

Republic of Lebanon

Parliament

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Law on the Missing and Forcibly Disappeared Persons

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CHAPTER I: DEFINITIONS

Article 1: Definitions

For the purposes of this Law, the following words and expressions, wherever they appear in this Law and in all decrees and regulations issued in implementation thereof, shall have the meanings set out below, unless the context otherwise requires:

1. Missing person: a person whose whereabouts are unknown to their relatives as a result of an international or non-international armed conflict, abduction, disaster, or any other cause.
2. Forcibly disappeared person: a person who is missing as a result of arrest, detention, abduction, or any other form of deprivation of liberty carried out by agents of the State or by groups or persons, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the person's fate or whereabouts, thereby placing the person outside the protection of the law.
3. Family members: descendants born within or outside marriage; adopted children; stepchildren who were dependent on the missing or forcibly disappeared person; the spouse or ascendants of any degree, including the stepparents; and the siblings and their children.
4. Close parties: legal persons, including political parties and non-profit associations, of which the missing or forcibly disappeared person was a member.
5. Associations representing family members: associations operating in Lebanon at least one quarter of whose members are family members of missing or forcibly disappeared persons, and whose objectives include work on enforced disappearance or on missing persons resulting from armed conflict.
6. Minimum data: the data consisting of: the given name and surname of the missing or forcibly disappeared person, their place and date of birth, the name of one of their

parents, their marital status, their profession, their address, and reliable information about the circumstances in which contact with the person was lost or they disappeared.

7. Central Records: the central database for the storage and management of tracing requests concerning missing and forcibly disappeared persons and of related information.
8. Tracing request: the request submitted to the Commission to trace missing or forcibly disappeared persons.
9. General tracing information: all types of information relating to the tracing process aimed at determining the fate of missing and forcibly disappeared persons, excluding personal information (as defined below).
10. Personal information: data that identify or can be used to identify missing or forcibly disappeared persons, such as the name, audio-visual material, the identity card number, location data, and online identifier, or that may indicate one or more factors specific to the physical, physiological, genetic, psychological, economic, cultural or social identity of the data subject.
11. Reliable information: information that, on the basis of acceptable factual data, makes it likely that a given person falls within the definition of a missing or forcibly disappeared person.
12. The Commission: the National Commission for the Missing and Forcibly Disappeared Persons established under this Law.
13. Identification of human remains: the legal identification based on a scientific process that compares information on missing and forcibly disappeared persons with forensic information obtained from the human remains, in accordance with best forensic practices and internationally recognized data-protection standards. Where the missing or forcibly disappeared person is found alive, identification shall be carried out in accordance with the laws in force.
14. Burial site: a site where human remains belonging to one or more persons have been found.

CHAPTER II: BASIC RIGHTS AND OBLIGATIONS

Article 2: The Right to Know

Family members and close parties shall have the right to know the fate of their missing or forcibly disappeared members and relatives, their whereabouts or the place of their detention or abduction, and to know the location of the remains and to have them returned to them. This right also includes identifying burial sites, recovering and exhuming human remains, examining them, and determining the identity thereof.

Article 3: The Right to Be Informed

Family members and, in their absence, close parties shall have the right to be informed of general tracing information of missing and forcibly disappeared persons, and of the investigations that

are not subject to confidentiality by law, which may serve to determine their fate, within the mechanisms specified in accordance with the provisions of this Law.

- (a) The Commission shall have the right to receive all information relating to tracing that is available to all competent bodies, administrations, and authorities.
- (b) Family members shall have the right to receive the private information relating to the tracing of missing and forcibly disappeared persons that is available to the entities specified in paragraph (a) above, by a decision of the competent judicial authority.

Article 4: Non-Discriminatory Treatment

The competent Lebanese authorities shall guarantee the rights of the family members of missing or forcibly disappeared persons without discrimination as to whether the person was a member of the military or a civilian, and without regard to color, sex, race, language, religion, political or other belief, national or social origin, membership of a minority, social or financial status, age, physical or mental disability, or any other discriminatory grounds.

Article 5: The Right to Compensation

- (a) Missing and forcibly disappeared persons and their family members shall have the right to adequate moral and material compensation, to be determined by decree adopted in the Council of Ministers upon the proposal of the Ministers of Finance and Justice, based on the recommendation of the Commission, within one year of the entry into force of this Law.
- (b) Nothing in this Law shall in any way be interpreted as affecting the right of missing and forcibly disappeared persons and their family members to claim damages in accordance with ordinary law.
- (c) Where the Commission finds that the conditions for declaring a person missing are met, it shall issue a certificate to that effect, a true copy of which shall be delivered to any family member or close party of the missing or forcibly disappeared person; the Commission may specify in the certificate the approximate date on which the person went missing or was last seen. Where one year has elapsed since the person went missing or was forcibly disappeared, as stated in the certificate referred to in this paragraph, the rights holders may claim on the basis thereof the monetary entitlements, including salaries, by decision of the competent court.
- (d) The competent judiciary retains the right to assess certificates and reports issued by the various competent authorities when examining proceedings seeking a declaration that a person is missing or deceased.

Article 6: Obligation to Disclose Information

- (a) Any person holding information relating to tracing, including individuals, bodies, institutions, authorities and administrations, shall disclose it before the Commission or the Special Committee for the Exhumation of Burial Sites, and no one may invoke professional secrecy.

- (b) Any person holding information about the existence of a burial site on property owned, occupied, previously inhabited, or worked on by that person in any capacity shall, on their own initiative, disclose it to the Commission as soon as the Commission is established. The person may also disclose the information orally, without incurring liability and with their identity concealed, to a member of the Commission, who shall duly record the information and sign the statement.

The bodies and institutions concerned with matters of justice, defense, interior and social affairs, and health, and other bodies responsible for searching for missing or forcibly disappeared persons in accordance with their powers and jurisdictions, shall make the information in their possession available to the Commission and assist in the search for missing or forcibly disappeared persons, in order to find solutions to their cases by providing sufficient and clear answers regarding their fate.

The competent authorities shall, within thirty days of the entry into force of this Law, cooperate with the Commission responsible for the search and with the family members of missing or forcibly disappeared persons, and provide assistance in securing the rights of the family members of the missing and forcibly disappeared, pursuant to this Law and the other laws in force.

The competent authorities shall, on the basis of the new and previous requests for information submitted to them, preserve and verify the information in their possession, disclosing relevant facts and sources, and compare the information with the official documents and evidence examined in the course of the search for the missing or forcibly disappeared person. They shall also submit a written record of the findings to the Commission and the person entrusted by the Commission with the search.

The legal and administrative procedures in force shall apply to requests for review and for access to information, time limits for objecting to unsatisfactory answers, and cases of administrative non-response.

The competent authorities shall record and verify all new information that may facilitate the search for or identification of missing or forcibly disappeared persons, and shall transmit it immediately to the Commission.

The competent authorities shall also take the necessary measures to prevent and punish acts that obstruct the course of the investigation. They shall ensure, in particular, that no pressure or influence is exerted on the processes referred to in this Law.

Article 7: Obligation of Exchange and Cooperation

The competent authorities shall exchange information relating to the process of searching for missing or forcibly disappeared persons and to the determination of their fate and identity, and shall provide such information to the Commission.

In order to improve the process of searching for missing or forcibly disappeared persons, the competent authorities in Lebanon shall cooperate with the International Committee of the Red Cross, the Office of the United Nations High Commissioner for Human Rights, the Commission,

the Lebanese Red Cross^٤ or any other humanitarian organization, in accordance with their respective mandates.

Article 8: Reserved Rights

The declaration of death of a missing or forcibly disappeared person, whether made before or after the entry into force of this Law, shall in no way affect the obligation to secure the rights provided for in this Law.

Nothing in this Law shall in any way be interpreted as affecting the right of missing and forcibly disappeared persons during armed conflicts, whether international or non-international, occurring on Lebanese territory, and the right of their family members to have recourse to the courts in accordance with applicable law.

In the event of a disaster or natural event, family members shall benefit from the aforementioned provisions in Articles 3 to 5 of this Law.

CHAPTER III: THE NATIONAL COMMISSION FOR THE MISSING AND FORCIBLY DISAPPEARED PERSONS

Section 1: Establishment and Organization of the Commission

Article 9: Establishment of the Commission

- (a) An independent commission, to be known as the “National Commission for the Missing and Forcibly Disappeared Persons” (referred to in this Law as “the Commission”), is hereby established under this Law. It shall enjoy legal personality and administrative and financial independence.
- (b) The members of the Commission, its employees, and affiliated staff shall perform their functions in complete independence from any other authority, in accordance with the provisions of this Law.

Section 2: Organization of the Commission

Article 10: Composition of the Commission

- (a) The Commission shall be composed of ten members, all of whom shall be appointed by decree adopted in the Council of Ministers by a two-thirds majority, for a non-renewable term of five years, upon the proposal of the Minister of Justice on the basis of the list submitted by the following bodies:
 - 1. Two members, from among six former judges in honorary positions, nominated by the Supreme Judicial Council.
 - 2. Two members, from among six persons with expertise in criminal law, human rights law^٤ or public law, nominated in equal number by the Beirut and Tripoli Bar Associations.

3. A university professor, from among three specialists in human rights or public freedoms, nominated by the Board of Deans of the Lebanese University.
4. A forensic doctor appointed by agreement between the Presidents of the Orders of Physicians in Beirut and North Lebanon. If no agreement on a nominee is reached within one month of the entry into force of this Law, each of the two Presidents shall nominate a forensic doctor, a vote on the two nominees shall be held in each of the councils of the Orders of Physicians in Beirut and North Lebanon. The nominee obtaining the greatest number of votes from both councils shall be appointed.
5. Two members, from among twelve human rights activists, nominated by the Parliamentary Human Rights Committee on the basis of nominations submitted by civil society organizations working in the field of human rights, provided that each candidate is endorsed by at least three Lebanese associations.
6. Two members, from among twelve activists from the associations representing the relatives of missing and forcibly disappeared persons, nominated by the Parliamentary Human Rights Committee on the basis of nominations submitted by the associations concerned, provided that each candidate is endorsed by at least three Lebanese associations.

For the purposes of this paragraph, the associations concerned are those operating in Lebanon, at least one quarter of whose members are family members of missing or forcibly disappeared persons, and whose objectives include working on enforced disappearance or on missing persons resulting from armed conflict.

Article 11: Membership Eligibility Requirements

A candidate shall meet the following requirements:

1. The candidate shall have held Lebanese nationality for at least ten years, shall enjoy full civil rights, shall not have been convicted of a felony or a misdemeanor, shall be of high moral standing, and shall be known for their ethics, integrity, and independence.
2. The candidate shall be at least thirty-five years of age.
3. The candidate shall have at least ten years' experience in their field of specialization.
4. The representation of both sexes shall be taken into account in the selection of members.
5. Candidates' files shall be submitted to the General Secretariat of the Presidency of the Council of Ministers.

Article 12: Full-Time Service and Cases of Incompatibility

- (a) The President of the Commission, unlike the other members, shall serve on a full-time basis in the Commission and shall be prohibited from engaging in any other work while holding office.

- (b) Membership of the Commission shall be incompatible with the presidency or membership of the Council of Ministers or of Parliament, the chairmanship or membership of the board of directors of a public institution, the presidency of a municipal council, a party leadership position, or membership of the councils of professional orders or of the bodies responsible for nominating the members.
- (c) A member may not, until two full years have elapsed following the end of their membership, stand as a candidate in parliamentary, municipal, or mukhtar elections or hold any political or administrative public office.

Article 13: Oath

The members of the Commission shall take the following oath before the President of the Republic: "I swear by Almighty God to carry out my duties in the national commission for the missing and victims of enforced disappearance with honesty, loyalty, independence, and impartiality, and to conduct myself in all that I do in a manner that inspires confidence and demonstrates commitment to truth and the protection and promotion of human rights."

Article 14: Election of the President and Officers of the Commission

After taking the oath, the members shall meet at the invitation of the eldest member or at the request of three members, and shall elect from among themselves, by secret ballot, a President, a Vice-President, a Secretary and a Treasurer for a non-renewable term of five years.

The functions of each officer shall be determined in the internal regulations of the Commission.

Article 15: Internal Regulations and Code of Ethics

- (a) The members of the first Commission shall draw up and adopt, within two months of taking the oath and by a two-thirds majority, internal regulations setting out the detailed rules and procedures governing its organization and functioning.
- (b) The Commission shall, in accordance with the procedure specified above, establish its own code of ethics and high professional standards, which shall be binding on all its members, staff, representatives of associations, and all other persons cooperating with it in the performance of its functions.

Article 16: Vacancy

Where a seat falls vacant, for any reason whatsoever, more than one year before the end of the term, the Commission shall declare the vacancy, and its President shall notify the Council of Ministers and the body responsible for the nomination within one week.

The Council of Ministers shall appoint the replacement member within three months of the date of notification, in accordance with the provisions of Article 2 of this Law. The replacement member shall complete the remainder of the term.

Article 17: Immunity of Members

- (a) Except in cases of flagrante delicto, no criminal prosecution or action may be brought against the members of the Commission or the persons working for it, nor may any criminal measure be taken against them, including their arrest, during their term of office or period of work in the Commission, or thereafter, in respect of acts relating to their activity in the Commission, except with the authorization of the Commission and after hearing the member or employee concerned, who shall not take part in the vote.

The Commission shall issue its decision within two weeks of being notified of the request for a waiver of immunity by the competent judicial authority, failing which the authorization shall be deemed to have been granted implicitly. The decisions of the Commission in this respect may be appealed before the First Chamber of the Civil Court of Appeal in Beirut.

- (b) The offices, correspondence, documents, and data of the Commission may not be searched, nor may any judicial or administrative measure be taken in respect thereof, except with the consent of the Commission.

The executive power may not decide to suspend or halt the work of the Commission under any circumstances, including states of emergency and war.

Article 18: Non-Removability of Members

- (a) No member of the Commission may be removed except in the following cases:
 - 1. Where the member's health or mental state prevents them from performing their functions.
 - 2. Where the member has been convicted, by a final judgment, of a felony or an misdemeanor, provided that their membership shall be suspended by operation of law as soon as an indicting decision or any judgment is issued against them in respect of the aforementioned offences.
- (b) The decision of removal shall be taken by the authority competent to appoint members, upon a proposal by the Commission approved by two-thirds of its members, provided that notice of the decision is sent to the person concerned within three days of the date of its issuance.
- (c) Removal decrees may be challenged before the Council of State within two months of the date of notification of the decision.

Article 19: Meetings of the Commission

The Commission shall meet at least once a month, or whenever necessary, upon the invitation of its President. Its meetings shall be duly constituted if attended by at least an absolute majority of its members. The Commission shall take its decisions by an absolute majority of the members present, and, in the event of a tie, the President shall have the casting vote.

A member who is absent from three sessions without a legitimate excuse shall be deemed to have resigned.

Article 20: Committees of the Commission

In addition to the Committee established under this Law, the Commission may establish committees from among its members to perform permanent or specific tasks, as determined by its internal regulations.

Article 21: Employment and Contracting

- (a) The Commission shall be assisted by an administrative body headed by a full-time Executive Director.
- (b) The procedures for appointment and the functions shall be determined in the internal regulations.
- (c) The administrative body shall be subject to the provisions of the Labour Law and the Social Security Law.

Article 22: Information Requests

The Commission may contact Lebanese or foreign authorities and agencies and request that they provide it with any documents or information it deems useful for the proper performance of its functions. The Lebanese authorities and agencies concerned shall respond to the request without delay.

Section 3: Finances and Budget of the Commission

Article 23: Budget and Financial Regulations of the Commission

- (a) The Commission shall enjoy administrative and financial independence and shall be subject to the ex post oversight of the Court of Audit.
- (b) The Commission shall have a special annual appropriation, included under a special heading in the budget of the Presidency of the Council of Ministers, sufficient to cover its expenses and activities.

The Commission shall prepare the draft budget, which its President shall submit to the Minister of Finance within the time limit and in accordance with the procedures laid down in the Public Accounting Law.

- (c) The budget of the Commission shall include a separate line item for the Committee, adequately covering all of its activities and amounting to no less than one quarter of the budget of the Commission.
- (d) A special account shall be opened for the Commission at the Banque du Liban within the Treasury accounts, and the President of the Commission shall be responsible for the commitment of its expenditures and the control thereof in accordance with the procedures laid down in the Public Accounting Law. At the end of the fiscal year, a table of the appropriations expended, certified by the President of the Commission, shall be sent to the Ministry of Finance, and the provisions of the Public Accounting Law shall apply to such tables.

- (e) The accounts of the Commission shall be subject to the internal audit system and to independent auditing by auditing and accounting firms, in accordance with the provisions of Article 73 of Law No. 326 of 28 June 2001 (the 2001 Budget Law).

Article 24: Funding of the Commission

The revenues of the Commission shall consist of:

- (a) The contributions allocated to it in the budget.
- (b) Donations, gifts, and any financial support from local or international entities, and any other resources, provided that they are not subject in a manner to conditions that are incompatible with its independence and that they comply with the laws in force. Such gifts shall be accepted by a decree adopted by the Council of Ministers.

Article 25: Remuneration of Members

The President of the Commission shall receive a fixed monthly remuneration, while the other members of the Commission shall receive remuneration for attending sessions. Such remuneration shall be determined by a decree adopted by the Council of Ministers upon the proposal of the Ministers of Finance and Justice.

Section 4: Mandate and Powers of the Commission

Article 26: Mandate of the Commission

The Commission and, where necessary, the Special Committee for the Exhumation of Burial Sites and the identification of human remains buried therein, shall work to guarantee the rights and fulfil the obligations set out in this Law, in particular by determining the fate and whereabouts of missing and forcibly disappeared persons, regularly informing their families of the progress and challenges during the process, and locating human remains and handing them over to their relatives, with a view to resolving individual cases. To this end, the Commission may carry out all actions, including but not limited to:

1. Conducting all inquiries, ex officio or upon request, to trace missing persons and forcibly disappeared persons, with a view to securing their release or recovering their remains.
2. Hearing any person suspected of having information in this regard, in accordance with the procedures set out in the internal regulations of the Commission, while ensuring their safety and security.
3. Receiving reports on missing and forcibly disappeared persons and information on burial sites, and hearing testimony from relatives or witnesses whenever necessary.
4. Ensuring the verification and preservation of information on missing and forcibly disappeared persons for entry in the Central Records of the Missing and Forcibly Disappeared Persons, and determining the standards to be followed for its management and protection, for the protection of its confidentiality and that of its sources, and for the protection of its witnesses where necessary, pursuant to Article 36 of this Law.

5. Taking appropriate decisions, such as accepting or rejecting tracing requests, which includes replying by official letter explaining the reasons for rejection.
6. Ensuring, together with the competent authorities, the verification of the DNA database or of any information or biological samples required for the identification of missing and forcibly disappeared persons, information or samples which shall be analyzed and preserved at the Central Forensic Laboratory of the Internal Security Forces; the Commission shall protect such information pursuant to Article 36 of this Law.
7. Establishing an information bank on the locations of burial sites.
8. Determining the standards to be followed for the exhumation of graves and burial sites, and tasking the competent authorities with carrying out exhumations in accordance with those standards.
9. Taking the appropriate measures to place a temporary caveat, for a maximum of six months, on the properties and to protect them in preparation for the commencement of excavation works; the Commission shall notify the owners of its decisions.
10. Appointing the members of the committees responsible for the exhumation of burial sites.
11. Supervising the work of the Special Committee responsible for the exhumation of burial sites, the recovery and identification of human remains buried therein, and the conduct of autopsies and anthropological examinations.
12. Proposing reparation mechanisms for missing and forcibly disappeared persons and their families, and providing support to their families.
13. Coordinating the efforts of local and international institutions and organizations committed to resolving the issue of missing and forcibly disappeared persons, and signing agreements with them.
14. Organizing and providing training in relevant fields of professional expertise.
15. Informing public opinion of the results of investigations and of the facts that have been established.
16. Issuing an annual report on its work, which shall include the number of persons covered by the requests and files being investigated, the remains whose identities have been established, with their names announced, and the number of burial sites investigated in accordance with the provisions of this Law, in compliance with data-protection principles and with due regard for the interests of the families.
17. Raising awareness of the humanitarian aspect of the situation of missing and forcibly disappeared persons and their families, and of their needs and suffering, among decision-makers and the public.
18. The Commission may call upon the various security agencies and the judicial police to enforce any of its functions through administrative and legal means.

19. The Commission may take all measures to halt any construction, excavation, alteration of physical features, or other works in order to ensure the protection of the locations of burial sites.
20. Ensuring that matching operations are carried out against the information available to it or to any competent authority, in order to verify the identity of missing and forcibly disappeared persons from their remains or to determine their whereabouts if they are alive, and ensuring legal identification by the competent authorities.
21. Issuing documents and certificates to the families of missing and forcibly disappeared persons.
22. Providing the competent authorities with information that may improve tracing operations for missing and forcibly disappeared persons.
23. Submitting recommendations to the Government on the mechanisms to be followed to ensure justice for missing persons, forcibly disappeared persons, and their families.
24. Making information available to the National Information Bureau in the event of an armed conflict or a situation of occupation, as provided for in the Geneva Conventions of 12 August 1949.

CHAPTER IV: SEARCH FOR BURIAL SITES AND EXHUMATION OF HUMAN REMAINS BURIED THEREIN

Article 27: Seizure

Where there is evidence of the existence of a burial site of one or more missing or forcibly disappeared persons, the Commission shall notify the competent Appellate Public Prosecutor of the evidence in its possession in this regard and of the measures it intends to take to verify the existence of the site, locate it, and protect it. The Public Prosecutor may, on the basis of the evidence available to the Commission, before or after conducting any investigation, decide to seize the site, fence it off, and, where necessary, appoint a judicial custodian for it.

The owner or occupant of the property shall comply with any measure taken under this Law to locate or guard the burial site in preparation for its excavation, after being duly notified of such measures.

The decisions of the Commission provided for in this Chapter may be challenged before the competent administrative court through summary proceedings. The competent administrative court may impose a fine of twenty million Lebanese pounds on the applicant in the event of bad faith.

Article 28: Establishment of the Committee

1. As soon as the Commission has seized a burial site, it shall establish, within one month of the date of seizure, a special multidisciplinary committee composed of forensic experts, whose mandate shall be to exhume the burial sites and to identify the human remains buried therein. Such work shall be carried out within a reasonable period from the date

of the appointment of the Committee, provided that the conditions appropriate for commencing the exhumation are met, and subject to the provisions of Article 20 of this Law.

2. The Committee shall be composed of five members, as follows:
 - A representative of the family members of missing persons, appointed by the Commission upon the proposal of the group of family members of missing and forcibly disappeared persons.
 - An expert specializing in the identification of human remains, appointed by the Commission.
 - A legal expert appointed by the Commission from among the lawyers practicing in the governorate within which the burial site is located.
 - A member of the municipal council of the municipality within whose administrative boundaries the burial site is located, appointed by the Commission after consulting the head of the municipality.
 - A judge of the tenth grade, from among the sitting judges serving in the governorate within which the burial site is located, designated by the First President of the Court of Appeal in that governorate. The judge shall serve as the ex officio chair of the Committee.
3. The Committee may request the Commission to extend the time limit prescribed under this Law for the completion of its tasks. Any decision to extend the time limit shall be reasoned.

Article 29: Mandate of the Committee

- Upon its establishment, and after notifying the Appellate Public Prosecution, the Committee shall establish the scientific standards and operational procedures, in accordance with internationally agreed standards and best practices, for investigating and exhuming alleged burial sites, recovering the human remains and associated belongings buried therein, examining them and determining the identities of the persons to whom they belong. It shall ensure that the information relating to missing and forcibly disappeared persons that may assist in the identification process is collected.
- In addition, the Committee shall have the right of access to official documents, wherever they may be, that may facilitate the performance of its tasks. The Committee shall establish the scientific procedures for conducting the laboratory analyses required to identify the human remains.

The Committee shall carry out the above-mentioned work in full independence, and its work in this field shall not be subject to any form of review.

- Where any structures must be demolished in order to uncover the burial site, or where additional protection measures for the grave are needed, the Committee shall

submit a documented and reasoned report to that effect to the Commission. The Commission shall take the appropriate decisions in this regard, together with the necessary measures to restore the site to its previous state, unless there is a legal impediment.

- Upon completion of its investigations, the Committee shall prepare a comprehensive report on all such work, documented by CDs, films, and medical reports evidencing the identification of the human remains, and shall submit the report, together with all the documents annexed thereto, to the Commission.
- The Committee may seek the assistance of the judicial police and the Internal Security Forces to carry out its above-mentioned work.
- The Committee may seek the assistance of specialized experts to complete such work, without their having the right to vote.
- Any member of the Committee may record a reasoned dissenting opinion in the body of the minutes before they are submitted to the Commission.

Article 30: Identification of the Human Remains

1. The Commission shall examine the committees' reports leading to the identification of the human remains, with a view to approving them.
2. The Commission may request the Committee to amend certain items of the report, with the exception of the scientific findings, within a period not exceeding fifteen days from the date of its receipt. If the Committee refuses to do so, the Commission shall take the appropriate decision in this regard.
3. The Commission shall issue its decision on the identification of the human remains, which shall be reasoned and accompanied by the report in its final form and by the documents evidencing the identity of the human remains, and shall notify it to the Public Prosecution and to the family members of the deceased, who may object to its content before the Commission within one month of the date on which they are notified thereof.
4. The Commission shall examine the objection within one month of the date of its submission and shall issue its decision thereon.
5. This decision may be reviewed by the Council of State in accordance with the summary proceedings.
6. The Commission shall hand over the human remains to the family members of the deceased and provide the necessary support for their reburial.
7. Where the human remains are not identified after analysis, they shall be treated with respect and reburied in a clearly marked grave, and all documents shall be duly preserved.

Article 31: Marking the Burial Sites of the Missing and Forcibly Disappeared Persons

The families of missing and forcibly disappeared persons, or their associations, may request the Committee to mark the locations of their burial sites, whether individual or collective, regardless of the number of victims.

The local bodies competent for the search operations for missing and forcibly disappeared persons shall mark the location of the burial site or of the site from which the human remains were recovered, and shall issue a certificate confirming this.

Pursuant to the preceding paragraph, the competent local authority shall permit the erection of a suitable memorial plaque that meets the conditions laid down in the Book of Specifications for Memorial Plaques for the Missing and Forcibly Disappeared Persons.

This Book shall be agreed between the Commission and the associations of the families of missing and forcibly disappeared persons within two months of the date of entry into force of this Law, and shall be submitted to the Council of Ministers for approval.

CHAPTER V: SUBMISSION OF THE TRACING REQUEST; COLLECTION, CENTRALIZATION AND PROTECTION OF DATA

Article 32: Submission of the Tracing Request

1. The “tracing request” shall be submitted to the Commission in accordance with the provisions of this Law.
2. The tracing request may be submitted by a family member of the missing or forcibly disappeared person, by the close parties, by other persons or by other concerned parties, provided that they are able to provide the minimum data regarding the person’s identity.
3. A tracing request may be submitted in respect of non-Lebanese persons, in accordance with the provisions of this Law, in the following two cases:
 - Where there are convincing reasons to believe that the non-Lebanese victim was residing in Lebanon at the time of their disappearance, a tracing request concerning the missing or forcibly disappeared person may be submitted to the Commission, in accordance with this Law, by any of their family members or by any person, institution, or body concerned with missing and forcibly disappeared persons, provided that they have the minimum data regarding the identity of the missing person as provided for in Article 2 of this Law.
 - Requests by foreign nationals submitted from outside Lebanon may also be pursued, in accordance with the provisions of this Law, where the missing or forcibly disappeared person:
 - (a) does not hold Lebanese nationality but holds a temporary residence permit in Lebanese territory;
 - (b) does not hold a residence permit, but reliable information confirms the person disappearance in Lebanese territory;

- (c) or where the requesting party is able to provide reliable information about the circumstances of the person's disappearance in Lebanon.
- 4. All requests relating to the disappearance of any person whatsoever that were submitted to a competent official body before the entry into force of this Law shall be deemed valid and in conformity with the provisions of this Law, provided that they contain the required minimum data. Where the minimum data have not been provided, the requesting party shall be contacted within a reasonable period to complete the data.
- 5. The tracing request shall be subject to verification and comparison against all official records previously or currently maintained in Lebanon. Upon acceptance of the request, the Commission shall deliver to the interested parties a certificate bearing the number of the file relating to the missing or forcibly disappeared person held by the Commission.

Article 33: Creation of the Central Records

The Commission shall create the Central Records, which shall consist of the set of individual records of missing or forcibly disappeared persons in respect of whom a tracing request has been submitted. These records shall be subject to the principle of confidentiality of private information and to the related legal provisions in force in Lebanon, as set out in the internal regulations of the Commission.

Associations representing family members, any international organization with a branch in Lebanon, and any natural or legal person holding a database on missing persons relating to any period whatsoever may be requested to provide them to the Commission, with a view to consolidating and completing these records.

To this end, the Commission shall have the right to conclude agreements with local or international institutions concerned with the tracing of missing and forcibly disappeared persons in order to guarantee the protection of the confidentiality of the information provided to it by such institutions, in compliance with the laws in force.

Article 34: Compilation of Official Information Relating to Declarations of Absence or Death

The Commission shall obtain, in coordination with the official bodies concerned, copies of the files of the actions brought since 13 April 1975 before any of the competent Lebanese courts seeking a declaration of absence or death of an absentee. Copies of all requests for declaration of absence, enforced disappearance, or death submitted as from the date of entry into force of this Law, as well as copies of judgments issued in respect thereof by any functioning court, shall also be sent to the secretariat of the Commission. Such referral shall not constitute any pretext for halting prosecutions or judicial investigations. The Commission shall also obtain from the Ministry of the Interior, General Directorate of Personal Status, the entries relating to the registration of the death of an absentee or of a forcibly disappeared person since 13 April 1975.

Article 35: Collection and Use of Data

The Central Records consist of a set of individual records of persons reported missing or forcibly disappeared, or shall contain information on the identity of the missing or disappeared person, the place and circumstances of their disappearance, and any other information that assists in tracing and identifying them. All data entered in the Central Records shall be subject to verification by the Commission in accordance with best forensic practices and internationally agreed data-protection standards; such verification shall cover the validity of the request and the official documents retained by the competent Lebanese authorities.

The competent authorities shall give priority to responding to requests from the Commission to verify and compare the data with other official records of missing and forcibly disappeared persons. The verification and entry of data collected on missing and forcibly disappeared persons in the Central Records by the competent authority shall be completed within one year of the date of establishment of the Commission. Only a verified and confirmed request or report shall be relied upon as a basis for the rights under this Law.

Article 36: Data Preservation

The data of the Central Records shall be subject to the laws and regulations in force concerning record-keeping and official databases, and to the relevant international standards on data protection.

The management, entry, exchange, access, use, and verification of data shall be subject to the detailed special conditions set out in the Book of Regulations for the Management of the Central Records of the Missing and Forcibly Disappeared Persons.

The Book of Regulations for the Management of the Central Records of the Missing and Forcibly Disappeared Persons shall be approved the Commission within one month of its establishment.

Cooperation and coordination between the competent authorities shall be governed by the Lebanese rules and laws applicable to important cases of this nature. The persons entrusted with handling and managing confidential personal data relating to the physical, genetic, and medical characteristics of missing and forcibly disappeared persons shall be subject to the confidentiality rules laid down in the Book of Regulations for the Management of the Central Records of the Missing and Forcibly Disappeared Persons.

Personal information, including medical or genetic data collected and/or transmitted in the context of tracing a disappeared person, may not be used or made available for purposes other than tracing the disappeared person. The collection, processing, and retention of personal information, including medical or genetic data, may not violate human rights, fundamental freedoms, or human dignity.

CHAPTER VI: PENAL PROVISIONS

Article 37:

Any person who acts as an instigator, perpetrator, accomplice, or accessory to the offence of enforced disappearance shall be punished by imprisonment with hard labor for a term of five to fifteen years and by a fine of fifteen million to twenty million Lebanese pounds.

Article 38:

The following shall be punished by imprisonment for a term of six months to two years and by a fine of one million to ten million Lebanese pounds:

1. Any person who denies a family member or the Commission access to information.
2. Any person who, without justification, causes the obstruction of the provision of information requested by a family member or the Commission.
3. Any person who intentionally provides false information that misleads or obstructs the process of tracing a missing or forcibly disappeared person.
4. Any person who exposes any person to criminal liability, threats, or any form of intimidation, merely for inquiring about the fate or whereabouts of a missing or forcibly disappeared person.

The penalty shall be no less than one year's imprisonment and a fine of five million Lebanese pounds where false information is provided, or where the misuse or manipulation of such information is established.

The penalty shall be reduced to one quarter of the prescribed penalty where the person concerned discloses the information in their possession within one month of the date on which a criminal complaint is filed against them.

Article 39: Aggravation of the Penalty

Where it is established that the perpetrator knew that the missing or forcibly disappeared person was still alive, they shall be punished by imprisonment for a term of one to three years and by a fine of twelve million to fifteen million Lebanese pounds.

Article 40: Tampering with Burial Sites

The following shall be punished by imprisonment for a term of one to three years and by a fine of twelve million to fifteen million Lebanese pounds:

1. Any person who tampers with or excavates a burial site with the intent to destroy evidence of the identity of the missing persons buried therein.
2. Any person who obstructs the work of the bodies concerned with tracing missing persons in carrying out their duties of searching for and excavating burial sites, or who fails to enable them to carry out those duties.

CHAPTER VII: FINAL PROVISIONS

Article 41: Observance of the Laws of Inheritance

In applying this Law, the provisions laid down in the inheritance laws applicable to all confessions shall be observed, as shall the provisions of the relevant criminal laws.

Article 42: Implementation Details

The details of the implementation of this Law shall be determined, where necessary, by decrees adopted in the Council of Ministers upon the proposal of the Minister of Justice.

Article 43: Entry into Force of the Law

This Law shall enter into force upon its publication in the Official Gazette.

Statement of Reasons

for the Law on the Missing and Forcibly Disappeared Persons

Lebanon has witnessed in its modern history, particularly during the period of hostilities (1975–1991), cases of abduction and enforced disappearance involving a large number of persons whose fate remains unknown.

Following the end of the wars, Lebanon was unable to find a satisfactory solution for their victims and their cases, specifically the cases of the missing and their relatives. At that time, the concern to avoid reopening old wounds took precedence over the will to pursue justice or provide reparations. As a result, missing and forcibly disappeared persons and their relatives remained the perpetual victims of a past from which most of those responsible for the war, and its perpetrators, were able to free themselves under the laws adopted in its aftermath, while the former remained trapped by that past, their suffering perpetuated amid the indifference of the perpetrators.

The Government subsequently made several attempts to determine the fate of these persons, but those efforts remained limited. The most prominent included the establishment of a committee to investigate the fate of the missing and kidnapped (2000), a commission to receive complaints from the families of the kidnapped (2001), and the Lebanese-Syrian Commission (2005). These efforts did not lead to the disclosure of the fate of these persons, whether by locating them alive or recovering their remains.

On the basis of all the foregoing,

And pursuant to the Constitution, which establishes Lebanon as a democratic State in which citizens are equal, affirms personal freedom and the right to life, and affirms its commitment to human dignity through its commitment to the Universal Declaration of Human Rights and to the international covenants adopted under the auspices of the United Nations;

And pursuant to the international treaties ratified by Lebanon, foremost among them the Convention against Torture, and the Convention for the Protection of All Persons from Enforced Disappearance, which Lebanon has committed to ratify, and the relevant international declarations;

And pursuant to the collective will of Lebanon and all its people to overcome its past and to strengthen civil peace on the basis of the values of human rights, equality, and mutual recognition — matters that cannot be achieved through a truncated view of the past or through its obliteration, but, on the contrary, through solidarity in securing justice for the victims and ending their continuing suffering — it has become appropriate, and indeed necessary, to enact a law to address the cases of missing and forcibly disappeared persons and to put an end to the suffering of their relatives in several respects:

The principal objectives that the draft law aims to achieve are the following:

1. To enshrine the right of family members of missing and forcibly disappeared persons to know their fate.

2. To establish an institution responsible for collecting and documenting information, creating central records, and taking practical steps to locate mass graves in preparation for identifying victims.
3. To take preventive measures to reduce cases of missing persons.
4. To establish a definition of a missing or forcibly disappeared person and the methods of management of the central records relating to the person.
5. To regulate the process of tracing missing and forcibly disappeared persons.
6. To regulate the manner in which mass graves are located, guarded, and opened.
7. To establish a mechanism for securing justice for missing and forcibly disappeared persons and their families.

On the level of rights and recognition of the cause of the missing and their relatives:

It is natural that the central right in resolving the cause of those who went missing during the wars is the enshrinement of the right of their relatives to know their fate, together with the rights that stem from it: access to official archives and access to investigations. Beyond the fact that recognizing these rights is an act of justice required at all times and a duty necessary to put an end to the suffering and psychological anguish of the relatives of the missing, it also has a symbolic dimension in the State's recognition of the cause of a large portion of its citizens; and, of course, the recognition of these rights is founded on the principles of restorative justice.

Conversely, and in order to guarantee the right to know, it is useful for the law to include provisions providing for the punishment of those who conceal information that may contribute to establishing the truth — not on account of their past acts, such as causing kidnapping or killing, which are acts covered by the amnesty, but on account of concealing information that may help put an end to the suffering of missing persons, who may still be alive, and of their relatives in all cases. It is also necessary, in order to prevent a repetition of the past, to adopt a strict approach to the crimes of kidnapping and enforced disappearance by amending the relevant provisions of the Penal Code.

On the level of institutions guaranteeing these rights:

The draft law provides for the establishment of an institution responsible for collecting and documenting information, creating central records, and taking practical steps to locate mass graves in preparation for identifying the victims. Given the sensitivity of the matter, and in order to guarantee the institution's credibility toward the relatives of the missing, the Commission must enjoy a high degree of independence, by being established as an "independent commission" composed of representatives of the relatives of the missing and of civil society, alongside a judge and persons appointed by the Council of Ministers from a list submitted by the bodies concerned, with measures taken to guarantee their independence. It is also of great importance that the Commission carry out its work in parallel with social action relating to memory and the victims of the war.

With regard to mass graves:

The draft law provides for measures to guard and exhume mass graves, in preparation for identifying the human remains buried therein. This requires the establishment of special committees in which the relatives of the missing are represented, in addition to the local authorities, which shall operate under the supervision of the Commission and without prejudice to the functions of the competent judicial authorities.

Accordingly, we submit this draft law to the Honorable Assembly, with the hope that it will be adopted.