

The Secrecy of an Investigation or the Shame of Open Trial?

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Nothing compels a criminal, even if repentant, to disclose information about the fate of his victims to their families, especially forty years after the crime. We live in a country of forgetfulness and amnesia. Prevarication, rehash, and stalling—wearing down the claimants so that they waive their rights. But the families of the kidnapped and the missing of the Lebanese civil war are indefatigable. Their persistence—despite all the stalling, delay tactics and dismissal—has finally led to passing a law that, if applied, would partially redress damages. But what would compel a criminal to confess to his crime and give information about the fate of his victims in the absence of evidence against him and of anyone accusing him? As long as his former leader is today's ruler in power, with a spotlessly clean judicial record—just like any other innocent citizen—thanks to a general amnesty issued by his comrades, who themselves took part in the war, following the Taif Agreement?

The perpetrator did not come clean about his crimes. How can a conscience settled comfortably in its life, awakened for the sake of a mother who wants to know the fate of her children who were kidnapped or forcibly disappeared? The heart of a criminal, even if repentant, would not skip a beat for a son or a father who wishes to have evidence of his loved ones' fate: Are they alive? Are they dead? In both cases: Where? How? When?

The general amnesty issued by the majority of the participating forces in the Lebanese civil war (1990–1975) impeded the path of justice, which should have been the basis for building a sound ground for the future of any country that experienced a destructive civil war. The path presupposing confession, remorse and giving information to earn forgiveness and redeem oneself. For this reason, the struggle of the families of the missing and the forcibly disappeared has been going on for nearly four decades in search of the decisive fragment of information about the fate of their loved ones, as they carve their way one step at a time closer to their goal. As for the criminals and perpetrators? They are leading normal lives with «the innocence of children in their eyes».

So, in spite of the great joy about the passing of the long-awaited law of missing persons, it seemed to many, including me, that the slogan of the Commission «forgiveness in return for knowledge» in fact rang hollow. For what for is the forgiveness of the families of the missing? As long as no one levels charges at the perpetrators, opens an investigation or brings them to justice? Is forgiveness an incentive for those who pushed their crimes out of their mind or maybe justified them over the past forty years? They have lived their lives, got married and probably told their children their own accounts of the war. It is probably an account in which the perpetrator plays the role of the aggressed victim.

The criminal was pardoned, so what's the point of confessing? Why return to the spotlight? What is the sense of this



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forgiveness to be received from the families of the victims as long as they benefit from the absence of evidence of their crimes? The families of the kidnapped look like a bunch of idealists or naive optimists about human nature, and although they are worthy of admiration for it, what do they get out of it?

Yet, by examining the provisions of Law No. 105, i.e. the missing persons law, with a cool head, and consulting

with the Committee of the Families of the Missing on these questions, we have found other possibilities implicit in the body of this law. And the idea can be summed up as follows: «a choice between public shame and secret confession».

It is known that the crime of kidnapping continues if it is not proven that it ended and happened during the war, i.e. during the period covered by the general amnesty. In

addition, the responsible parties for many of the kidnappings are known, given that the location of the crimes was geographically under the authority of a certain militia that participated in the kidnappings and «counter-kidnappings». They are an «open secret» of sorts, and therefore, as in military laws, officers are not prosecuted but rather their superiors, i.e. those who issued the commands. Thus, leveling accusations at the political parties responsible for those points where kidnappings took place is possible and somewhat easy through the National Commission for the Missing and the Forcibly Disappeared, which was established by Law No. 105 and by virtue of which it was granted all investigative powers. It therefore becomes incumbent on these parties to answer publicly to the investigator about the fate of the missing persons whom they are accused of kidnapping or disappearing, and to prove that they have been killed—providing the Commission with information about the burial sites—or that they handed them over to third parties, to be verified. If they choose to voluntarily provide information to the Commission, they will benefit from the confidentiality condition. That is, their identity will be withheld. This applies to individual perpetrators or witnesses, to facilitate confessions and access to information. In short, it would be useful to give two options to those involved in kidnappings: provide information voluntarily, in return for maintaining anonymity and confidentiality of personal data, or be investigated, and if found guilty, undergo trial in which they will publicly be made to bear the shame of their crimes.

Perhaps, in this way, we may see the ending of this painful and shameful dossier. An ending we are loath to call happy.

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