

Remarks on the road to a just Lebanon

HUMAN RIGHTS LAWYER NIZAR SAGHIEH DISCUSSES MATTERS OF AMNESTY AND JUSTICE

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BEIRUT: “The files on Dinnieh and the Majdel Anjar group are now closed, as are those on Danny Chamoun and Rashid Karami,” says Nizar Saghieh. “It is atrocious that these cases are linked. Worse, journalists [generally] didn’t question the legal precedent for linking completely unrelated crimes.”

“There is no legal precedent for this. The only thing it can be compared to is a prisoner exchange.”

Saghieh is addressing an audience at the Masrah Al-Madina, part of a recent round-table discussion called “Amnesty versus justice and where memory dwells.” It was staged during “Civil Violence and War Memories,” a symposium organized by UMAM Documentation and Research.

“Lebanon’s amnesty law was a political document,” he continues, “not a legal one.”

The amnesty law in question freed Lebanese Forces leader Samir Geagea after 11 years detention. Rolled into the package were several Sunni detainees, some accused of involvement in the Dinnieh episode of December 1999 to January 2000, others of plotting terror acts against Western targets in Lebanon.

He argues that, like the 1991 amnesty that preceded it, the 2005 law betrays a disregard

for legal principles. A human rights lawyer and activist, Saghieh has worked on cases of personal status – civil marriage and the like – and kidnapping cases, being associated with Wadaad Halwani’s Families for the Disappeared. In 2004 he published a book on Lebanese election law (*Dar al-Nahar*).

During an interview after the roundtable, the lawyer decries the subordination of legal to political thinking in Lebanon, and the public consciousness allowing Lebanese to placidly accept it.

The Siniora government, he says, had a great opportunity to re-establish the rule of law after years of arbitrary practice under Syrian hegemony. That opportunity was squandered by the political class’ pre- and post-election horse-trading. He indicts the Lebanese press as much as the politicians, since the fourth estate failed to question the details of Geagea’s amnesty.

“This amnesty law was passed by Parliament without so much as a debate,” he says. “There must be a legal discourse independent of politics, one that stands opposed to political discourse. There must be independent voices – intellectuals and journalists to remind people when these principles are being stepped on.”

One of the many problems with the Geagea amnesty, he says, is that when the legisla-

ture throws out a judicial ruling it violates the principle of separation of powers.

“Geagea’s arrest in 1994 may have been selective, but the trial that convicted him of Karami’s assassination was procedurally above board,” he says. “The argument put forward to justify Geagea’s amnesty is that his arrest and conviction were selective. Is further judicial selectivity the solution?”

“Then there are Geagea’s colleagues, those no longer in the country, that were included in the amnesty law. At least one of them, Ghassan Tuma, is well

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known to have been a vicious criminal. The amnesty law pardons them of all crimes committed before 1994. That’s four years after the Civil War ended. There is no legal justification for this.”

The subordination of legal to political, he says, is endemic in the Lebanese political system.

“In the case of Lebanon’s Palestinian refugees, for instance,” he continues, “it’s obvious that someone wanted to make a symbolic statement. You don’t want Lebanon’s Palestinians naturalized. You stir-up fear about how there is a

plot to settle them here.”

People think that if you deprive Palestinians of their civil rights that is good for Lebanon.

“The basis [of the Palestinians’ civil disenfranchisement here] is a reciprocity clause in the Lebanese Constitution. It says that the civil rights of a resident foreigner must reflect those allotted to Lebanese in the resident’s home country.”

There is no Palestinian state, so it self-evidently cannot provide rights to Lebanese. Therefore Palestinian refugees deserve no rights here. Absurd.

“The present government tried to implement a law forbidding the Constitutional Court from vetoing any law the government passes. Then another suspending that constitutional right until the court personnel has been changed. Not only is this a clear violation of separation of powers, it’s a transparent attempt to put sympathetic judges on the bench. It’s a discouraging precedent for Lebanon’s first post-Syrian government.”

For Saghieh a legally-informed debate brings details to political discussion that the prevailing political discourse tends to gloss over.

“When Geagea’s advocates argued for his release, for instance, they always compared him to [Chouf MP Walid] Jumblatt and [Amal Movement leader Nabih] Berri – the oth-

er two great warlords to remake themselves as postwar politicians. Nobody made any effort to compare Geagea to his victims.

“If there were a vibrant legal discourse in this country, there would never have been a law that grants amnesty to leaders alone. Fostering one would encourage people to raise questions out of a desire for justice.”

While some call for the reform of Lebanon’s judicial institutions – calls Saghieh agrees with – his concerns are more essential.

“The struggle now is in the realm of public discourse.

“Do you have intellectuals in this country looking at a problem separately from politics? I think you’ll find generally the answer is no.

“There’s no culture of independence here. There is, on the contrary, a great deal of pressure to belong to groups. This creates a culture of flattery and each Lebanese newspaper has its own favored groups.

“On 14 March [the date of Lebanon’s largest street demonstration in history, called to protest the political status quo in the country], we had two things happening together. Some people were going to the streets out of sectarian feeling. Others went out of a desire for justice. The politicians’ discourse, meanwhile, was at its most sectarian.

“Nobody in the press asked

[whether one precluded the other]. As an intellectual, your job is to raise questions – not to say things to make people love you.”

All too often Lebanese journalists do the second.

“Now we are simply reversing Syrian domination,” he shakes his head. “If the Syrians were involved in judging someone, then we will set that person free. If they had a hand in killing someone, we will judge them. The victors are punishing the defeated.”

Saghieh’s concerns extend to the investigation into the assassination of former Premier Rafik Hariri – poignant in light of local efforts to internationalize the trial proceedings of the accused.

“When you have the political class pointing their fingers, ‘The Syrians did it,’ it makes a very bad environment for judicial investigation. Where is the evidence for these accusations? There is none, of course. The accusations don’t express a legal discourse but a political one.

“When it’s repeated often enough, though, the political discourse becomes a populist one. When Lebanon’s security chiefs were arrested, the leftist deputy in Parliament [Democratic Left secretary Elias Atallah] said, ‘The popular instinct [about the culpability of Syrian clients in Hariri’s murder] was confirmed.’ Popular instinct is no basis for a justice system. It’s pure populism.

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Poster for “Civil Violence and War Memories.”

“It is impossible to know at this point whether the Mehlis investigation is political or not. Assuming the investigation itself is disinterested, it’s still being conducted in an environment of selectivity.

“In the best-case scenario, Mehlis will apprehend those re-

sponsible for Hariri’s murder and they will be prosecuted. But what about all the other murders, all the other crimes, committed since the Civil War started? At the end of the day Lebanese will view this incidence of justice to be exceptional, not the rule.”