

Dealing with the Past *Series*

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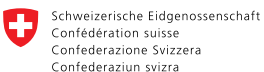
Families of the Missing Quest for Justice: The Legal and Legislative Struggle

Nizar Saghie

It may have been one of the rare occasions on which members of Parliament applauded alongside citizens seated in the parliamentary gallery following the adoption of a law. This occurred immediately after the announcement, on November 12, 2018, that the proposed Law on Missing and Forcibly Disappeared Persons had been passed (The Legal Agenda, 2019). The announcement crowned a decades-long movement led by the families of missing and forcibly disappeared persons to secure the right to know their fate, in the face of a political order founded on concealing the tragedies and truths of the war.

At times, these families appeared to constitute the sole resistance to the post-war order. While their mobilization initially took the form of a demands-based movement, it later became firmly rooted in a rights-based approach. This was reflected, in particular, in the filing of a number of lawsuits before various judicial bodies, culminating in the landmark decision issued by the State Shura Council on March 4, 2014, affirming the right to know (Farhat, 2014). It was also reflected in the initiative to draft a proposed law concerning the rights of missing and forcibly disappeared persons and their families. Following the State Shura Council's decision, and in line with it, the proposal made its way to Parliament.

Although the members of the independent commission mandated to clarify the fate of missing and forcibly disappeared persons were appointed for the first time in 2020, pursuant to the law (Decree No. 6570/2020; Official Gazette, 2020),¹ this occurred amid an unprecedented accumulation of crises that obstructed the Commission's work. Its first mandate consequently ended



Embassy of Switzerland to Lebanon and Syria

This publication was funded by the Embassy of Switzerland to Lebanon and Syria. Its contents are the sole responsibility of the Lebanese Center for Policy Studies (LCPS) and do not necessarily reflect the views of the Embassy of Switzerland to Lebanon and Syria.

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Decree No. 6570 dated July 3, 2020, "Establishment of the National Commission for the Missing and Forcibly Disappeared," Official Gazette, No. 31, July 23, 2020, pp. 1540-1541.

without it succeeding in uncovering the truth concerning the fate of a single missing person.

Now that new members have finally been appointed, it is necessary to anticipate the measures and procedures that must be adopted at multiple levels in order to increase the prospects of the Commission's success. Should its second mandate end as its first did, this would signal the law's failure to achieve its objectives and reduce its adoption to a merely symbolic victory, incapable of ending the policy of concealment or guaranteeing the right to know. This risk is further compounded by the succession of wars and the growing number of victims in Lebanon since the law entered into force, which have pushed the issue of missing and forcibly disappeared persons further from public attention and reduced its political significance.

Given the transformative nature of the 'right to know' as a challenge to the prevailing order, we considered it necessary first to recall how the families of the missing secured this right, before examining ways to give it practical effect. Particular attention will be paid to the duty to disclose as a necessary complement to the right to know.

How the Families of the Missing Secured the Right to Know

In the first decade following the end of the civil war, the activities of the families of the missing were primarily demands-based, consisting of appeals to the political authorities to clarify their relatives' fate on humanitarian grounds. They subsequently moved toward a rights-based approach that developed gradually around a central premise: I hold a right that the state is obliged to guarantee and enforce.

The first indication of this shift appeared in the movement they launched in 2000 under two clear slogans (Committee of the Families of the Kidnapped and Disappeared in Lebanon, 1999). The first was 'It Is My Right to Know,' a slogan that affirmed the rights-based nature of the issue while also marking a break with the policy of concealing the truth and closing the chapter on the past in the name of reconciliation and the consolidation of civil peace. The second was 'Remember, So It Is Not Repeated,' which expressed the principle that memory safeguards civil peace. The slogan sought to counter the authorities' claims that revealing the fate of missing and forcibly disappeared persons could trigger another war or threaten civil peace.

This mobilization led to the appointment of the first official commission tasked with determining the fate of the missing on January 21, 2000, pursuant to Decision No. 89/2000 issued by then Prime Minister Salim Hoss. The commission was composed exclusively of security and military officials. On July 25, 2000, it produced a report, of which only two pages were made public.

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Nizar Saghie. 2012. "Families of the Missing in the Face of Policies of Silence and Denial: Which Avenues for Bringing Their Claims before the Courts?", a study in cooperation with the International Center for Transitional Justice, *The Legal Agenda*, p. 22.

The report acknowledged the existence of mass graves throughout Lebanon and identified three of them, before recommending that any person missing for more than four years be declared legally deceased, that compensation be granted to the families of the missing, and that a memorial to the victims be erected (Saghieh, 2012).² It expressed no intention, however, to exhume the mass graves or identify the remains buried in them.

Accordingly, irrespective of the efforts undertaken by the commission, its conclusions ultimately served to undermine any hope that missing persons might still be alive and to encourage their families to accept the bitter reality by invoking the prospect of financial compensation. This was reminiscent of the way in which the file of the internally displaced was reduced to a monetary settlement on the margins of questions of right and wrong, with compensation distributed between those displaced and those who had occupied their homes.

Two additional bodies were subsequently established: the first was the 'Commission for Receiving Complaints from the Families of the Kidnapped' in 2001, and the second was the 'Lebanese-Syrian Joint Committee for Addressing the Cases of Missing Persons and Detainees in Syrian Prisons' in 2005. The latter's work focused particularly on investigating the possibility that forcibly disappeared persons were being held in Syrian prisons.

Securing the Right to Know through the Courts

The rights-based approach underwent a significant development in 2009, when the Committee of the Families of the Kidnapped and Disappeared in Lebanon and Support of Lebanese in Detention and Exile (SOLIDE), then the two organizations most representative of the families of the missing, announced that they had filed a series of lawsuits aimed at securing formal recognition of their right to know.

First, a number of cases were brought before the urgent matters judge (Geagea, 2011), requesting judicial inspections of the mass graves identified in the report of the 2000 official commission investigating the fate of the missing as examples of burial sites located across Lebanon. The lawsuits also sought protective measures to preserve the families' right to know the identities of the remains buried there, including fencing off the gravesites and preventing any tampering with them.

Second, in December 2009, an appeal was filed before the State Shura Council challenging the Presidency of the Council of Ministers' refusal to provide the two associations representing the families of the missing with complete copies of the commission's file, which had been deposited with the General Secretariat of the Presidency of the Council of Ministers. This file included all the investigations on which the report had been based. Here too, the appeal rested on the right to know (Frangieh, 2014).

These cases were not filed by individual persons or families, but by the two associations themselves. This approach was intended to spare particular families from bearing the considerable weight of the issue, including the burden of proving abductions or detentions that had occurred decades earlier, while facing political forces that continued to wield significant influence. It was also intended to foreground the principled and rights-based nature of the litigation, independently of the particular facts of any individual case of enforced disappearance.

In other words, the primary objective was to secure judicial recognition of the right to know, thereby directly challenging the policy of concealment and denial that the ruling political authorities continued to pursue at the time. The authorities justified that policy through an unsubstantiated claim that revealing the truth could cause security disturbances, threaten civil peace, and perhaps even trigger another war. Throughout the proceedings, the families of the missing therefore emphasized the inviolable nature of the right they were asserting, while simultaneously dismantling the political and security argument invoked by the state, without evidence, to deny that right.

The litigation acquired a strategic dimension from several perspectives:

First, it sought to obtain judicial recognition of the ‘right to know,’ the very right upon which the transformation of their cause from a humanitarian demand into a rights-based cause depended. In the absence of any statutory provision explicitly enshrining the ‘right of the families of the missing to know,’ the families called upon the judicial bodies hearing their cases to follow the example of the United Nations General Assembly and a range of comparative legal systems.

These bodies had derived the right to know from a set of rights already recognized within the Lebanese legal order, most notably the rights to life and personal liberty, and the right not to be subjected to torture. All of these rights are enshrined in the Universal Declaration of Human Rights and the international human rights covenants, which acquired constitutional force through the Preamble to the Lebanese Constitution.

This claim also benefited from developments in international and comparative law since the end of the 1975-1990 war. One of the clearest examples was Lebanon’s signature, on February 6, 2007, of the International Convention for the Protection of All Persons from Enforced Disappearance, which entered into force on December 23, 2010.

The second strategic dimension lay in rooting their rights-based movement more firmly by moving away from a political framework governed by competing interests and public anxieties, and toward a legal and rights-based one grounded in the language of rights. Litigation required judges to respond to the families’ claims on the basis of legal reasoning alone. This differed fundamentally from political advocacy, where the authorities could simply

refrain from responding or invoke political arguments that might amount to a wholesale denial of fundamental rights.

Although the families placed considerable hope in the judiciary's ability to help secure recognition of the right to know, they were fully aware that recourse to the courts could only unsettle the status quo, dismantle the political and security arguments used to block any serious effort to determine the fate of the missing, and thereby pave the way for reversing public policies built around the concealment of knowledge and truth. Logically and in principle, however, litigation alone could not clarify the fate of the missing. This required the state to establish an administrative and institutional mechanism, as had occurred in many countries that had experienced enforced disappearance and committed themselves to uncovering the fate of its victims.

The clearest indication of this awareness was that, in parallel with their resort to the courts, the families pursued a second track by drafting a proposed law (The Legal Agenda, 2012) aimed at establishing institutional mechanisms capable of enshrining the right to know and creating the conditions for its effective realization. In other words, the families relied on the judiciary to secure legal legitimacy for their struggle to clarify the fate of the missing, while fully recognizing that legitimacy was a necessary but insufficient step toward achieving that objective.

Giving effect to the right to know requires the establishment of national institutional mechanisms, the collection and processing of information in cooperation with international humanitarian organizations, and, most importantly, the allocation of public resources. All of these matters extend far beyond the capacity and jurisdiction of the judiciary.

Third, the lawsuits served to correct, complete, and respond to the report issued by the official commission investigating the fate of the missing in 2000. Acknowledging the existence of mass graves should have led to their examination and the identification of those buried in them, not to their concealment and, with it, the concealment of the truth in its entirety. In other words, such an acknowledgment called for the continuation of investigations into the fate of the missing, not their closure.

After years of judicial struggle, the families of the missing succeeded in achieving their declared objective. This was most clearly reflected in the decision issued by the State Shura Council, the highest authority in the administrative judiciary, on March 4, 2014, ordering the government to provide a complete copy of the investigation file compiled by the official commission established in 2000 to determine the fate of the missing (Frangieh, 2014).

Over four pages, the State Shura Council set out in detail the legal foundations from which it derived and affirmed the right to know (Saghieh, 2015). It held that this right is linked to the rights to life and a life of dignity, insofar as it serves to avert the imminent danger facing a missing person. It

is also connected to every individual's right to a prompt and effective judicial remedy when their rights have been violated – a right that helps establish the rule of law and ensure transparency within the political system.

The Council further considered the right to know an essential need of the families of the missing. If their relatives are deceased, it enables them to perform burial and mourning rites with dignity. If they are alive, it enables their families to determine where they are being held and to work toward securing their release. The Council also held that this right constitutes a necessary safeguard against the psychological torture endured by the families, and a fundamental basis for protecting the right to family life, as well as the child's right to family and emotional care and to a stable life.

This reasoning implies that, through its failure to give effect to the families' right to know, the state had itself become implicated in causing their psychological suffering. The Council went so far as to characterize the right to know as a natural right inherent to every human being and derived from human nature itself. In other words, it is a right that precedes legal recognition and does not depend on any legislative intervention or statutory provision.

When the state subsequently sought reconsideration of the decision on the grounds that enforcing the right to know could threaten civil peace (The Legal Agenda, 2014), the State Shura Council held that the state had failed to provide any evidence of such a security threat. It once again affirmed that the right to know is a natural right from which no derogation is permitted (Saghieh, 2015).

Viewing the State Shura Council's decision as a foundational turning point in the Lebanese post-war order, which had emerged from the 1975–1990 war on the basis of concealing its tragedies, crimes, and victims alike, the families of the missing launched a weekly sit-in outside the Grand Serail under the slogan 'Visit Us During the Families' Office Hours,' calling on the Presidency of the Council of Ministers to implement the ruling without delay. The campaign culminated in the authorities handing over a box purportedly containing the investigation file, which ultimately proved to be almost empty, save for the questionnaires that the families themselves had previously completed (Hamzeh, 2014).

Securing the Right to Know through Legislation

Having succeeded in securing judicial recognition of the families' right to know, the two associations representing the families of the missing turned their attention to Parliament, seeking not only to enshrine this right in legislation but, more importantly, to establish a comprehensive legal framework for its implementation. The first step in this direction came through an initiative by former Members of Parliament Ghassan Moukheiber and Ziad Kadri, who submitted the draft law that the two associations had prepared in cooperation with the International Center for Transitional Justice (ICTJ) in February 2012.

The proposal was introduced on April 16, 2014, approximately one month after the State Shura Council issued its landmark decision. Building upon the recognition of the right to know, the draft law's principal provisions included the establishment of an independent National Commission for Missing Persons whose sole mandate would be to centralize data relating to missing persons and conduct the investigations necessary to determine their fate.

The Commission was also to include representatives of associations of the families of the missing and human rights organizations supporting them. The draft further established a duty to disclose for any person in possession of information that could contribute to uncovering the fate of missing persons, in addition to setting out specific procedures for the identification and investigation of mass graves.

The proposal was subsequently subjected to extensive review by the Parliamentary Human Rights Committee and the Administration and Justice Committee. Throughout every stage of the legislative process that ultimately culminated in its adoption on November 12, 2018 (The Legal Agenda, 2019), the imprint of the families of the missing remained unmistakable. In particular, two advocacy campaigns led by the families played a direct role in bringing the proposal to its final legislative stage.

The first campaign was the launch of a national petition on April 13, 2018, marking the anniversary of the outbreak of the 1975-1990 war. The petition called for the adoption of the draft law establishing an independent National Commission for Missing Persons whose sole mandate would be to determine the fate of the missing. It also called for the collection and preservation of biological samples from family members to safeguard the identification of victims through DNA testing.

The petition gained significant momentum during the 2018 parliamentary election campaign. After gathering 5,187 signatures, including those of leaders of ruling political parties, numerous Members of Parliament, and prominent national figures, it was formally submitted to the General Secretariat of Parliament on April 13 of that year (Barjas, 2018). Its submission was widely regarded as reviving a long-forgotten constitutional practice: the submission of popular petitions (Lahham, 2018).

The second campaign consisted of the efforts led by the families of the missing to bring their cause into the heart of the 2018 electoral campaign (Hamzeh, 2018), with the aim of securing broad political commitments to adopt the proposed law. This initiative was launched on the occasion of submitting the national petition. After reminding the public that the names of many missing persons continued to appear on the electoral rolls because their fate has not been determined and their families refused to have them legally declared deceased, the families presented a symbolic electoral list of missing persons drawn from different constituencies.

As Wadad Halawani, President of the Committee of the Families of the Kidnapped and Disappeared in Lebanon, explained, it was ‘the only one among the 77 electoral lists that had representatives in every electoral district,’ making it the only list to transcend regional and sectarian divisions. In addition, the Committee sought to secure pledges from candidates across multiple electoral lists to place the law on missing persons at the heart of their electoral platforms and to give priority to its adoption should they be elected.

This explains why the issue of missing persons featured prominently in the platforms and campaign slogans of the major political parties, including: ‘The Law on Missing Persons: the blue bead that protects the right to know’ (Future Movement); ‘The time has come to solve the issue of the missing; not let it dissolve’ (Lebanese Forces); ‘The pulse of change begins with the law on missing persons’ (Kataeb Party); ‘Yesterday’s right and tomorrow’s right: uncovering the fate of the missing’ (Marada Movement); ‘For the missing and their families, justice. Your vote is hope’ (Amal Movement); ‘We protect the families’ right to know and build a homeland for future generations’ (Hezbollah); ‘Our vote for the missing is your vote for genuine reconciliation’ (Progressive Socialist Party); and ‘A strong movement for a strong Lebanon by resolving the issue of the missing’ (Free Patriotic Movement).

This campaign succeeded in accelerating the review of the draft law within the parliamentary committees and securing its inclusion on the agenda of the parliamentary plenary session held on November 12, 2018 (The Legal Agenda, 2018). The law was ultimately adopted to the applause of members of parliament, in the presence of Wadad Halawani, President of the Committee of the Families of the Kidnapped and Disappeared in Lebanon, who witnessed the culmination of the long and painful struggle she and other family members had waged to secure the right to know – a right that the political authorities had long denied in order to preserve a post-war order built upon the erasure of the war’s tragedies and its victims.

Yet Wadad, like all the families of the missing, understood perfectly well that the legislative recognition of the right to know could not mark the end of their struggle. Rather, it represented only another milestone in a long journey that would not end until mass graves were uncovered, investigations completed, the fate of every missing person established, those still alive freed, and the remains of those who had died recovered. The years that followed would demonstrate the vast gulf between securing recognition of the right to know and ensuring its implementation. It is this gap that we examine below.

How Can We Strengthen the Prospects for Implementing the Right to Know?

Although the families of the missing succeeded in securing a law that enshrines the right to know and establishes mechanisms for its realization, the seven years that have elapsed since its adoption (soon to be eight) have not been sufficient to achieve any of the objectives envisioned by either the right itself or the law. The clearest illustration of this is the report issued by the National Commission established under the law at the end of its first mandate, which ran from 2020 to 2025.

Beyond institutional measures such as adopting its internal bylaws and code of conduct, the Commission's achievements in uncovering the fate of the missing were limited to two outcomes: (1) the exhumation of a mass grave (National Commission for the Missing and Forcibly Disappeared, 2025), in which three sets of human remains were found but could not be identified due to the absence of a centralized information system (the grave is located in Mdoukha-Rashaya and was exhumed on April 2, 2025); and (2) establishing the fate of one missing person in June 2025, although without recovering the body after it became clear that all traces of the burial site had disappeared (National News Agency, 2025).

Despite the sobering nature of these results, a closer examination of the surrounding circumstances makes it unfair to conclude either that the law has proved ineffective or that the members of the Commission failed to fulfil their responsibilities during their first term. Their appointment in 2020 came under exceptionally adverse conditions, marked by the accumulation of crises on multiple fronts.

Lebanon was already experiencing an unprecedented economic, financial, and banking collapse that wiped out savings, salaries, and end-of-service indemnities, while severely disrupting public institutions. The outbreak of the COVID-19 pandemic further deepened the crisis and simultaneously weakened public mobilization in response to its consequences. The Beirut Port explosion of August 4, 2020 then added another layer of devastation, creating a new category of victims and families seeking justice. This tragedy occupied a unique place in the national conscience, closely resembling the cause of the missing in its imagery (the photographs of victims), its persistence (the regularity of demonstrations), and its objectives (upholding victims' rights and justice in the face of political forces accused of involvement in the crime).

No sooner had public institutions begun to recover gradually, the war in support of Gaza erupted on October 8, 2023, and has continued ever since under varying forms and intensities. This conflict has likewise claimed thousands of victims through displacement, destruction, the obliteration of entire villages, and mass killings, resulting in one of the largest episodes of

forced displacement Lebanon has ever witnessed, while also giving rise to new cases of missing persons and enforced disappearances.

All of these developments severely constrained the state's ability to allocate the resources necessary for the Commission to establish the mechanisms required to fulfil its mandate. At the same time, public opinion became overwhelmed by the accumulation of crises, causes, victims, and competing priorities. How can one expect a society that avoided confronting or even remembering its past for decades, out of fear for civil peace, to undertake such a process today while living through the gravest crisis in its modern history?

Perhaps the clearest indication of the difficulty of institutionalizing the Commission under such circumstances is the near paralysis of long-established public institutions, including constitutional institutions, such as the judiciary, many of which remained almost entirely inoperative for years.

Accordingly, while recognizing the extraordinary difficulties that surrounded the Commission's first mandate, it is more useful to consider what could strengthen the prospects of enabling the families of the missing to realize their right to know during the Commission's second mandate than to focus on evaluating the performance of its first members. In this regard, I propose to frame the discussion around three principal themes, as follows.

Institutionalizing the Search for the Missing Does Not Eliminate the Need for Struggle

The first point that emerges is that the slow pace of the Commission's work has coincided with a decline in the mobilization of the families of the missing, even though they have continued their efforts to preserve memory and raise public awareness about the issue of missing and forcibly disappeared persons.

This decline raises important questions about the close relationship between the associations representing the families of the missing (particularly the Committee of the Families of the Kidnapped and Disappeared in Lebanon) and the organizations supporting them, on the one hand, and the Commission, on the other. Through their representation on the Commission, these associations became an integral and influential part of it, and perhaps one of its principal driving forces.

This relationship may also have led representatives of these associations, by virtue of their participation in institutional work, to become less able to engage in the advocacy and protest activities that had characterized their struggle for decades. The adoption of the law and the establishment of the Commission under its provisions seemed, for the families of the missing, to mark a transition from one phase to another: from struggle to institutional action.

This perception was reinforced by the practical difficulties of mobilization amid the succession of crises that Lebanon experienced during this period.

As a result, while the institution whose creation they had fought so hard to secure, and in which they had ensured their own representation, became largely paralyzed, the families of the missing appeared to have set aside (or at least voluntarily suspended) their traditional methods of struggle without truly gaining the benefits of institutional action.

Consequently, their influence on both the public sphere and public decision-making became weaker than it had been before the adoption of the law. In light of this negative development, it is therefore important to reconsider the relationship between advocacy and institutional work, and how the two can be reconciled and made mutually reinforcing, based on the following considerations:

First, the right to know, whose recognition the families of the missing succeeded in securing, is inherently at odds with Lebanon's post-war political order. Since the end of the civil war, that order has been built upon the erasure of the war's tragedies and the responsibilities arising from them in order to preserve the central role of former warlords within the ruling establishment. It is therefore founded on principles fundamentally incompatible with the pursuit of truth or knowledge.

Consequently, without diminishing the importance of the 2018 Law, it is unrealistic to expect the right to know upon which it is based to be implemented smoothly without struggles similar to those that were necessary to secure its judicial and legislative recognition in the first place. This makes continued advocacy indispensable if the Commission is to overcome institutional stagnation and advance toward fulfilling the mandate for which it was created.

Second, the succession of crises and the accumulation of new causes and victims inevitably create urgent priorities for both social actors and the political authorities, prompting them to direct available resources toward addressing those immediate challenges. This creates a real risk that the issue of the missing and their families will once again be sidelined, particularly amid fears that confronting the past may exacerbate political tensions and instability at a time when Lebanese society is more fragile than ever.

For this reason, sustained intellectual and civic efforts are needed to strengthen the foundations of the right to know and to demonstrate that the cause of the missing, which this right embodies, is inseparable from other pressing national issues and from the broader project of building a just, capable state that belongs to all its citizens.

Third, although the representation of the families of the missing and some of the organizations supporting them on the Commission does not prevent these associations from engaging in advocacy to secure the resources necessary for the Commission's work or to remove political obstacles standing in its way, it remains essential to give the right to know the national dimension it deserves by broadening the coalition of actors supporting this cause. This

requires building on the initiative launched in 2025 to establish a broad-based forum whose primary role is to accompany the Commission's work, evaluate its performance, and, where necessary, help correct its course.

The Duty to Disclose

Another issue that deserves sustained attention is the duty to disclose. This duty constitutes the legal corollary of the right to know. If the families of the missing possess a right to know the fate of their loved ones, then those who hold information about them necessarily bear a corresponding duty to disclose it. Giving effect to this duty would effectively transform the hundreds of individuals who participated in acts of abduction or enforced disappearance, or who possess knowledge about them, into valuable collaborators with the Commission. In doing so, it would free them from the burden of past actions or long-held secrets, while at the same time providing the Commission with invaluable information capable of significantly advancing and accelerating its work.

Indeed, had the General Amnesty Law enacted following the 1975-1990 war (Law No. 84/1991) given any consideration to the war's victims, it would have required those wishing to benefit from the amnesty to disclose all information in their possession that could contribute to uncovering the fate of the missing. Had this been the case, the General Amnesty Law would have incorporated one of the fundamental mechanisms of transitional justice, namely linking immunity from prosecution to contributing to a minimum measure of justice for victims.

Such an approach would have spared the families of the missing decades of anguish and waiting and might even have helped save the lives of many of those who remained missing. Instead, the Lebanese legislature presented itself with a false choice between absolute amnesty and absolute accountability, without considering any of the intermediate approaches developed within the field of transitional justice. It ultimately adopted a blanket, unconditional amnesty that completely marginalized the victims and erased their suffering (Saghieh, 2012).

From this perspective, the 2018 Law can be seen as an attempt to remedy this shortcoming of the General Amnesty Law, not only by recognizing the right to know, and therefore the rights of a broad category of victims, but also by placing those who possess information (many of whom benefited from the amnesty) under a legal obligation to assist the state in ensuring the realization of that right. This obligation may aptly be described as the duty to disclose.

While the law empowers the National Commission to investigate the fate and whereabouts or burial sites of missing persons, conduct inquiries, hear witnesses and individuals possessing relevant information, receive reports, and undertake other investigative measures, it also criminalizes the concealment of such information or the provision of misleading information. Article 38 provides

for a sentence of six months to two years' imprisonment and a fine for 'any person who prevents access to information by a member of the families or by the Commission, obstructs access to the requested information, intentionally provides false information, or subjects any person to liability, threats, or intimidation solely because they seek information regarding the fate or whereabouts of a missing or forcibly disappeared person.'

The law further provides for harsher penalties where false information is knowingly supplied, where such information is misused or manipulated, or where the perpetrator knew that the missing or forcibly disappeared person was still alive. Importantly, the creation of this offence does not violate the principle of the non-retroactivity of criminal laws, because it does not seek to punish conduct committed in the past. Rather, it targets the continuing and ongoing refusal to cooperate in implementing a right that the legislature simultaneously recognized and sought to protect through several guarantees, including the use of criminal sanctions as described above.

This interpretation is further reinforced in relation to those who participated in acts of enforced disappearance during the 1975-1990 war. Such crimes are, by their very nature, considered continuing offences and are therefore not covered by the General Amnesty Law No. 84/1991 or by statutory limitations unless there is conclusive evidence that the enforced disappearance had ended, whether through death or otherwise, before the amnesty took effect or before the limitation period expired (Official Gazette, 1991).³ In other words, even prior to the adoption of the 2018 Law, individuals involved in acts of enforced disappearance could avoid criminal liability only by proving that the continuing effects of the crime had come to an end.

Yet, despite the significance of this provision, and, more broadly, of the duty itself and its central role in ensuring the right to know, it is striking that the National Commission has made no effort to invoke it against any individual for whom it possesses evidence that they know, or can reasonably be presumed to know, relevant information, whether concerning the existence of mass graves, the use of official cemeteries to bury unidentified persons during the war, or any act of enforced disappearance, including those committed by militias in which such individuals may have served as leaders or members.

The Commission's reluctance even to invoke this duty or to remind potential witnesses of the sanctions attached to its breach stems largely from the fact that, at least during its first mandate, it had yet to initiate any serious investigations into establishing the fate of the missing. What further compounds the Commission's reluctance to act in this regard is that the duty to disclose itself remains largely absent from public discourse. It is rarely mentioned in the advocacy efforts of the families of the missing or in broader campaigns supporting their cause.

³ Law No. 84 of August 26, 1991 (General Amnesty for Crimes Committed before March 28, 1991), Official Gazette, No. 34, August 27, 1991, pp. 1-3.

One of the few notable exceptions is the documentary *Sleepless Nights* by director Eliane Raheb, in which the mother of a missing person confronts former Lebanese Forces commander Assaad Chaftari, perhaps the only senior wartime leader to have publicly apologized for his actions during the war. She urges him not to stop at an apology, but to help her uncover the fate of her son and, more broadly, to reveal the information he possesses about the fate of the missing.

Chaftari's response, however, has consistently been that he cannot disclose what he knows in the absence of adequate safeguards, foremost among them guarantees that his testimony would remain confidential and be entrusted to a credible institution, thereby protecting it from misuse or acts of retaliation.

It is therefore essential not only for the Commission to begin conducting investigations, but also to make every effort to provide such a trusted institutional space and ensure the protection of all information it receives. To this end, it is particularly important to further develop the Commission's Internal Rules of Procedure, adopted on February 17, 2023, pursuant to the 2018 Law.

Consolidating Available Information

The law authorizes the Commission to establish centralized registers composed of individual records for missing or forcibly disappeared persons for whom tracing requests have been submitted. It also empowers the Commission to request data from public authorities, relevant associations, international organizations, or any individual holding databases relating to missing persons, regardless of the period concerned, with the aim of consolidating and completing these records.

Among the most important sources of information are official records relating to applications for declarations of absence, disappearance, or death; the case files and judgments associated with such proceedings; and records held by the Ministry of Interior concerning the registration of the death of persons previously declared absent or forcibly disappeared.

Accordingly, the Commission should begin without delay to gather every source of information that may contribute to establishing the fate of the missing, including documents held by the courts, security agencies, and other competent public institutions. This also includes, for example, religious endowments responsible for managing cemeteries and burial grounds that may have been used during the war to bury unidentified persons.

Finally, it is important to reiterate the importance of the Commission fulfilling the legal and financial conditions established by the International Committee of the Red Cross (ICRC) for the transfer of the database it has been compiling since 2012 on persons who went missing or were subjected to enforced disappearance during the war in Lebanon (National Commission for the Missing and Forcibly Disappeared, 2025).⁴

⁴ The National Commission for the Missing and Forcibly Disappeared, First Report 2020-2025, p. 15.

On December 3, 2021, the ICRC provided the Commission only with preliminary information necessary for approaching the missing persons file, including the number of ante-mortem questionnaires completed and the number of biological samples collected from relatives of the missing to facilitate the future identification of human remains.

The ICRC made the transfer of the complete database and the associated biological data, which could serve as the cornerstone of the Commission's work, conditional upon the Commission's adoption of the Central Register Management Rules for Missing and Forcibly Disappeared Persons pursuant to Article 35 of Law No. 105/2018, thereby establishing a comprehensive system for the protection of personal data. In its current mandate, the Commission has indeed placed the establishment of this data protection system among its highest priorities.

The Commission's ability to consolidate information has also been strengthened by the memorandum of understanding it signed in July 2025 with the United Nations Independent Institution on Missing Persons in the Syrian Arab Republic. This agreement is expected to provide the Commission with valuable information regarding the fate of missing persons for whom there is evidence of their detention in Syria by the former Syrian regime.

Conclusion

The two main sections of this review illustrate the long and arduous journey undertaken by the families of the missing in pursuit of a single objective: to learn the fate of their loved ones. This right represents the minimum threshold of justice, as it is confined to recognizing certain rights of the victims without in any way challenging the General Amnesty Law.

In reality, their journey stands as a magnified example of the hardships and obstacles that any victim or group of victims may encounter when seeking justice for crimes intertwined with the interests of the prevailing political order, whether the victims of the 1975-1990 war, the victims of the banking system and the economic collapse, the victims of the Beirut Port explosion, or the victims of major environmental crimes.

Perhaps the central question confronting both the families of the missing and Lebanese society as a whole today is this: Will they truly succeed in enforcing the right to know, whose recognition they painstakingly secured from one state institution after another, and finally reached the last stage of their long struggle? Or will the political authorities' symbolic recognition of the right to know ultimately serve only to contain their movement, absorb its momentum, and buy additional time to evade the obligations that truth entails, while waiting for the mothers and wives to pass away and wagering that future generations, burdened by challenges of their own, will no longer carry the same pain or the same determination to seek the truth?

In other words, the families of the missing, and all of us alongside them, stand today at a crossroads. The decisive battle before them is to transform the legal and judicial victory they achieved in securing recognition of the right to know into a lived reality, so that this victory does not remain merely symbolic.

One can only hope that the families of the missing will not be left to fight this battle alone, not only because they are victims whose right to justice is long overdue, and not only because they have, for decades, stood at the forefront of resistance against a political order with which many social forces ultimately chose to accommodate themselves, an order that has gradually turned almost all of society into its victims, but also because their long and painful journey has charted the path toward building a genuine state and a true democracy.

A democratic state cannot be built upon injustice; it can only be built upon justice. Let us walk the path that the families of the missing have carved with so much suffering – for their sake, but also for our own.

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Founded in 1989, the Lebanese Center for Policy Studies is an independently managed, non-partisan, non-profit, non-governmental think tank whose mission is to produce and advocate for policies that improve governance in Lebanon and the Arab region. LCPS's current research agenda focuses on: enhancing governance, informing the process of economic growth and sustainable development, promoting inclusive and effective social policies, and informing the development of policies for a sustainable environment. Four themes cut across the above areas of focus, including gender, youth, conflict resolution, and technology.

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