioritized. (Halawani 2016) While diverging positions are rightful, and give a sense of a more diverse civil society, the ability to create breakthrough and successful initiatives were not taking place.

From the three major objectives of transitional justice - the right to remedy, the duty to prosecute and punish, and the right to know – NGOs in Lebanon focused essentially on advocacy tracks aimed at achieving the right to know. This objective took over most of the approaches and efforts of CSOs in the last few years. At the strategic litigation level families focused on challenging the state to publish the findings of Commission I, focusing on the right to know. Despite the report being rejected and falsified since its conclusion was published, and as the State Council decision does not make the report available to all citizens, even the right to know element in this action was not fully successful. On another track CSOs also focused on drafting and lobbying for legal reforms establishing an independent commission whose objective is to find the fate of the missing persons. In brief the work of NGOs focused exclusively on the right to know, often isolating other interventions aimed at creating and mobilizing public opinion.

Similarly, political parties also adopted the same priorities of CSOs by strongly focusing on the right to know in their legislative work. However, MPs also presented legislations drafts on the right to remedy for victims of EID. At several instances it was clear that decision makers are essentially progressing demands of CSOs, while the absence of public opinion on the matter, never actually resulted in enough pressure to catalyze and accelerate the process.

5- Legal Progress

The Lebanese parliament has approved in November 2018 a law on the formation of a commission to look into fate of people missing in Lebanese civil war. The legal reform establishes an independent national commission that would be authorised to collect information about the missing people, getting DNA and exhuming graves, Lebanese. The Committee on the Families of the Missing, along with a number of NGOs, particularly the Legal Agenda have been calling for the formation of such commission for years, particularly after themselves presenting a draft law.

The law as designed seek to compensate between provisions of international human rights law and a slight process on transition justice, the right to know. The law grants the victims the right to know the fate and the whereabouts of the missing and disappeared, provides rights to the commission to conduct excavations at the local level, and provide families with the right to prosecute does guilty. (Article 37) The law would also provide the rights of families to remedies and compensation.

The law issued is of a breakthrough, it responds to challenges of past commissions when it comes to its independence and permanent statute. Most importantly the legal framework governing its function allows the commission to independently be funded encouraging the the international community to support fact finding missions.

Chapter IV: Findings

The chapters of this research allow the deduction of several key points that could maintain and provide an important overview of the work of Lebanese CSOs on the protection of people from enforced and involuntary disappearances. While the research focuses on reviewing interventions conducted by civil society, it also serves as a compilation of lessons learned and guide for future intervention by NGOs.

Accordingly, the findings in this paper would seek to reiterate the main points described in the above chapters. Most importantly it will seek to provide recommendations and concluding views related to legal framework governing enforced and involuntary disappearances, the relationship between transitional justice and political settlements of conflict, and the focus of NGOs in Lebanon.

The legal framework on enforced and involuntary disappearance showcases the strong interdependence between its development and the development of international criminal law all together. While the framework was essentially built on norms of international humanitarian law and therefore restricted to cases of armed conflict, the plight of victims and countries' experiences resulted in its development outside conflict and into international human rights law instruments. Most importantly, the developments of the Rome Statute rendered the framework applicable to EID more universal and beyond situations at hand. The research as such was able to set aside the legal and normative debate over disappearances in Lebanon and strengthens the level of responsibilities of Lebanese duty bearers vis-à-vis the situation of EID.

Although the retroactivity of these principles could be at stake, however emerging conflicts and settlements would strongly refer to such conclusions.

Most importantly, it is evident that the work and advocacy of NGOs to utilize international procedures and mechanisms was neglected. Although NGOs worked closely on documenting, reporting and submitting cases to the Working Group on Enforced and Involuntary Disappearances (WGEID), for years the advocacy and interaction with the working group was absent. Some NGOs however, were not able to present cases to the WGEID, as victims did not consent. Most NGO work, particularly among associative support categories seek to document the trend and the patterns of violations not necessarily on a case by case basis. Additionally, the legislative lobbying focused primarily on functions of an independent commission with weak impact on the horizon, NGOs also neglected the added value of the Committee on EID established by the Convention. The latter could provide a standing role, independent and financed by the UN system, and most importantly immune from political changes and financing of the Lebanese Government. NGOs should more strategically enhance their work and reporting with the international agencies and mechanisms available, benefiting from the leverage those mechanisms have. Moreover, documentation exercise with the support of the ICRC, particularly on biodata collection of family members, started at a time concealed with urgency and fear of the passing of family members, and victims' fatigue.

At the level of transitional justice, the work of NGOs has essentially focused on the right to know, which is consistent with the fact that victims are on the front line of the work on EID in Lebanon. Nevertheless, the work of NGOs often combined a lack of focus on other elements of transitional justice deemed necessarily to achieve impact and results. The work largely remained academic and elitist, often unable to create breakthrough at the community level to adopt the values of transitional justice. While Lebanon faced constant turmoil, the period after

2005 exposed the Lebanese on new challenges and the past became deprioritized from what the present is generating. While Lebanese were polarized on dealing with the present, dealing with the past was by far not in the optics of the Lebanese citizens. This further distanced the memories of the civil war eclipsed by present threats and experiences. While this could have been invested as a strong point to delve into the events of the past without affecting today's polity, most CSOs' focus on shaming political leaders as warlord distanced decision-makers to venture in recognizing the violations of the past. As described in other cases, such as South Africa, the work on transitional justice should rather be inclusive to political actors rather than exclusive to them. While NGOs and decision makers refer to each other's in mistrust in solving the issue of disappearances, the focus should be to reiterate a trust building process of transitional justice that would motivate cooperation of past perpetrators.

On the other hand, the work of civil society focused greatly on generating a normative work to solve the issue of enforced disappearances often overseeing the power dynamics that took place after the end of the civil war. This has culminated in the ratification of the law establishing a National Commission on the fate of the Missing and the Disappeared in November 2018. However, the success of such commission is highly bound to the level of engagement of the polity and past perpetrators. The law promulgates the right to seek justice and hold perpetrators accountable, despite this right to be essential it could greatly affect the level of engagement of actors in the process. As a side to this law, and in line with transitional justice work, NGOs should work on securing a written high level of commitment that collaborators in the process will be granted a conditioned amnesty. Such conditionality could motivate actors to collaborate, while securing their status. The failure of engaging with decision makers in the process would make of such process an ineffective process.

Furthermore, the Taef agreement also creates further challenges. Across the board the agreement represents the conflict settlement document that became integrated in the constitution. While other experiences in post-conflict societies agreements seek to provide remedies and mechanisms to deal with atrocities committed during the conflict, Lebanon's conflict settlement lacked any reference. The settlement focused essentially on power sharing and new political roles, undermining the plight of citizens and the experiences in the conflict. While this amnesty law was designed to foster national reconciliation and to favour the regeneration of a common and peaceful political culture, it was also implemented in a problematic manner since the demobilization process remained unfinished. Moreover, it was selective, and thus hampered the task of social reconstruction.

NGOs prior to 2005 failed to promote this fact, as part of the Taef negotiations and enforcement due to the restrictions and shrank space they operated in. Meanwhile activities of NGOs post-2005 could have influenced several inter-party debates. NGOs could have influenced the post April 26, 2005 political landscape, the agenda of the political dialogue, and the agenda of the Doha Agreement. Most importantly, NGOs should be focused on influencing Cabinet Statements to include a common political line on EID, rather than being reactionary.

With these lessons in mind, a long-term approach should also be present where the work on transitional justice seeks not to look at enforced disappearances as a standalone theme but would focus on encompassing a comprehensive approach to protecting people from EID. This approach emphasizes the importance of embedding human rights principles within all transitional justice and reconciliation efforts and seeks to mitigate the challenges discussed above: namely, that many transitional justice initiatives fail to consider and address in a forward-looking manner the root causes of the conflict in Lebanon. In Lebanon, in particular, the government has avoided engaging in any meaningful transitional justice initiatives.

Consequently, the sectarian and religious differences (among other issues) underlying past conflicts in Lebanon persist, resulting in discrimination and rifts in the Lebanese social contract, and thus grievances between segments of the population which present ongoing security challenges –undermining hopes for the realization of durable peace in the country. Additionally, political agreements, rather than state institutions, manage past and present conflict in Lebanon, creating the conditions for recurring conflict and enduring human rights challenges; even where state institutions do manage current conflict, weak rule of law and a lack of political will compound the challenges just discussed.

Recognizing that Lebanon’s civil war ended nearly three decades ago, rendering large-scale transitional justice initiatives such as criminal courts or fact-finding difficult or impractical. The suggested approach to transitional justice is two-pronged: first, to advocate for *institutional reforms*, including the strengthening of the judiciary and other legal reforms and, second, to support the creation of *community-based reconciliation and transitional justice initiatives*.

NGOs should look at rule of law reforms – ensuring that Lebanon has clearly written, accessible laws, an independent, impartial judiciary, and effective, trustworthy public institutions – as a precondition for any successful transitional justice processes in Lebanon; without enforcing institutions, any such processes are subject to political manipulation and may not succeed. After the end of the civil war, no serious legislative or institutional reforms were implemented in Lebanon; as a result, today, while legislation does include some protections for human rights, implementation and enforcement remain a significant challenge.

As a first step, NGOs should advocate for institutional reforms that ensure the separation of political branches and, in particular, the independence of the judiciary from political influence. Such reforms would require, for example, that the judicial branch has exclusive oversight of its internal affairs and that appointments to bodies such as the National Human Rights Institute

are made in accordance with the appropriate criteria. NGOs should also advocate for increasing technical support to members of the judiciary, such as comprehensive education on legislation and national treaties in Lebanon. Establishing strong state institutions which apply the law equally, in combination with an active civil society and engaged citizens, will result in the preservation of civil, political and social rights in Lebanon through democratic processes.

While strong state institutions will provide the framework for individuals to seek out specific justice for harms suffered, civil society organizations are essential for educating members of the public about their rights. NGOs could take a pragmatic approach to build a constituency of engaged citizens invested in the protection of human rights in Lebanon.

Institutional reform is also an important imperative to secure strong functioning of legal reforms, and normative steps partaken in transitional justice. For example, the recently established National Commission mandated to uncover the whereabouts of missing and disappeared people, is designed to be fully performant in an environment of strong rule of law. Particularly, the law requires an independent judiciary able to secure sites of excavations to protect witnesses, or to ensure respect of human remains etc. The law also expects municipal actors to play a solid role in the excavations in the localities, the latter also requiring strong institutional structures currently missing at the local government level.

Importantly as well, NGOs should recognize that fractionalization across socio-economic and religious categories persists in Lebanon. Additionally, difficult economic conditions and conflict in neighboring countries, such as Syria, drive continued instability and human rights abuses in Lebanon. As such, traditional transitional justice efforts such as memorialization or truth-finding activities, which threaten to reopen the wounds of the civil war and may prompt further conflict, are unlikely to succeed in Lebanon. Rather, NGOs' approach is to mobilize citizens to influence the Lebanese political establishment to establish appropriate transitional

justice initiatives while simultaneously developing community-based transitional justice efforts. Any coalition vision should focus on engaging citizenry that is invested in peacebuilding and cognizant of the benefits of human rights protections – including increased national security – can affect both local change and set the institutional basis for lasting peace in Lebanon.

As described earlier, the work on transitional justice in Lebanon, particularly exemplified in the cases of EID, requires the establishment of strong inclusive and convening processes. Associative organizations, and international NGOs particularly should seek to promote further work on dealing with the past that would bring decision-makers as part of the solution.

Chapter V: Conclusion

The situation of EID in Lebanon is precarious human rights violation that is intrinsic to both transitional justice and human rights enforcement. The violation of enforced disappearances in Lebanon has been one focal continuous violation central to dealing with the past, and victim reparation.

While the Civil War in Lebanon, 1975-1990, has ended with a conflict settlement, the latter failed to include a commitment to victim reparation and to address mass violations committed during the conflict. This has greatly affected an ease of application of post-conflict interventions on transitional justice and dealing with the past. Most importantly, the post-war period also failed to establish institutional and security sector reform that would enable strongly built guarantees of non-repetition. Quite opposite, the post war period was notorious for political exclusion and a shrinking space for NGO work, best described with physical and intimidating restrictions on human rights defenders.

In that setting the work of civil society organizations on the issue of enforced and involuntary disappearances was focused strongly on the right to know. Victim led organizations have taken the lead in directing civil society work into that outcome. However, the inability to address the issue of disappearances as part of post-conflict interventions has made of this plight an issue area of contention between NGOs and decision-makers. As a result, the issue has been illustrated in drag and inefficiency in promoting the right to protection and the truth-seeking. The progress done on the issue since 1982 could be best described as laying on a house of cards, the political buy-in on the issue has been weak, often interrupted by political crisis and ignorance.

The theory of change that can best describe the way forward for NGOs working on enforced and involuntary disappearances should be focused on strengthening rule of law and building a constituency supportive of a rights-based approach to reform and governance. Building the capacity of rule of law institutions and pushing forward on national reconciliation initiatives are key objectives in post-conflict reconstruction processes. Re-establishing the rule of law and addressing past human rights abuses is a difficult task, particularly within post-conflict contexts marked by scarce resources, traumatized populations, and difficult security environments. Transitional justice seeks to address these challenges – as well as other unresolved issues, such as continuing discrimination, territorial disputes, or abuses of power – through participatory, transparent methods. While transitional justice initiatives are necessarily context-specific, transitional justice generally aims to establish accountability, restore confidence in institutions, and acknowledge and redress harms suffered by victims.

With these lessons in mind, the CSOs approach to transitional justice should emphasize the importance of embedding human rights principles within all transitional justice and reconciliation efforts and seeks to mitigate the challenges discussed in this research: namely, that many transitional justice initiatives fail to consider and address in a forward-looking manner the root causes of conflict. In Lebanon, in particular, the government has avoided engaging in any meaningful transitional justice initiatives; consequently, the sectarian and religious differences underlying past conflicts in Lebanon persist, presenting ongoing security challenges and undermining hopes for the realization of a solid social contract that could resolve the recurrence of political violence.

The research concludes with a theory of change that is strategically focused on 1) constituency building at the grass root level, 2) institutional reforms, and 3) influencing policy and shaping public debate. The three strategic goals will aim at achieve impact on faith in institutions, the

capacity of communities to address conflict at local level and an increase political will to participate in transitional justice processes and to guarantee human rights protection.

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