

**LIVING WITH UNCERTAINTY**  
**NEEDS OF THE FAMILIES**  
**OF MISSING PERSONS**  
**IN SRI LANKA**



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# ACKNOWLEDGEMENTS

On the occasion of publishing this report, the ICRC first wishes to thank the many families of missing persons, who participated in the Families' Needs Assessment by taking the time to answer the questions and be a part of focus group discussions.

Our hope is that this report will help the Government to put in place a comprehensive response to address the humanitarian needs of all families of missing persons and that it will provide grounds for other national and international stakeholders in Sri Lanka to develop programmes in their favour.

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# ABBREVIATIONS AND ACRONYMS

CBO	Community Based Organisation
CoA	Certificate of Absence
CoD	Certificate of Death
DS	Divisional Secretariats
FNA	Families' Needs Assessment (Assessment)
GoSL	Government of Sri Lanka
ICRC	International Committee of the Red Cross
IHL	International humanitarian law
INGO	International Non-Governmental Organisation
LTTE	Liberation Tigers of Tamil Eelam
MIA	Missing in Action
NGO	Non-Governmental Organisation
SLA	Sri Lanka Army
SLAF	Sri Lanka Air Force
SLN	Sri Lanka Navy
SLP	Sri Lanka Police

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# KEY TERMS AND DEFINITIONS

## MISSING PERSON<sup>1</sup>

A missing person is a person whose whereabouts are unknown to his/her relatives and/or who, on the basis of reliable information, has been reported missing [...] in connection with an international or non-international armed conflict, a situation of internal violence or disturbances.

## FAMILY OF A MISSING PERSON<sup>2</sup>

Commonly family includes: children (born in and out of wedlock, adopted children or step-children); partners (lawfully wedded or unwedded); parents (including step-parents and adoptive parents); siblings (including half-siblings and adopted siblings). Nevertheless, in many socio-cultural contexts, the family goes much beyond what is mentioned above and includes members who either live under the same roof or keep close relationships between themselves.

## MISSING IN ACTION

In this report, Missing in Action (MIA) relates to a term used by Sri Lankan authorities to refer to missing persons who at the time of their disappearance were members of the Sri Lanka Army, Sri Lanka Navy, Sri Lanka Air Force and Sri Lanka Police and have disappeared while on duty and/or while taking part in active hostilities.

## FAMILIES' NEEDS ASSESSMENT<sup>3</sup>

A Needs Assessment is a process aimed at understanding what are the families' specific difficulties, needs and expectations, what are the existing resources, means and coping mechanisms available to address the expressed needs and what are gaps between expressed needs and existing resources (provided services); with the aim to define an appropriate response.

## PSYCHOLOGICAL

'Psychological' refers to individual thoughts and feelings, and to ways of perceiving the environment and analysing situations. 'Psychological difficulties' describes the suffering experienced by individuals while dealing with stressful situations. These difficulties can affect: behaviour, emotions, the ability to think or analyse or to memorise routine details, relations with others, and personal health (in the form of pain unrelated to physical ailments).

## PSYCHOSOCIAL

This term highlights the relationship between individuals and their social environment. This is an essential relationship: changes in the social environment of individuals can affect their well-being and their ability to cope and vice versa.

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<sup>1</sup> Guiding principles / Model law on the Missing, ICRC 2009, Article 2 "Definitions", [www.icrc.org/eng/resources/documents/misc/model-law-missing-300908.htm](http://www.icrc.org/eng/resources/documents/misc/model-law-missing-300908.htm).

<sup>2</sup> Accompanying the Families of Missing Persons: A Practical Handbook, ICRC 2013, Chapter 1: General information, page 17, <https://www.icrc.org/eng/assets/files/publications/icrc-002-4110.pdf>.

<sup>3</sup> Internal guidelines: Assessing the Needs the Families of Missing Persons, ICRC 2011, Key definitions.





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# EXECUTIVE SUMMARY

The following report outlines the findings of the 'Families' Needs Assessment' (FNA) carried out by the ICRC from October 2014 to November 2015. It includes a detailed description of the needs of families of missing persons; the existing resources available to them (or lack thereof), and their current coping mechanisms. It also includes the ICRC's recommendations on how to respond to such needs. This report is published with the intention to support and facilitate the action in favour of missing persons and their families.

The ICRC's focus on the issue of missing persons stems from the fact that the adoption of all possible measures to account for persons reported missing - as well as provision of information thereon - is an obligation imposed on states by IHL. Moreover, the experience of countries recovering from conflicts worldwide has shown that not resolving problems relating to the issue of missing persons and their families can pose a serious obstacle to reconciliation and act as an ongoing reminder of conflict for society as a whole. The ICRC believes it is therefore imperative that the fate of the persons missing in relation to the past armed conflict in Sri Lanka - and the needs of their families - be addressed in full.

The ICRC defines a missing person as a person whose whereabouts are unknown to his/her relatives and/or who, on the basis of reliable information, has been reported missing [...] in connection with an international or non-international armed conflict, a situation of internal violence or disturbances.<sup>4</sup> This broad definition allows for inclusion of all persons who went unaccounted for in relation to the armed conflict, regardless of whether they were forcibly disappeared, are Missing in Action or are missing due to loss of contact with their families.

Families of missing persons face a constant emotional struggle incomparable to most other forms of grief. They suffer from a phenomenon known as 'ambiguous loss'<sup>5</sup> - a form of grief that encompasses a psychological and social aspect. This prevents closure, causes constant vacillation between hope and despair, drives a constant search for knowledge of the exact circumstances of the disappearance, and affects families' ability to restart their lives. The ICRC recognises the complex nature of this form of loss on the basis of years of experience working on the issue of missing persons and their families around the world.

The needs of the families of missing persons are as specific as their suffering. Therefore, the FNA was undertaken by the ICRC with the belief that a deeper understanding of these needs will allow the authorities and all actors involved to frame an adequate response.

The ICRC has been registering and resolving cases of persons reported as arrested, separated families and missing persons in connection with the past armed conflict in Sri Lanka since the establishment of its permanent presence in 1989. Today, a caseload of over 16'000 missing persons, including over 5'100 security forces personnel Missing in Action, originating from all over Sri Lanka, remains unanswered. Hence the ICRC's decision to conduct the Assessment in all districts of the country.

The methodology of the Assessment included mixed methods of data collection - in order that the data is as representative and accurate as possible. These methods encompassed desk research prior to the execution of the Assessment (taking into account both internal and external sources); 395 semi-structured interviews (comprising a mix of closed and open-ended questions) with families of missing persons in all districts; 17 focus-group discussions in 11 different districts (to allow individuals to speak independently of their family members, and to focus on specific themes which rose out of the individual interviews); and, finally, meetings with key stakeholders (including government agencies, and members of civil society).

The needs of the families which were identified during the Assessment could be broadly categorised as follows: the need to know the fate and whereabouts of the missing person (as well as circumstantial information related to the disappearance); emotional, economic, and legal/administrative needs; and, finally, the need for acknowledgement and justice. The most pressing need - according to the majority of interviewed families of missing persons - is the need to know, followed by the need for economic assistance. The combination of the lack of answers on the fate of their missing relative(s) with pressing economic concerns creates psychological/psychosocial problems, which in turn account for the next most pressing need. In terms of action by the authorities, the majority of families believe that receiving answers on the fate of their relative(s) would resolve their problems, closely followed by financial assistance.

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<sup>4</sup> Guiding principles / Model law on the Missing, ICRC 2009, Article 2 "Definitions", [www.icrc.org/eng/resources/documents/misc/model-law-missing-300908.htm](http://www.icrc.org/eng/resources/documents/misc/model-law-missing-300908.htm).

<sup>5</sup> Pauline Boss - Ambiguous loss in families of the missing, P39. The LANCET Supplement, Medicine and Conflict, Vol 360, December 2002.

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When asked about their beliefs regarding the possible fate of their missing relatives, of all the families interviewed, 36% believed their loved ones to be dead, 31% were convinced that they were still alive, and 33% expressed uncertainty. Regardless of their beliefs, a constant vacillation between hope and fear was recorded among all families; those who expressed the belief that their relatives were dead maintained the hope that they may still be alive, while those who believed that they were alive, still feared that their relatives might be dead. Believing their missing relatives might be dead or being unsure of their fate, did not prevent the families from expressing a need to receive more detailed information from the authorities as to the fate and whereabouts of their missing relatives. Over two thirds of the interviewed families expressed such a need. Seventy nine percent of the interviewed families also mentioned at least once the need for information on the location of buried human remains and/or to receive the identified remains of their relatives. Understandably, all those who believed their missing relatives to be alive wanted to know where they are.

Ambiguous loss, which is caused by the uncertainty about the fate and whereabouts of their missing relatives, entails a state of perpetual suffering, in which the life of the families of missing persons is put on hold, freezing the natural grieving process and giving rise to feelings of frustration and helplessness. On the social level, this grief can lead to social isolation, a feeling of not being understood by friends or relatives, exclusion and even stigmatisation by the community. This suffering, when combined with economic, administrative and other stress-factors, is proven to lead to serious health problems, including anxiety and depression. These manifestations of ambiguous loss are indicative of social and relational problems; they are rooted in external factors which cause stress and ambiguity. Consequently, the families interviewed do not wish to receive the kind of counselling services which assume mental illness; of the 395 families interviewed, a mere 2% suggested that counselling could be useful. Conversely, 70% expressed the desire to talk about their missing relative with an understanding interlocutor, and 75% expressed the need to participate in group commemorative events relating to their missing relatives. Although there are services available in many parts of Sri Lanka to help families deal with mental health problems, these are mostly geared towards psychiatric care and advice giving counselling, which is perceived by communities as service for the mentally ill, and fall short of adequate coverage and appropriateness of care for families suffering from ambiguous loss.

During the Assessment, statistics showed the correlation between ambiguous loss, economic difficulties and mental health issues faced by the families of missing persons. For example, out of 56% of all families that expressed economic difficulties, 86% showed symptoms of anxiety or depression.

The economic difficulties expressed by families of missing persons have their roots in a variety of factors; the loss of the breadwinner, destruction of property, negative impact of the conflict on business, and expenses related to the search for the missing person. The Assessment revealed that these factors lead to dire financial straits, which in turn creates spiralling debt, hinders the education of children, and generates difficulties with running the household. A high rate of unemployment (56%) was also recorded among all the families interviewed. The fact that in 93% of the families interviewed the missing relative was a male, meant that in most cases women were forced to take on the role of the breadwinner or else rely on the support of other male relatives. This phenomenon seemed to have much less effect on families of Missing in Action, since they are eligible for a range of government-sponsored compensation schemes.

The majority of the interviewed families reported that they face serious bureaucratic difficulties in the management of family assets registered under the name of the missing person. The fact that Sri Lankan law does not recognise the status of a person as 'Missing', obliges families to obtain a death certificate to carry out basic administrative tasks (e.g. access/close the bank account of the missing person, claim the monthly salary of the missing person deposited by the employer, or reclaim land owned by the missing person). Despite this situation, 66% of the interviewed families stated they had refused to accept a death certificate until the death is proven. Out of one third of interviewed families that had accepted a death certificate, almost half stated they would have preferred to have a 'certificate of absence' if it had been available. Families also reported other administrative problems in accessing benefit schemes such as a lack of clear information on who is eligible to which schemes, lack of response to applications, inability to provide necessary documentation etc. The Assessment also seemed to reveal an inconsistency between schemes available to families of those Missing in Action and those of other missing persons.

The families of missing persons have many of the needs that other victims of armed conflict have, but they attach distinctive priority to the need for information. <sup>6</sup>The need to know the fate and whereabouts of their missing relative evolves into other needs, including the need to know who should be held accountable for the disappearance of their relative. In the course of the Assessment, the ICRC did not ask specific questions on justice and accountability. However, these issues were spontaneously raised by the interviewed families during the course of the interviews. Thirty four percent of them expressed the need for justice. Of these, the majority (17%) asked for reparative justice, while 11% asked for retributive justice, and 6% for both. The most frequently demanded form of reparative justice was financial assistance, but only if accompanied by acknowledgement of their suffering and difficulties on the part of the authorities, and not presented as simple financial compensation for the life of their loved one. Twenty three percent of families asked for a form of acknowledgement by the authorities of their loss - whether symbolic (in the form of a monument, road name etc.), ceremonial, or otherwise (e.g. declaring a day of the Missing, public acknowledgement, conferring respect/privileges).

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In conclusion, the Assessment revealed that the highest priority for the families is to know the fate and whereabouts of their missing relative(s), including circumstantial information related to the disappearance. The lack of information about the fate and whereabouts of their missing relatives emotionally exhausts the families and adversely affects their day-to-day functioning, including their ability to lead an economically sustainable life.

Therefore, while awaiting the clarification of the fate and whereabouts of their missing relatives, it is important to ensure that adequate services and benefits are made available to such families to address their economic and emotional needs. It was observed that the families who have benefitted from state services are demonstrably better able to cope with their situation caused by ambiguous loss. Legal and administrative factors also have to be addressed in supporting families to live with ambiguous loss while awaiting answers on the fate and whereabouts of their missing relatives. The adoption of a certificate of absence, that would legally recognise the status of their missing relative, without compelling the families to 'decide' on their fate with no proof, is a vital step to ease administrative/legal problems faced by the families. Finally, a formal acknowledgement by the authorities of the loss and suffering of these families, as well as taking appropriate steps to ensure accountability for the disappearance of their relative, would prove crucial steps in the achievement of lasting peace for both the missing persons and their families involved, and indeed for society as a whole.

The detailed list of ICRC recommendations on how best to address the multifaceted needs of the families is found in Section 6 of the report.

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<sup>6</sup>ICRC Report: The Missing and their Families - Summary of the Conclusions arising from Events held prior to the International Conference of Governmental and Non-Governmental Experts (19-21 February 2003), p. 83, [https://www.icrc.org/eng/assets/files/other/icrc\\_themissing\\_012003\\_en\\_10.pdf](https://www.icrc.org/eng/assets/files/other/icrc_themissing_012003_en_10.pdf).



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# 1. INTRODUCTION

People becoming unaccounted for as a direct result of, or in connection with armed conflicts and other situations of violence is unfortunately, a common phenomenon throughout the world. The continuous emotional struggle endured by families of missing persons is an incomparable suffering.

Working on the issue of missing persons and their families in numerous countries around the world, the ICRC's experience shows that the absence of credible answers on the fate and whereabouts of their missing relatives drives the families to search relentlessly for meaning and for knowledge of the exact circumstances of the disappearance.

Families face the dual challenge of carrying on with their daily lives and, at the same time, dealing with the absence of their loved one. Moreover, the uncertainty over their relative's fate leaves them perpetually torn between hope and despair.

For society as a whole, unresolved questions relating to those missing as a result of the conflict act as a reminder of war.<sup>7</sup> The 2011 report of the Lessons Learnt and Reconciliation Commission (LLRC) in Sri Lanka recommended that "a comprehensive approach to address the issue of missing persons should be found as a matter of urgency as it would otherwise present a serious obstacle to any inclusive and long-term process of reconciliation"<sup>8</sup>

Adopting all feasible measures to account for persons reported missing as a result of armed conflict, and providing their family members with all available information thereon, is a legal obligation imposed on states by International Humanitarian Law (IHL).<sup>9</sup>

Families of missing persons constitute a sub-group of victims of armed conflict, and as a general rule, some of their needs are shared by some or all other victims. Nonetheless, families of missing persons face a specific reality of having to wait for an answer about the fate of their missing relative(s), and in light of that develop specific needs.<sup>10</sup> Therefore, it is essential to assess the needs of missing persons' families before embarking upon any action in their or their missing relatives' favour.

In order to contribute to addressing the needs of the families of persons missing in relation to the past armed conflict in Sri Lanka, in January 2014, the ICRC offered to the Government of Sri Lanka to conduct a comprehensive assessment to understand the persistent and current multifaceted needs of the families of missing persons, to analyse the resources available to address these needs, and to provide recommendations on how to bridge gaps between the identified needs and the existing resources.

In October 2014, the ICRC received written permission from Government authorities to carry out the Assessment. The same month, it started data collection through in-depth interviews and focus group discussions with families of missing persons, as well as desk research of literature and reports on the nature and consequences of the conflict in the country, including studies previously carried out by the ICRC. Aiming to fully and accurately understand needs of the families in the Sri Lankan context, the ICRC further tailored its approach to holistically gather data and met with a number of key actors / stakeholders related to this topic. Data collection was finalised in September 2015 and information was compiled and analysed from September to November 2015.

Through the analysis of information gathered, the ICRC has accumulated considerable knowledge of the present needs of the families of missing persons in Sri Lanka, the existing resources (or the lack thereof) and the coping mechanisms utilised so far.

This document aims at portraying the main findings concerning the needs of the missing persons' families and recommending ways to address them in a comprehensive manner. Addressing the multifaceted needs of these families requires a holistic response and a coordinated approach amongst all actors concerned.

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<sup>7</sup> ICRC Report: The Missing and their Families - Summary of the Conclusions arising from Events held prior to the International Conference of Governmental and Nongovernmental Experts (19 - 21 February 2003), paragraph 104, page 90/155, [https://www.icrc.org/eng/assets/files/other/icrc\\_themissing\\_012003\\_en\\_10.pdf](https://www.icrc.org/eng/assets/files/other/icrc_themissing_012003_en_10.pdf).

<sup>8</sup> Chapter 5 - Human Rights, Paragraph 5.37, page 163, <http://slembassyusa.org/downloads/LLRC-REPORT.pdf>.

<sup>9</sup> Customary International Humanitarian Law, Rule 117, [https://www.icrc.org/customary-ihl/eng/docs/v1\\_rul](https://www.icrc.org/customary-ihl/eng/docs/v1_rul).

<sup>10</sup> ICRC Report: The Missing and their Families - Summary of the Conclusions arising from Events held prior to the International Conference of Governmental and Nongovernmental Experts (19 - 21 February 2003), paragraph 104, page 90/155, [https://www.icrc.org/eng/assets/files/other/icrc\\_themissing\\_012003\\_en\\_10.pdf](https://www.icrc.org/eng/assets/files/other/icrc_themissing_012003_en_10.pdf).



## 2. BACKGROUND INFORMATION

The armed conflict between the Sri Lanka Army and the Liberation Tigers of Tamil Eelam (LTTE) has left thousands of families throughout the island searching for their missing relatives.

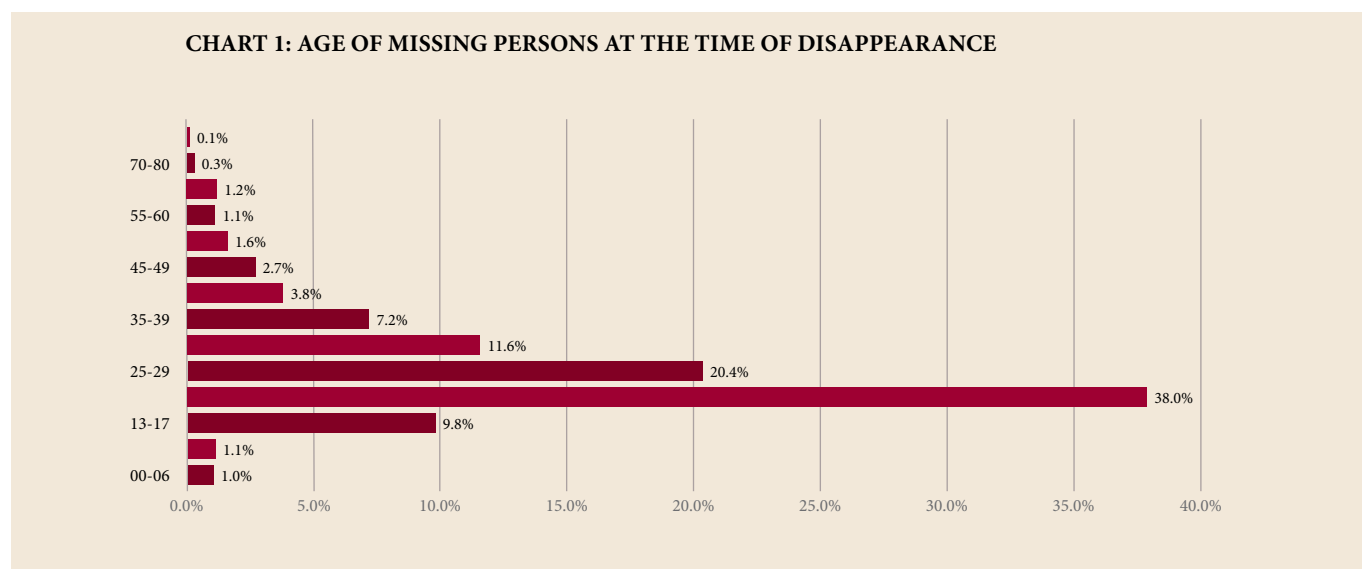
Since the establishment of its permanent presence in 1989 in Sri Lanka, the ICRC has been registering persons reported missing by their families following loss of contact as a result of the armed conflict.

Aiming to re-establish contact between families and the sought family members, the ICRC used to search for people in hospitals and places of detention in both Government and LTTE-controlled areas and provided parties to the conflict lists of the people it was searching for. It maintained a consistent dialogue with the parties to the conflict concerning the evacuation of the injured and acted as a neutral intermediary while transferring human remains. These efforts enabled the ICRC to re-establish links between many separated family members.

Today, however, out of over 34'000 persons that were at some point during the armed conflict considered unaccounted for by their families and reported to the ICRC since 1989, **over 16'000<sup>11</sup> persons are still considered missing by their families.**<sup>12</sup> The ICRC defines a missing person as a person whose whereabouts are unknown to his/her relatives and/or who, on the basis of reliable information, has been reported missing [...] in connection with an international or non-international armed conflict, a situation of internal violence or disturbances.<sup>13</sup> This broad definition allows for inclusion of all persons who went unaccounted for in relation to the armed conflict regardless of whether they were forcibly disappeared, missing in action or simply vanished due to the loss of contact with their families.

### 2.1. MISSING PERSONS' DEMOGRAPHIC PROFILE

Out of the total number of persons registered with the ICRC as still missing today,<sup>14</sup> 12% were minors (age 0 to 17) at the time of their disappearance, while the majority were young adults; over a half of all missing persons were between 18 and 29 years old when they became unaccounted for.



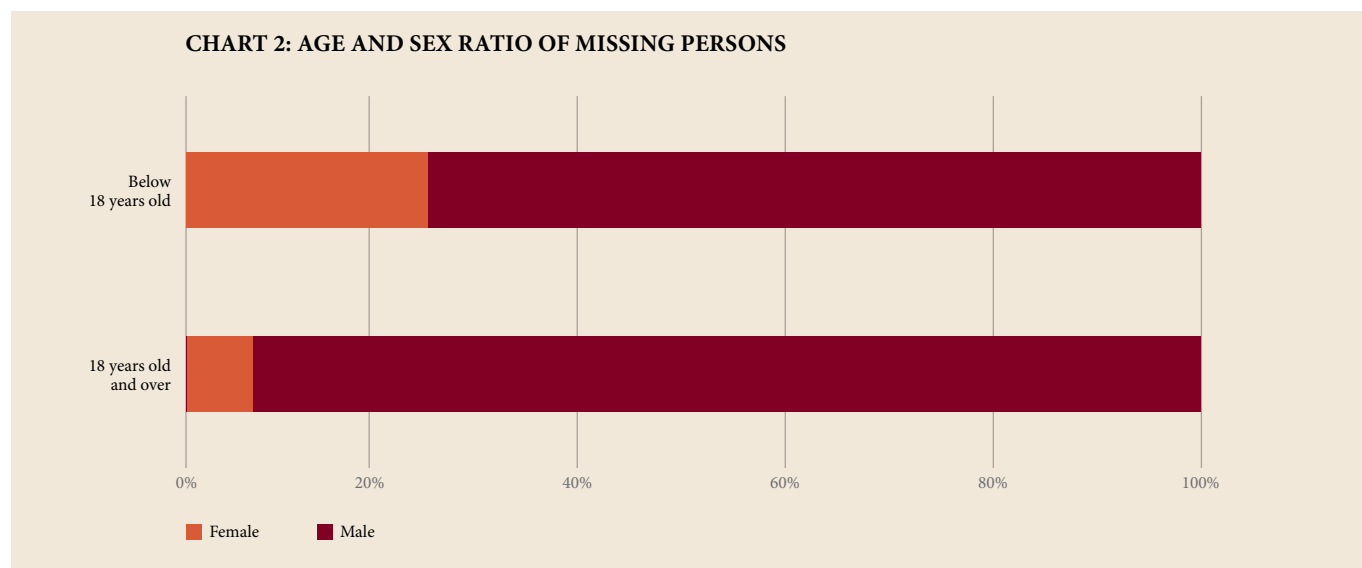
<sup>11</sup> At the time of writing, lists of missing persons registered with the ICRC counted exactly 16'075 persons being looked for by 15'688 families (18 November 2015).

<sup>12</sup> The list of missing persons registered by the ICRC is not exhaustive and is not static. The ICRC is regularly updating its lists based on information made available to it by the families of missing persons or the authorities.

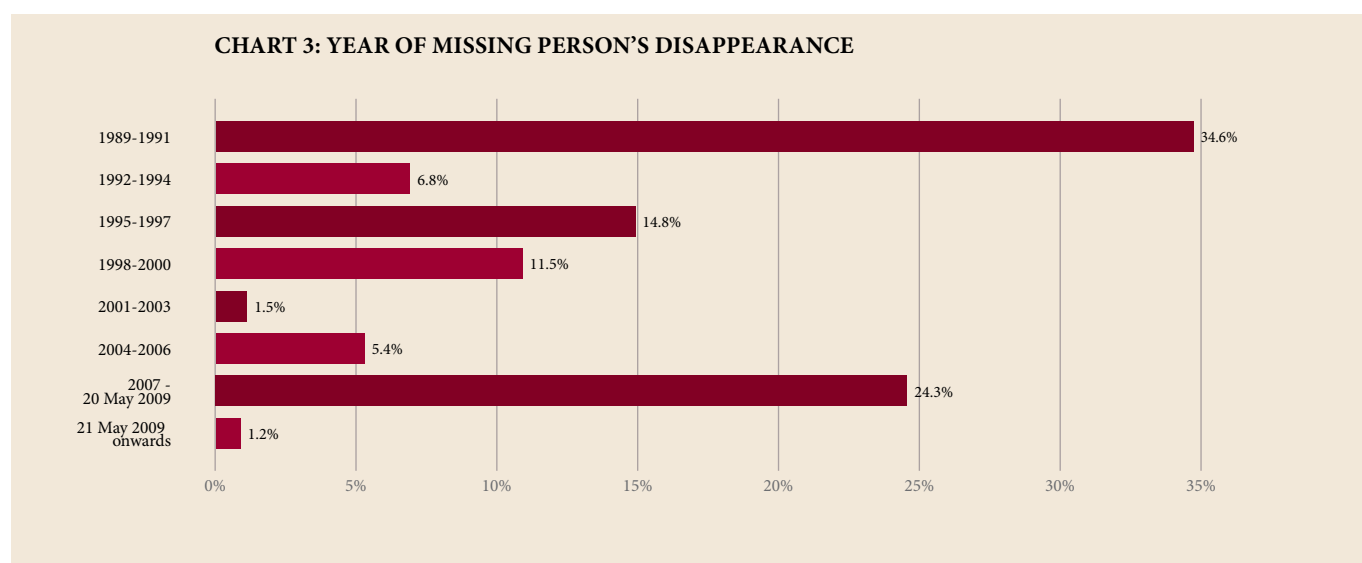
<sup>13</sup> Guiding principles / Model law on the Missing, ICRC 2009, Article 2 "Definitions", [www.icrc.org/eng/resources/documents/misc/model-law-missing-300908.htm](http://www.icrc.org/eng/resources/documents/misc/model-law-missing-300908.htm).

<sup>14</sup> The figures provided in this section relate to the total number of missing persons registered with the ICRC, unless otherwise indicated in the text or footnotes.

The majority (91%) of all missing persons are male (93% of the total number of adults unaccounted for and 76% of missing minors). While women account for 7% of the total number of adults who went missing, almost a quarter (24%) of minors unaccounted for are girls.

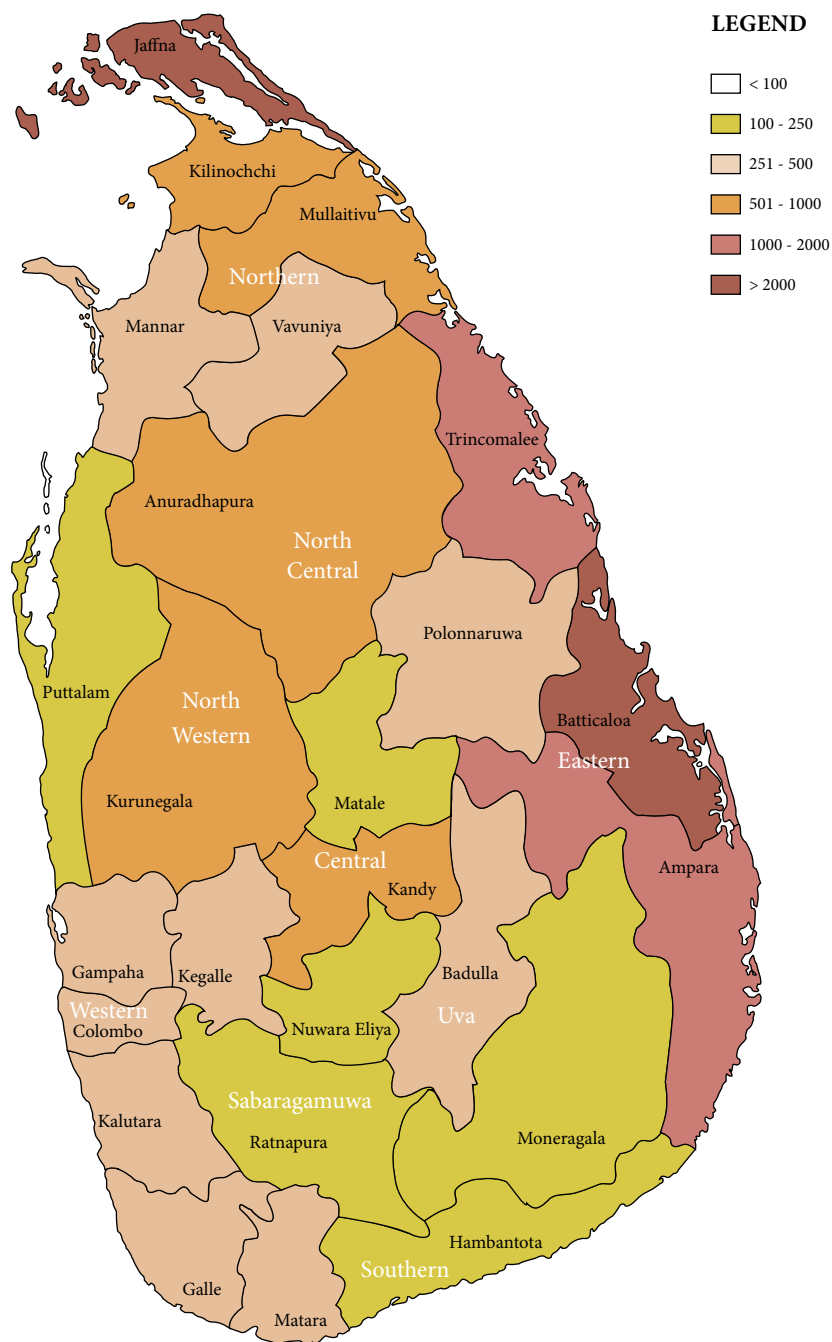


A statistical exploration of the total number of cases of missing persons registered with the ICRC and still active today shows that almost 60% of the missing persons still sought by their families went missing either in the first or the final phase of the conflict (35% and 24% respectively).





**FIGURE 1: MISSING PERSON'S DISTRICT OF ORIGIN**



Data available to the ICRC shows that missing persons originate from all districts of Sri Lanka. This is true for both persons Missing in Action and other missing persons.

This characteristic of the demographic profile of the missing persons registered with the ICRC was taken into account when establishing the sample for the Assessment.

As the entire country has been affected by disappearances, the ICRC decided to conduct the Assessment island wide, and meet the families in all districts.



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## 3. ASSESSMENT OBJECTIVES

Certain categories of persons continue to enjoy protection under IHL long after the ending of active hostilities and military operations: those who have been, or are, detained; the wounded and sick, the Missing, the deceased or displaced; and women and children affected by armed conflict.<sup>15</sup> As such, families of missing persons are also victims of armed conflict and should benefit from protection and assistance.

Families of persons unaccounted for constitute a sub-group of victims of armed conflicts and most of the time their needs are consistent with those of some or all the other victims. However, the uncertainty caused by the lack of answers about the fate of missing relatives makes the families' distress specific in comparison with that of the other victims.

The objective of the Families' Needs Assessment is to learn about the specific difficulties, needs and expectations that families of missing persons in Sri Lanka face today; whether the existing resources, domestic normative frameworks, means and coping mechanisms sufficiently address those needs; and, based on the findings, to make recommendations on how best to address these identified needs. This is done from an independent perspective – avoiding preconceived ideas on what the families need – in order to provide a valuable basis for the Government of Sri Lanka and other relevant actors on which to frame their action in favour of missing persons and their families.

More precisely, the Assessment aims at:

- 1) Identifying the concrete difficulties and specific needs caused by the absence of answers regarding the fate and whereabouts of the missing relative.

Taking into account that the families of missing persons are in specific distress due to the uncertainty caused by the unknown fate and whereabouts of their missing relatives, the Assessment aims at identifying whether the situation of the families of missing persons in Sri Lanka bears any particularities. It aims to understand the causes and the consequences of these particular difficulties and to analyse them from the perspective of the social, cultural and political environment of the families.

- 2) Identifying the existing resources.<sup>16</sup>

The Assessment evaluates the operational capacity of the resources presently available to address the identified needs of the families of missing persons, including the quality and efficiency of the available services.

- 3) Making recommendations to the Government of Sri Lanka and other relevant actors in designing an adequate response to the needs of the families of missing persons identified in this Assessment.

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<sup>15</sup> Customary International Humanitarian Law Rules 109 – 111, 112 – 116, 117, 118 – 128, 129 – 133 and 134 – 135, [https://www.icrc.org/customary-ihl/eng/docs/v1\\_rul](https://www.icrc.org/customary-ihl/eng/docs/v1_rul).

<sup>16</sup> Including domestic normative frameworks.



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# 4. METHODOLOGY OF THE ASSESSMENT

## 4.1. DATA COLLECTION

Mixed methods of information collection were used in this Assessment to help increase the scope and scale of data collected.

### DESK RESEARCH

As the needs of the families of missing persons cannot be analysed in a vacuum i.e. ignoring the political, socio-economic and socio-cultural dynamics of the country, desk research of literature and reports on the nature and consequences of the conflict in Sri Lanka was carried out.

### INTERVIEWS WITH FAMILIES OF MISSING PERSONS

The International Conference of Governmental and Non-Governmental Experts convened by the ICRC in 2003 recognised the following specific needs of the families of missing persons<sup>17</sup>:

- need to receive information on the fate and whereabouts of the missing person (if the person is dead the need is to know the date, place, circumstances of death, and the location of the remains);
- need to be able to proceed to funerals / commemorative rituals;
- need to receive legal and administrative support (information on their rights and procedures);
- need to receive economical and financial support;
- need to receive psychological / psychosocial support;
- need to be protected against security threats;
- need to receive recognition of the suffering they have undergone and to have access to justice.

In order to document the various consequences of the disappearance on the daily life of the families of the Missing in Sri Lanka, semi-structured interviews were conducted with 395<sup>18</sup> family members of the Missing in all districts of the country.<sup>19</sup>

The ICRC assessors used a semi-structured form that included close and open-ended questions relating to the difficulties faced by the families in relation to the disappearance, including psychological, psychosocial, economic, administrative and legal hurdles, and challenges faced in the framework of acknowledgement of their suffering and their need for justice.

There was no question specifically asked regarding acknowledgement and justice needs<sup>20</sup>. However, these issues came out spontaneously, when the families were asked to determine their most pressing issues at the time of the interview.

Combining structure with flexibility, the Assessment form was used as a “script” for the interviews, a framework upon which the discussions with the families were led. Direct interviews allowed dedicating quality time to individual experiences of the families, in order to obtain more information on their difficulties and to quantify problematic issues.

### FOCUS GROUPS

Focus groups<sup>21</sup> were used as a supplementary source of data. Seventeen focus groups gathering particular members of families of missing persons (parents, wives, etc.) were organised in 11 districts<sup>22</sup> with the intention to gain a deeper understanding of their specific needs.

Each participant to the focus group was given a chance to express himself or herself within the dynamic of inter-group discussions regarding the most important problems he/she was facing as a result of the disappearance of his/her missing family member in relation to his/her kinship and family roles.

Gathering of particular members of families of missing persons allowed for the individuals who might have felt uncomfortable to express their needs in front of other members of their own families/households, to do so in an environment that was more secure for the expression of feelings.

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<sup>17</sup> Available at: [https://www.icrc.org/eng/assets/files/other/icrc\\_themissing\\_012003\\_en\\_10.pdf](https://www.icrc.org/eng/assets/files/other/icrc_themissing_012003_en_10.pdf).

<sup>18</sup> Please refer to the sub-section on Sampling for more details.

<sup>19</sup> See the attached map below showing the FNA coverage.

<sup>20</sup> Question asked: “Which form(s) of action or recognition do you expect for your missing relative?”

<sup>21</sup> A focus group is a group interview, with each participant being given the chance to express himself or herself, but with the additional dynamic of inter-group discussion.

<sup>22</sup> Vavuniya, Mullaithivu, Jaffna, Kilinochi, Mannar, Ampara, Batticaloa, Trincomalee, Anuradhapura, Kandy and Kurunegala.

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Focus groups also provided interviewed family members an opportunity to further develop their expression of needs in a setting that would focus on one particular set of needs (e.g. economic needs, psychosocial needs, needs for acknowledgement, legal and administrative needs, etc.).

Focus groups were formed following individual interviews with the families. After the family interviews were finalised, the ICRC would analyse the forms filled out in a certain district to see if any specific topic was coming up as common concern. For example, in a few districts, wives of missing persons expressed their concerns regarding stigmatisation or discrimination arising from their husbands' absence. Focus groups were then organised to allow them to further express their concerns and allow the ICRC to better understand their situation.

At the time of the definition of the sample size and structure,<sup>23</sup> 325 families of persons registered as missing with the ICRC in relation to the past conflict in Sri Lanka were residing abroad. Since the ICRC wanted to ensure that the needs of all of the categories of families of missing persons were represented in the Assessment, it planned to conduct one focus group with 6-10 families abroad. In cooperation with the Swiss Red Cross, eight families of missing persons were invited to a focus group in Bern, Switzerland. Unfortunately, only one family managed to come to the meeting, leaving this Assessment short of the data gathered from this category of families.

## MEETINGS WITH KEY ACTORS / STAKEHOLDERS

Key actors / stakeholders with specific knowledge related to the various domains of the Assessment (clarification of the fate of missing persons, psychosocial difficulties of the families of missing persons, economic and legal and administrative hurdles of the families, as well as collection of data on the resources available (or not) to address those difficulties) were met to get deeper insight into certain topics.<sup>24</sup>

Meetings with them were not fully structured in order to allow for “non-obvious” information to surface during the discussions.

This method of data collection also allowed for mapping of resources to address the identified needs of the families.

## 4.2. DEFINING THE SAMPLE SIZE AND STRUCTURE

At the time of defining the sample size and structure, a consolidated list of persons missing in relation to the past armed conflict in Sri Lanka did not exist (and this is still a task that will have to be accomplished in the future).

While the Presidential Commission of Inquiry into Complaints of Abductions and Disappearances<sup>25</sup> had received complaints for around 20'000 persons missing in relation to the conflict, various other sources would provide higher figures<sup>26</sup>.

The ICRC's list of missing persons<sup>27</sup> contained at that time names of 16'148 missing persons originating from 15'688 families and it was taken as the source for the sampling frame.

As the Assessment's methodology of data collection aimed at achieving quantitative results supported by qualitative results, the Power Analysis formula,<sup>28,29</sup> was used to calculate the sample size. The margin of error was set at  $\pm 5$ , with a confidence level of 95%.

Using the mentioned variables, the power calculations suggested that 375 out of 15'688 families of missing persons would need to be interviewed to satisfy the criterion of statistical relevance of the sample size. As this sample size was presenting 2.39% of the sampling frame, to ease the calculations in the sample stratification, it was decided to set the sample size at 2.5% of the sampling frame, i.e. 392 families of missing persons.<sup>30</sup>

In order to have the sample not only statistically relevant, but also representative of the total number of missing persons and their families registered with the ICRC, the following criteria were chosen to define the sample structure, based on elements that may have a certain influence on the difficulties and the needs of families of the Missing (this was done by using the results as a basis for the demographic profile analysis performed on the sampling frame):

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<sup>23</sup> Please refer to Section 4.2. for more details.

<sup>24</sup> The ICRC met with the authorities at national and regional level, I/NGOs, academics, researchers and experts.

<sup>25</sup> [www.pcicmp.lk](http://www.pcicmp.lk), accessed in December 2015.

<sup>26</sup> Victims' associations, newspapers articles, etc.

<sup>27</sup> The main objective of the ICRC's work in favour of missing persons and their families is to engage in or support the process of clarification of the fate and whereabouts of missing persons and to support the families. The list of missing persons is a compilation of all the individual cases on which the ICRC worked to obtain individualised answers for their families. Compilation of the list was not an aim in itself.

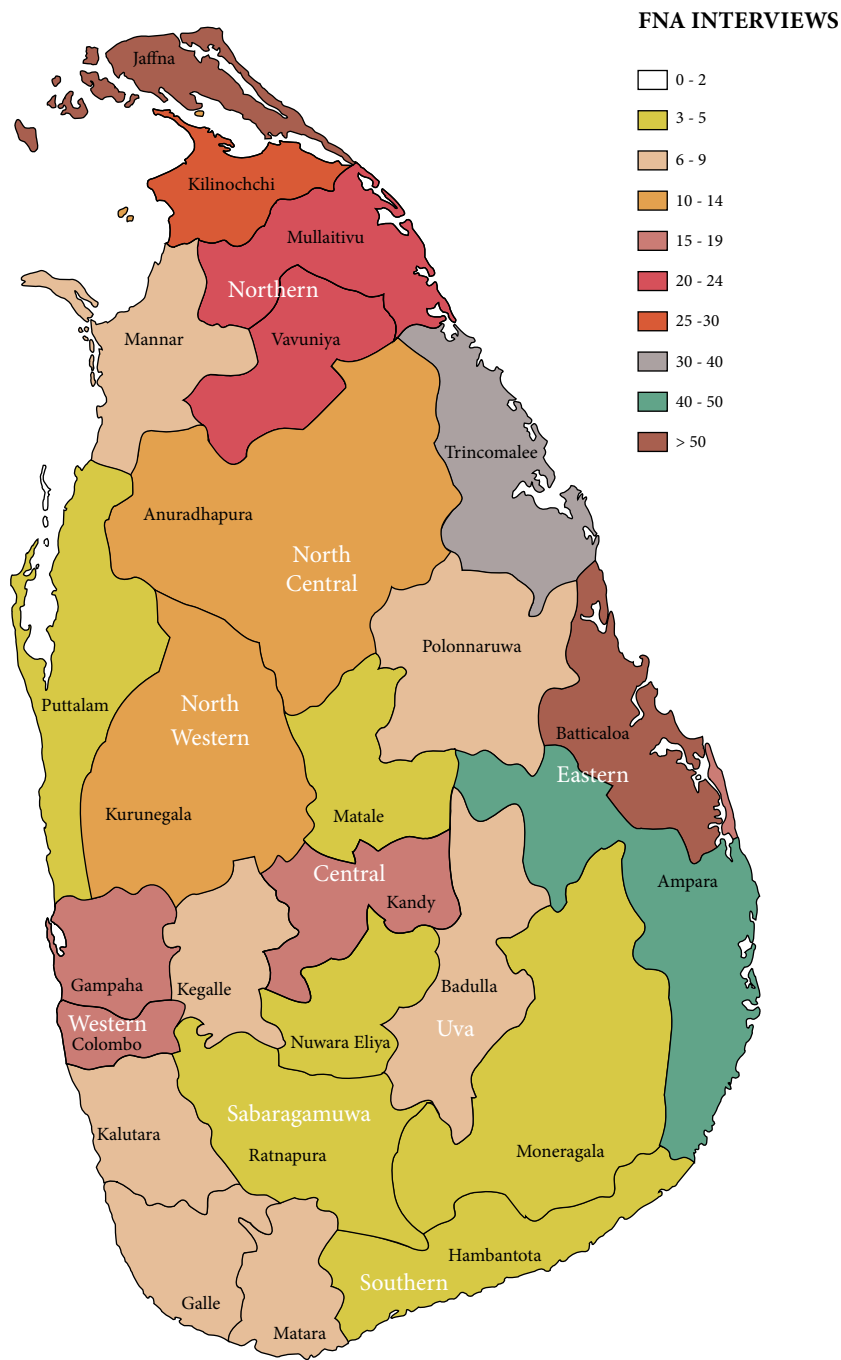
<sup>28</sup> Taken from: <http://www.surveysystem.com/sscalc.htm>.

<sup>29</sup> Recommended by WHO, “Mental Health and Psychosocial Situation and Needs Assessments in Major Humanitarian Crises: WHO Toolkit for Humanitarian Health Actors” – January 2010, <http://mhpps.net/resource/who-toolkit-for-humanitarian-health-actors/>.

<sup>30</sup> Ultimately, when checking the sample size and structure to ensure its statistical relevance, it was decided to add three families, bringing the total sample to 395 families.

- Geographical coverage: The analysis of the ICRC’s list of missing persons’ families indicates that the families of missing persons live in all districts of Sri Lanka, as well as abroad. Since the geographical distribution was considered an element which could influence answers, because of the varying socio-economic environment per district and abroad, it was decided to interview families in all districts of Sri Lanka and organise a focus group for those living abroad. Two point five percent of the total number of families living in each district was taken as a value for a statistically relevant sample size of the district. A focus group was planned with a group of families living abroad.<sup>31</sup>
- Sex of the missing person: As the analysis of the demographic profile of missing persons registered with the ICRC showed that the majority of missing persons are male, this criterion was used to structure the sample to see whether there are differences in the impact on the families’ needs when a man or a woman goes missing, and if yes, what these differences are.

**FIGURE 2: NUMBER OF INTERVIEWS CONDUCTED PER DISTRICT**



<sup>31</sup> At the time of defining the sample size and structure, 325 families of missing persons were living abroad. The only country in which a group of families was living close enough to be able to organise a focus group was Switzerland. In cooperation with the Swiss Red Cross, eight families of missing persons were invited to a focus group in Bern, Switzerland. Unfortunately, only one family managed to come to the meeting, leaving this Assessment short of the data gathered from this category of families.

- Missing in Action and other missing persons: From the ICRC's interaction with the families of the Missing, it appeared that there was a clear distinction in the needs of these two sub-categories. In the Families' Needs Assessment, this categorisation was made in order to have a better understanding of the possible variation in the current needs in these two sub-groups and the services available to address those needs. To reflect the overall caseload, the sample was chosen in a way to respect the ratio<sup>32</sup> between families of persons missing in action and other missing persons (33% towards 67%, respectively).
- Ethnicity of the missing person: Ethnicity has an influence on the social, cultural and religious practices which could be supportive or detrimental for the well-being of the families of the Missing. With this assumption, ethnicity was treated as an important element to be considered. The sample was then structured in a way to reflect in percentages the ethnicity of the enquirers according to the data available in the ICRC's list of registered missing persons and their families.

This level of stratification did not allow for the consideration of other elements such as the date of disappearance. However, in the random selection, a control was performed to ensure that all the periods of the conflict were covered.

After the sample was stratified according to the families' location, sex of the missing person, whether the missing person was Missing in Action or not and the ethnicity of the missing person, families for the interviews were chosen randomly using a random sampling generator.

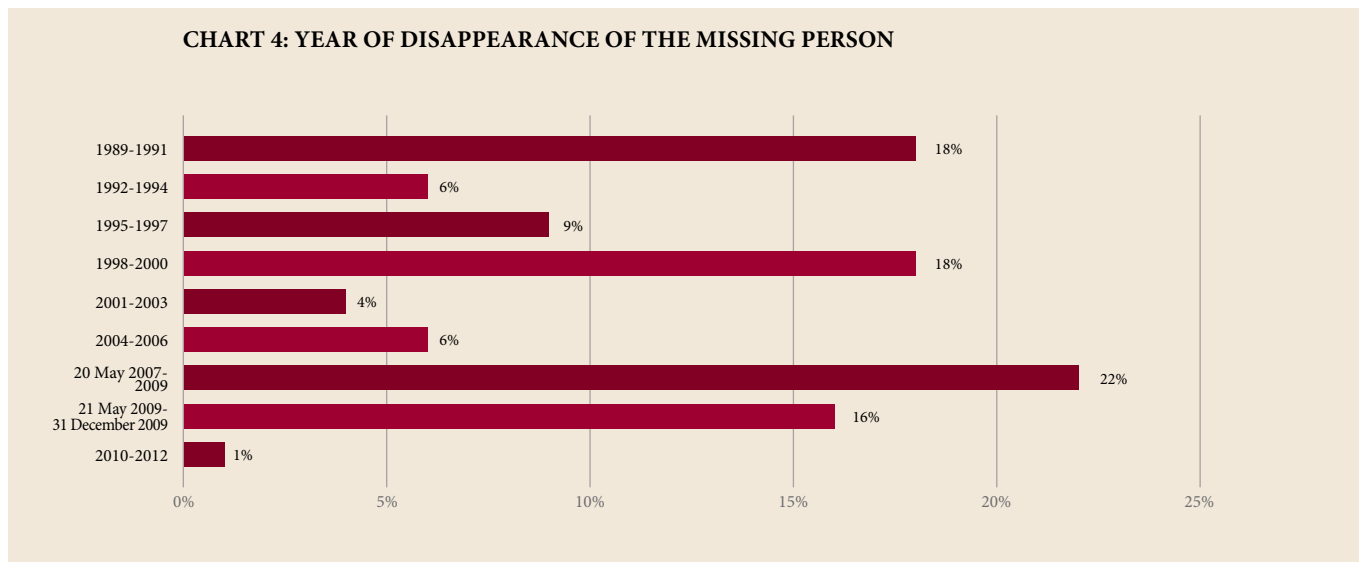
As a result, in the course of the Families' Needs Assessment, **395 families of missing persons were interviewed in total** from October 2014 until September 2015.

#### 4.2.1. PROFILE OF THE SAMPLE OF THE NEEDS ASSESSMENT

This section provides information on the profile of the missing persons based on the information provided by the 395 families interviewed for the Assessment, as well as data on the interviewed families.

#### YEAR OF DISAPPEARANCE

As mentioned before, the stratification of the sample was not made according to the year of disappearance. However, analysis of the demographic profile of the sample shows that the sample considered for the purpose of the Assessment represents all periods of the conflict, and includes the persons who went missing after the end of the conflict, yet in relation to it.

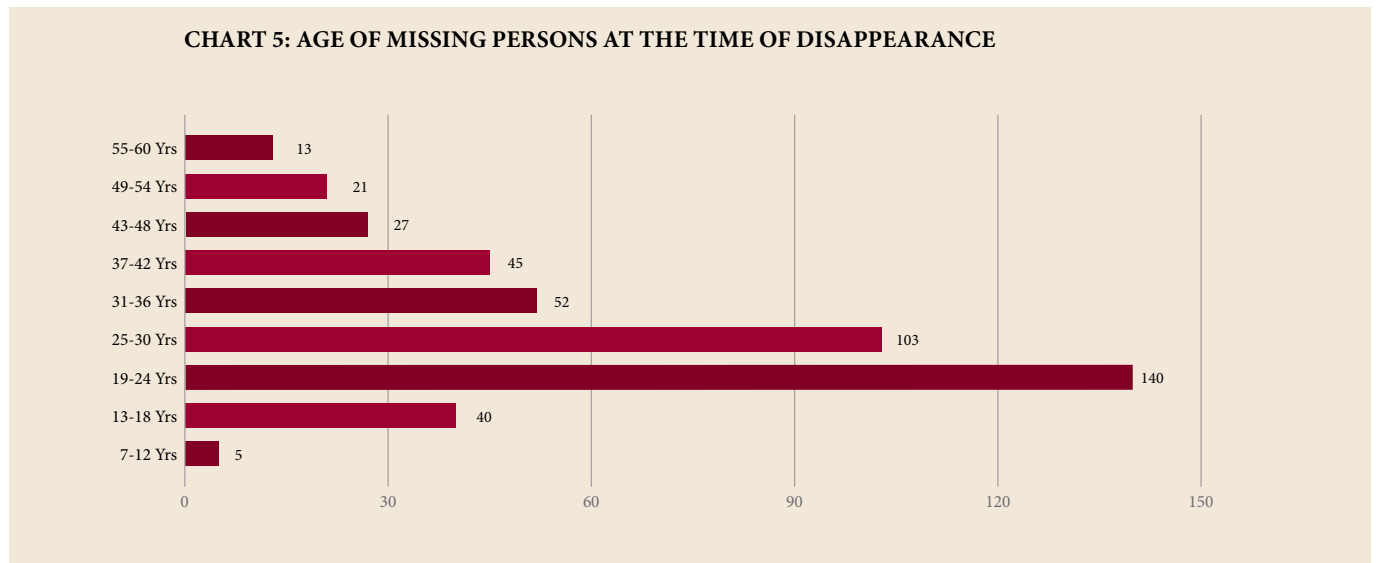


<sup>32</sup> As per data available to the ICRC from its list of missing persons and their families.



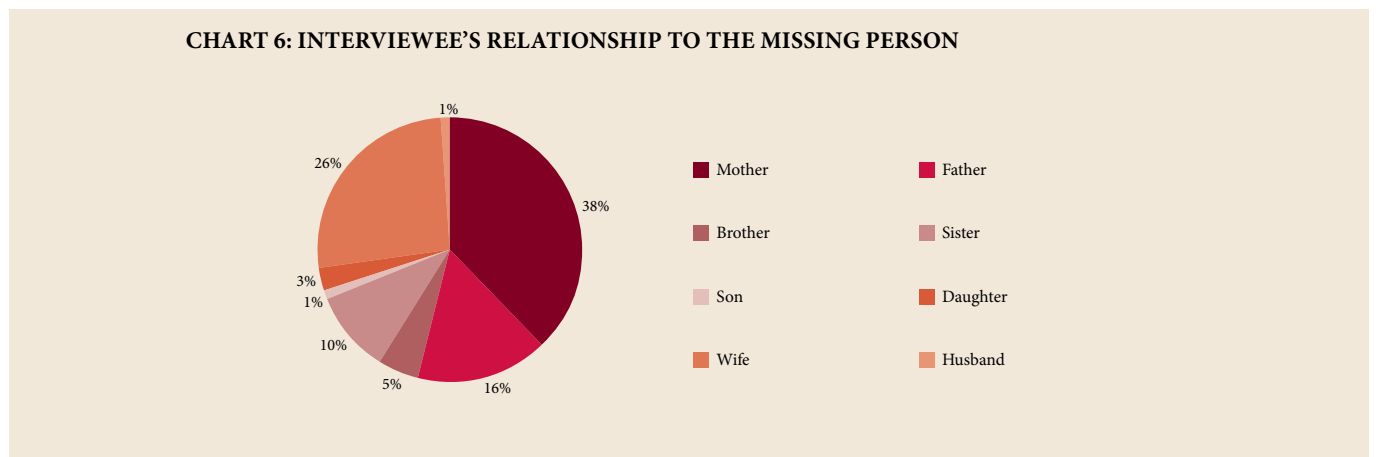
## AGE OF THE MISSING PERSONS

Seventy five percent of the 395 families interviewed had their relative reported missing at an age between 19 and 36 years, while 11% reported their missing relatives to be minors at the time of disappearance.



## FAMILIES INTERVIEWED

All interviewees were immediate relatives of the missing person. The chart below provides figures of the relationship of the main interviewee to the missing persons. It is important to note, however, that other family members were also present during the interviews and contributed to the Assessment.



As presented in Table 1, 16% of the families interviewed have more than one family member missing.

Sixty two percent of all families interviewed declared themselves as being of Tamil ethnicity, while 35% declared as being Sinhalese and 3% as being Muslim.

**TABLE 1: NUMBER OF MISSING PERSONS PER FAMILY**

NUMBER OF MISSING PERSONS IN THE FAMILY	NUMBER OF INTERVIEWED FAMILIES
1	332
2	48
3	11
4	2
5	1
6	1



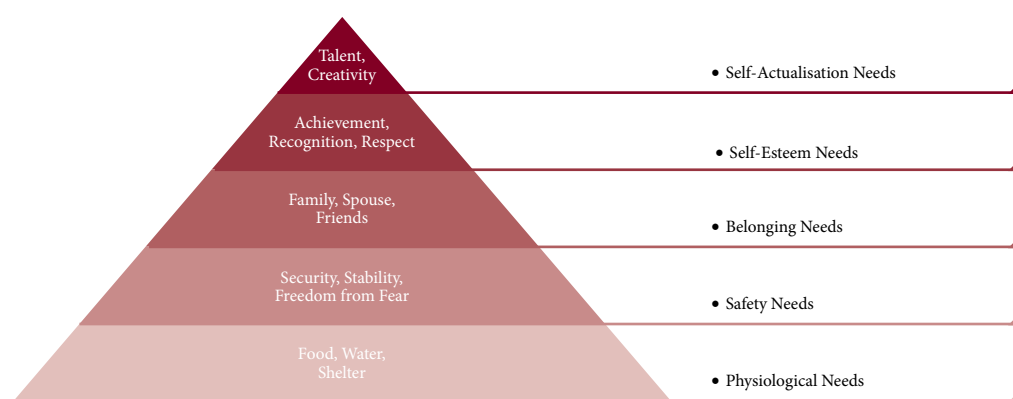
## 5. ASSESSMENT FINDINGS

This Section of the report describes the findings in relation to the needs of the families of missing persons prevailing at the time of the Families' Needs Assessment in Sri Lanka. It also highlights the resources available to address the identified needs.

It is important to note that needs change with time and are influenced by many external factors. "Relatives of the Missing will be impacted by their victimhood according to their relationship to the missing person, mediated by the culture and society in which they live."<sup>33</sup> In other words, needs expressed by the families of missing persons today, will differ from the needs expressed tomorrow and will be influenced by the relationship to the missing person, the cultural background, changes in the society, etc.

Abraham Maslow, in his theory on the hierarchy of human needs,<sup>34</sup> argues that only when lower, basic needs are satisfied an individual will address those needs that are higher on the hierarchical ladder. This approach could allow for a better understanding of the needs of the families of missing persons.<sup>35</sup>

FIGURE 3: MASLOW'S HIERARCHY OF NEEDS



Basic needs are physiological needs and those relating to safety. As found in the Assessment, and from ICRC experiences elsewhere, the families of missing persons will first try to ensure they have food and shelter in the absence of their missing relative, who in the majority of cases was the breadwinner of the family. According to this theory, it is only once basic physiological and safety needs are satisfied that a human being will seek to satisfy needs of recognition and respect.

The needs expressed by the families of the Missing in the framework of the Assessment<sup>36</sup> can be broadly categorised as:

- The need to know the fate and whereabouts of the missing person, as well as circumstantial information related to his/her disappearance
- Emotional needs
- Economic needs
- Legal and administrative needs
- Needs relating to acknowledgement and justice.

It is important to note that each family defines their most pressing need based on their personal experience. The need of each family could be specific to one domain or a combination of all or few of them. Also, the needs of the families of the Missing evolve with time. What might have been an absolute necessity at one point, for instance finding the missing person alive, might change over time into the need to know the whereabouts of the human remains.

<sup>33</sup> ICRC Report: The Missing and their Families - Summary of the Conclusions arising from Events held prior to the International Conference of Governmental and Nongovernmental Experts (19 - 21 February 2003), paragraph 104, page 90/155, [https://www.icrc.org/eng/assets/files/other/icrc\\_themissing\\_012003\\_en\\_10.pdf](https://www.icrc.org/eng/assets/files/other/icrc_themissing_012003_en_10.pdf).

<sup>34</sup> Maslow, A.H. (1943). "Psychological Review 50 (4) 370-96 - A theory of human motivation", <http://dx.doi.org/10.1037/h0054346>.

<sup>35</sup> Robins, S. (2013), "Families of the Missing: A Test for Contemporary Approaches to Transitional Justice", Routledge, ISBN 978.0-415-81248-1 (hbk).

<sup>36</sup> The domains of needs itemised here do not reflect the order of importance expressed by the families, but are following the order of domains listed in the semi-structured interview form used for data collection.

In the course of the Assessment, the families interviewed were first asked to list the biggest difficulties they were facing at the time. They could give as many or as few answers as they wanted. Answering this question, families reported living in a very harsh economic situation (53% of the interviewed mentioned this as at least one of their difficulties) and with many pressing emotional difficulties caused by the lack of answers on the fate of their missing relatives (36% of the interviewed families mentioned this as at least one of their answers).

Interestingly, when asked what action they expected from the authorities to best address their needs, the priorities expressed by the families changed somewhat. Thirty six percent of the families interviewed answered at least once that receiving information on the fate and whereabouts of the missing person would resolve their current unfortunate situation, while 31% answered at least once that they expected financial assistance.

In conclusion, the families, in spite of facing grave economic difficulty, still mentioned as first priority the need to receive information on the fate and whereabouts of their missing relatives.

**“I need a definite answer about my missing son. I still have hope that he is alive somewhere...he will come back soon. It is the Government that should support the families of missing persons and also be held responsible to provide answers.”**

- Missing person's mother -

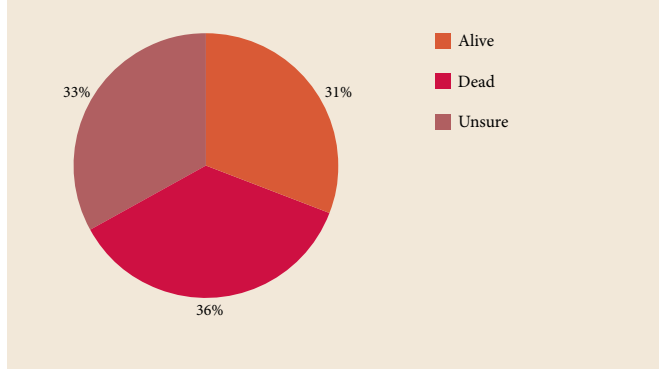
## 5.1. THE FAMILIES' NEED TO KNOW THE FATE AND WHEREABOUTS OF THEIR MISSING RELATIVES

Uncertainty of the fate and whereabouts of missing relatives makes the missing persons physically absent but psychologically present<sup>37</sup> for their families.

In the framework of the Assessment, the families were asked to express their inner beliefs as to the fate of their missing relatives. The interviewed families who think their loved ones are dead (36%) harbour a lingering hope of a best case scenario (“maybe they are alive”), and even those who are convinced that their loved ones are alive (31%), live with a shadow of doubt and possibility of the worst case scenario (“maybe they are dead”). Until the families receive credible information which clarifies the fate, whereabouts and circumstances of disappearance of their missing relatives, they continue living with uncertainty.

Knowing the fate and whereabouts of a loved one is usually one of the most important needs for the families of missing persons, no matter what the origin or the background of the families. The pain endured by a wife not knowing the fate of her husband is perceived to be the same, regardless of the political affiliation of the missing person during the conflict.

**CHART 7: FAMILIES' ATTITUDE TOWARDS POSSIBLE FATE OF THEIR MISSING PERSONS**



**“Just because the war is over and he has not come back home I can't believe my husband is not alive. I did not see his body. I believe, he might be alive somewhere. Then again, it has been almost eight years since his disappearance, sometimes I feel if he was alive he would have returned somehow. I am unsure, I don't know if he is alive or dead.”**

- Missing person's wife -

Not all families hold the same inner beliefs about the fate of their missing relative. There are many variables that determine families' inner beliefs, such as the time that has passed since the disappearance, the information received (or lack thereof), individual emotional coping mechanisms, etc.

The Assessment found stark differences in the inner beliefs regarding the fate of the missing person between the families of persons Missing in Action and families of other missing persons. While only 9% of the families of persons Missing in Action believe their loved one is alive, this percentage shifts to 43% for the families of other missing persons.

<sup>37</sup> Pauline Boss – Ambiguous loss in families of the missing, P39. The LANCET Supplement, Medicine and Conflict, Vol 360, December 2002.

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The families explained that the reason they believe their missing relative is alive is that there is a lack of credible information to make them believe otherwise. Some families argue that they have not seen the body of the missing person, while others claim that fortune tellers have predicted their loved ones are alive. In some cases, religion further strengthens and feeds the belief that the missing person is alive. Many families who claim their loved ones surrendered to or have been captured during the war by the opposing party, still believe their loved ones are kept in secret places of detention and thus are alive.

**“I strongly believe my husband is alive. Many people witnessed him surrendering to the Army, and villagers also told me that he was taken by the Army to identify LTTE members. Those who had surrendered to the Army were released later, so he too should be alive somewhere in secret detention. Besides, his picture was published in the newspaper too, he is standing in front of the Kachcheri. I am sure he is alive.”**

- Missing person's wife -

**“I have not seen my son's body, there is no proof he is dead. I also heard rumours of security forces personnel kept in detention by LTTE in India. My son must be there. He must be alive.”**

- Missing person's mother -

The families of persons Missing in Action were visited by a representative of the concerned armed forces (Army, Navy, and Air Force) and provided with the news of the disappearance of their relative(s). They were also given more information (went missing during a mission, an attack, or a clash) and in some cases received an eye witness account of the incident, which provided them with a context for the disappearance. Fifty seven percent of the interviewed families of persons Missing in Action expressed that as a result of this practice by the armed forces, they believe that their missing relatives are dead. When the families were approached, an assurance was given of further investigation and inquiry by the representative visiting them. This however does not imply that all families are completely satisfied with the answers, but indicates that some found solace in the information provided, which facilitated the acceptance of the fate of their loved ones.

In contrast, only 25% of interviewed families of other missing persons believe their loved ones are probably dead.

**“The war is over and it has been so many years since he went missing, if he was alive he would have come back. But I have not seen the body of my son. As a father it is hard to believe he is dead. I hear rumours some officers were able to escape from the country maybe he managed to escape too.”**

- Missing person's father -

Sixty eight percent of the total number of interviewed families who think that their missing relatives are dead or are unsure of their fate, still expect authorities to provide detailed information pertaining to their loved ones. The information they seek includes, but is not limited to, knowing whether the missing persons are dead or alive (19%). If alive, the families want to know where their missing relatives are. If the missing person is dead, families demand to know the circumstances of disappearance. Thirty eight percent also want an official document detailing the circumstances of disappearance, and 24% want to receive an eye-witness testimony.

Seventy nine percent of the families want information on the human remains of their relatives. Some expressed the need to get the human remains back, while others wanted to know the location of gravesites.

The expectations on treatment and the management of human remains are linked to the religious and cultural background of the families. Some families explained that if the person is dead, it is against their religious practice to disturb the dead thus expressing the need to only know the location of the gravesite, while others argue that they cannot perform religious and cultural ceremonies in the absence of a body, and thereby demand the human remains. Indeed, many families are unable to pay last respects or perform religious ceremonies without human remains or information pertaining to them.

Only a limited number<sup>38</sup> of the thousands of family members of persons missing in relation to the past conflict in Sri Lanka have ever obtained satisfactory answers as to what happened to the disappeared. The failure to find answers on the fate of the missing persons increases the families' suffering. These families are, even years after the conflict has ended, still waiting for news.

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<sup>38</sup> According to data available to the ICRC from its list of missing persons, since 1 June 2009, families of 764 persons registered as separated, allegedly detained or otherwise sought for in relation to the past conflict, have received answers on the fate and whereabouts of their relatives.

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## 5.2. PSYCHOSOCIAL NEEDS

During the Families' Needs Assessment, families reported emotional difficulties as their second biggest problem, preceded by economic difficulties.

A person's psychological suffering can have an impact on how individuals interact with society, and how society influences their psychological condition.

Indeed, there is a close connection between the psychological aspects of our experiences (our thoughts, emotions and behaviour) and our wider social experience in the society in which we live (our relationships, tradition and culture)<sup>39</sup>.

Therefore psychosocial needs refer to all needs encompassing psychological aspects and their interrelations with social, cultural, religious and economic factors, which all relate to, and are dependent on each other.

**"I have forgotten how to smile after my son's disappearance."**

**- Missing person's mother -**

Having a loved one missing creates a suffering that is unique and different from other kinds of loss. Unlike families who lose a loved one through death, where the loss is clear, the loss of having a missing person is ambiguous. Families of the Missing are forced to live between hope and despair and worry about the well-being of their missing loved ones. The missing person is at the centre of any decision-making process. The lives of families of missing persons are put on hold. Not knowing the fate and whereabouts of their loved ones leaves them in a perpetual state of suffering.

Coping processes are undermined as families have to face the ambiguity, continually altering between thoughts of their missing relative being alive and then thoughts of them being dead. Actions taken to acquire information regarding the missing person turning futile leave families frustrated and helpless. Families are exhausted and their day-to-day functioning is adversely affected. The grieving process is frozen because families cannot organise rituals and find recognition for the Missing as cultural and religious rituals are usually dedicated to the deceased. With no official verification of death, no possibility of closure, and no rituals for support, there is no resolution of the grief<sup>40</sup>.

In Sri Lanka, mourning and grief associated with death are accepted as a part of daily life, and are marked by rituals. These rituals are intended for the deceased to depart peacefully into the spiritual world or the next life — depending on religious beliefs — without hindering the living. Families of the Missing are confronted with prolonged stress due to the inability to perform such rituals, because of the uncertainty of the fate and whereabouts of their missing relatives. Without the human remains, or the date and time of death, families are unable to complete this responsibility bestowed upon them by culture and religion. This places them in a state of helplessness and further hinders their healing process.

The healing process is further aggravated by social isolation. Forty six percent of the families mentioned that they rarely or never talk about their problems to friends, relatives or neighbours. Families feel that their pain is not understood by others. Well-wishers advise them to move on, encouraging them to believe that their missing relative is dead and will not come back. For these reasons, families begin to isolate themselves from their community.

**"Neighbours stigmatise me now saying I am a widow, and they don't like seeing my face because they think I bring bad luck."**

**- Missing person's wife -**

In some instances, cultural habits can increase isolation. Across Sri Lanka, wives of missing persons, who are usually perceived as widows in their communities, face cultural sanctions that do not permit them to participate in auspicious cultural and religious events, as they are seen as inauspicious or bringing bad luck. This is especially the case in rural areas of the country. Wives also commonly reported that their characters<sup>41</sup> are questioned in their communities, and rumours are spread to tarnish their reputations.<sup>42</sup> Fifteen percent of the families mentioned that they face stigma and discrimination after their loved one went missing.

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<sup>39</sup> Psychosocial Working Group, 2003; P1.

<sup>40</sup> Boss, P. (1999). *Ambiguous loss: learning to live with unresolved grief*. Cambridge: Harvard University. Paperback reprint in 2000.

<sup>41</sup> Here, the word character implies mental and ethical traits of a person.

<sup>42</sup> Some wives of missing persons reported that their communities perceive them as immoral or "having a loose character" and consequently, sexually "willing and available".

**“I do not attend weddings because if I dress up and go, people say that I seem to be happy and not affected by my husband’s disappearance.”**

**- Missing person’s wife -**

All this is further compounded by the day-to-day stress they have to face. The economic difficulties they face owing to having the breadwinner of the family missing<sup>43</sup> forces them to rethink how life would have been had their loved one been present. The administrative challenges they face due to not having a clear legal status for the Missing,<sup>44</sup> puts their lives on hold unless they apply for a death certificate, which is perceived as betraying their missing loved one. Raising children, telling them that their father will come back one day makes women swallow silent tears every time his presence is required and missed.

**“I was three months pregnant when my husband went missing. I had the picture of my son digitally added to the picture where my husband and I stand together, so that my son can take “the family photo” to his school. But the truth is, my son has never seen his father, he may never.”**

**- Missing person’s wife -**

Mental health outcomes of ambiguous loss, as explained in literature on the topic,<sup>45</sup> are anxiety, depression, somatisation, which can turn the person to substance abuse, violence, and suicide. These mental health outcomes, similar to those observed after other traumatic events, are common mental health problems in post conflict settings. The Assessment did not measure all these outcomes, and restricted itself to the most common mental health problems of anxiety and depression.

A screener for post-traumatic stress was conducted amongst the interviewed families of missing persons. It showed that 51% of the sample suffer from significant anxiety symptoms, 58% from symptoms of depression and 15% from post-traumatic stress symptoms. This symptomatology is lower for the families of persons Missing in Action compared to other families.

This can possibly be explained by several factors. Families of persons Missing in Action received some form of answer about the fate of their loved ones from the authorities concerned, who they perceive as credible sources. Most do not need to struggle on a daily basis against economic hardship owing to the salary and pension provided to them. They are also generally respected in their communities as families of heroes.

**CHART 8: SYMPTOMOLOGY: FAMILIES OF PERSONS MISSING IN ACTION AND FAMILIES OF OTHER MISSING PERSONS COMPARATIVE**



The other families of the Missing do not have answers from sources they deem credible, are not supported by their communities and face economic hardship on a daily basis.

**“Living without your husband here is like living a life of a goat in the land of wolves.”**

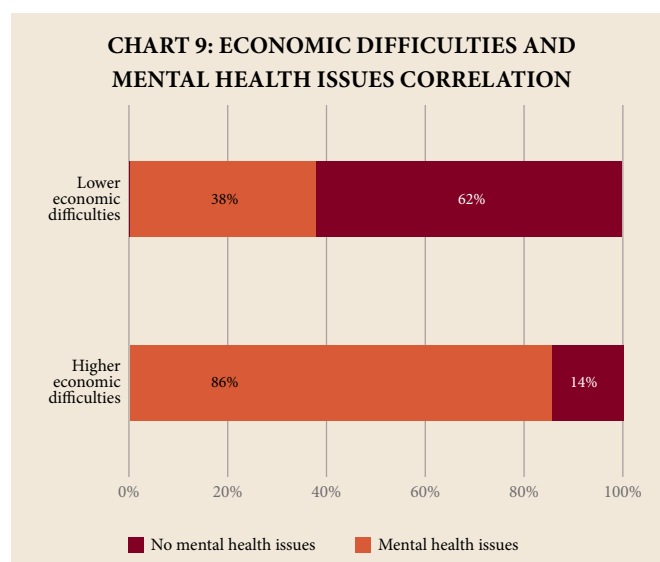
**- Missing person’s wife -**

<sup>43</sup> Please refer to the Section on Economic needs of the families.

<sup>44</sup> Please refer to the Section on Legal and Administrative needs of the families.

<sup>45</sup> Boss, P. (2006). Loss, Trauma and Resilience: Therapeutic work with Ambiguous Loss, W.W. Norton Company, INC, ISBN: 978-0-393-70449-5.

In previous global studies, poverty and economic stress have been seen to be important risk factors for common mental health problems, such as anxiety and depression.<sup>46</sup> People with mental health problems have described poverty and socio-economic problems as one of the most important factors causing emotional distress.<sup>47,48</sup> During the Assessment, 56% of the total families interviewed expressed that they had economic difficulties. Out of these, 86% showed a high level of symptoms of common mental health problems (either anxiety or depression). This shows a high correlation between economic problems and mental health in the population of families of the Missing in Sri Lanka.



Moreover, wives of missing persons also voiced concerns about harassing phone calls and unannounced visits at irregular hours by male individuals claiming to be from the security forces, or from other male members of their community. They claimed that in the absence of an adult male in the family, women are left vulnerable. In particular, families suspected of having links with the LTTE have reported being constantly scrutinised, adding an additional element of fear for their safety.<sup>49</sup>

Although mental health problems can be present, it is important to stress that the literature on ambiguous loss purports that these manifestations should be seen as a social and relational difficulty rather than a psychiatric problem. They do not evolve from a problem in the psyche, but rather are rooted in the external event that perpetuates the stress and ambiguity.<sup>50</sup>

**“The neighbours will say I am mentally ill if I go for counselling.”**

**- Missing person’s wife -**

**“I am not mentally ill, I just miss my son.”**

**- Missing person’s father -**

The Ministry of Health (MoH) has Medical Officers and Consultant Psychiatrists supporting mental health care around the country. Most districts have a functioning mental health unit within a general hospital, as well as regular clinics in peripheral health facilities. The Ministry of Social Empowerment and Welfare has approximately 200 Counselling Officers working through district or divisional secretariat offices around the country. There are still 150 additional positions to be filled. The Ministry of Women’s Affairs has over 200 Counselling Assistants deployed at district and divisional level around the country.

Additionally, several NGOs are implementing psychosocial interventions. They are generally limited to certain Divisional Secretariats (DS), but have greater community outreach and more acceptance in the North and East.

There remains, however, a large gap in human resources, especially in the North and East. For example, the Ministry of Social Empowerment and Welfare has one Counselling Officer in Vavuniya to cover a population of 177’000 and one for Mannar to cover a population of 103’000. This limits the personnel to be focused on their office work and reporting, leaving serious gaps in coverage and work at the community level.

Predominantly, the intervention approach used is individual counselling, which in most cases consists of listening and advising. This individualised approach leaves serious gaps in terms of reaching the enormous caseload. Not enough importance is placed on interventions that aim at prevention and promotion of psychosocial well-being and mental health.

<sup>46</sup> Patel V, Kleinman A. Poverty and common mental disorders in developing countries. Bulletin World Health Organisation 2003.

<sup>47</sup> Patel V, Pereira J, Mann A. Somatic and psychological models of common mental disorders in India. Psychological Medicine 1998; 28:135-43.

<sup>48</sup> Aidoo M, Harpham T. The exploratory models of mental health amongst low-income women and health care practitioners in Lusaka, Zambia. Health Policy and Planning 2001; 16:206-13.

<sup>49</sup> For more details please refer to Section 5.7.

<sup>50</sup> Boss, P. (1999). Ambiguous loss: learning to live with unresolved grief. Cambridge: Harvard University. Paperback reprint in 2000; Boss, P. (2006). Loss, Trauma and Resilience: Therapeutic work with Ambiguous Loss, W.W. Norton Company, INC, ISBN: 978-0-393-70449-5.



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**“They do not understand me, they tell me that my husband must be dead after all this time, and say that I’m still young and should get married again.”**

- Missing person’s wife -

On the technical aspect, the training the personnel receive prior to their employment is often not focused on practical skills. Ongoing training and technical supervision of personnel in the field is limited and often non-existent. The gap in skills and support required to deal with complex cases often results in personnel being overwhelmed and demotivated, and often affects the quality of services. The majority of the personnel are seen resorting to the easy solution of giving advice rather than being able to exercise the client-centred counselling approach that the profession aims to practice. They are oriented in basic mental health problems, but generally lack knowledge about the ambiguous loss that families of missing persons face. Advising families to move on with their lives by accepting the death of their relative when they have no clarity about the fate of their relative, is not only technically incorrect, it is also unethical.

Families of missing persons in Sri Lanka do not want to receive counselling services. In communities, counselling is perceived as something meant for the mentally ill, and families do not identify themselves as mentally ill; they want their suffering to be acknowledged. Only two persons out of the 395 interviewed expressed that counselling might be useful for them. Seventy percent of the families said they desire to talk about their missing relative with others who understand, and 75% of the families said they would like to participate in group commemorative events related to their missing relatives.

### **5.3. ECONOMIC NEEDS**

Out of the total number of families interviewed, 56% expressed economic hardship as their current most pressing concern.

Families of missing persons reported that they had to face multiple consequences of the conflict, which deeply affected their economic situation, such as loss of their families’ breadwinners, displacement and/or destruction of their property, businesses being significantly affected/closed, as well as being compelled to spend a considerable amount of money in their efforts to search for the missing person.

As noted in the preceding chapters, 93% of the missing persons in the sample considered are men. The majority of them were within the 15-30 year age bracket at the time of disappearance, and were in their active part of life. As reported by the families, 63% of them were the main breadwinner of the family. Most of the young men were also individuals in whom the family had placed hope as a future breadwinner.

**“If my son was here he would have taken care of us. My husband is 65 and is forced to work to provide for the family.”**

- Missing person’s mother -

Data indicate that 41% of the missing persons were married at the time of disappearance. Ninety seven percent of the wives interviewed confirmed that their husbands were the main breadwinner of their families. After their husbands went missing, 49% of the wives reported taking on the role of the breadwinner. If we consider only the wives of missing servicemen, this proportion drops to 4.5%. This is mainly explained by the fact that the wives of missing servicemen receive their husband’s salary and pension on a monthly basis. Therefore, the family still receives a monthly income in spite of the absence of the breadwinner.

Contrary to the wives of persons Missing in Action, the wives of other missing persons were confronted with all the responsibilities which were formerly shouldered by their husbands. The disappearance left the families who depended on their husband or their son to struggle alone. The material problems faced by these families, and in particular by the women are manifold, e.g. financial hardship, difficulties in bringing up or supporting the education of their children (even though education in Sri Lanka is free in principle there are often hidden costs, like school facilitation charges, tuition, books etc.), difficulties in running the household and problems for the elderly without children to have someone to take care of them financially or emotionally.

According to the interviewed families, traditional support mechanisms within the communities, and even within families, have been affected by the conflict. The ICRC came across many wives of the Missing who complained about being ostracised by their own family. The majority of these women did not receive much education or formal training, thus rendering them unskilled and not in a position to take up gainful employment. As a consequence, many women work as casual labourers, relying on their daily income to support their families.

**“After my husband went missing, I spent a lot of money trying to find him. There was no one in the family to earn, I could not support my family financially. The economic situation was so bad that I could not afford to send my children to school to continue their education.”**

- Missing person’s wife -

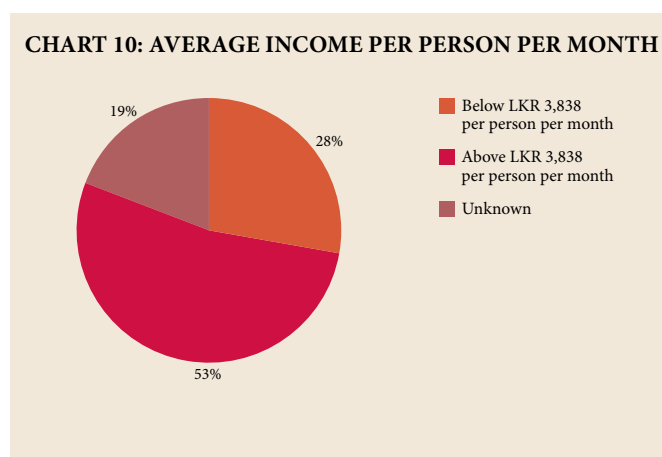
Few families of missing persons who are not Missing in Action, reported receiving compensation. When they did, the amount was reported to have varied from LKR 25'000 to LKR 100'000, depending on the policies in place at the time the compensation was claimed. It is worth noting that access to these compensation schemes was reportedly attached to accepting a death certificate. The families explained that owing to their economic hardship, they accepted the death certificate to claim the compensation, even though they did not believe that the missing person was dead.

Additionally, the word “compensation” made many families uncomfortable, some going to the length of refusing to accept compensation in the name of the missing person. Some families reported fearing that if they were to accept compensation provided by the authorities, it meant having to accept to close the case of their missing relative and abandon the process of searching for answers on their fate and whereabouts. Other families reported that they were more open to accepting assistance or grants to address their economic challenges, since these do not have implications on the closure of the case of their missing relatives, and merely express recognition of their suffering.

Beyond compensations, families reported that they were confronted with an additional layer of problems when it came to the management of family assets (land, bank accounts, insurance claims, etc.), when these have been officially registered under the name of the missing person.

The Assessment showed that in almost one out of three cases, the social benefits currently in place do not adequately address the families’ financial needs, especially when the basic expenditure of a household falling below the national poverty line in Sri Lanka is considered to be LKR 3'838 per person per month.<sup>51</sup>

Although the monthly “Samurdhi” allowance allows the neediest families to, in principle, obtain vital assistance in the framework of the regular governmental social relief programmes, it is known that for obtaining such allowances one has to go through a lengthy process. Additionally, the monthly allowance consists of a humble amount (maximum LKR 3'000), which is not sufficient to sustain a family, even though it can be complemented by another small allocation for the elderly and differently-abled, for which the families reported receiving between LKR 250 to LKR 750 per month.



Over the past few years, governmental and non-governmental services have been rolling out various programmes for the war-affected and most vulnerable population in the North and East. The existing programmes generally target families of those differently-abled, rehabilitees, women-headed households, and displaced populations, among others. Some families of the Missing have benefited from existing programmes under the categories listed above, but not as families of missing persons. Additionally, families do not have adequate information about the benefits they are eligible to receive and the procedures they need to follow to have access to the existing services.

Many of the interviewed families of the Missing reported they were in debt (60%). Some reported having taken loans to build their houses, contribute to the housing scheme,<sup>52</sup> or to pay their children’s additional education expenses.<sup>53</sup> Others reported that they were chronically indebted, because their family income is not sufficient to cover their daily expenses. Families have also spent a lot of money going to fortune tellers in hopes of finding information about the missing person. They have also been victims of financial extortion as presumed information holders sometimes ask for money in order to release information. Many of these factors have contributed towards worsening their current financial situation. Absence of steady income and/or job security has further added to the debt woes of the families. At the time of the Assessment, only 12% of these families had formal employment with a sustainable monthly income (i.e. more than LKR 15'000), whereas 56% remained unemployed.

The Assessment revealed that the families of missing persons, like many others, have taken loans on high interest without realising the short-term and long-term consequences, which lead to a debt trap. The fact that these families are mired in long-term debt, which they cannot repay, leads to their ultimate bankruptcy. Families reported that they were either taking additional loans (17%) or that they were selling their assets (7%) to try to overcome the aggravating situation.

<sup>51</sup> Source: Department of Census and Statistics, Sri Lanka, June 2015.

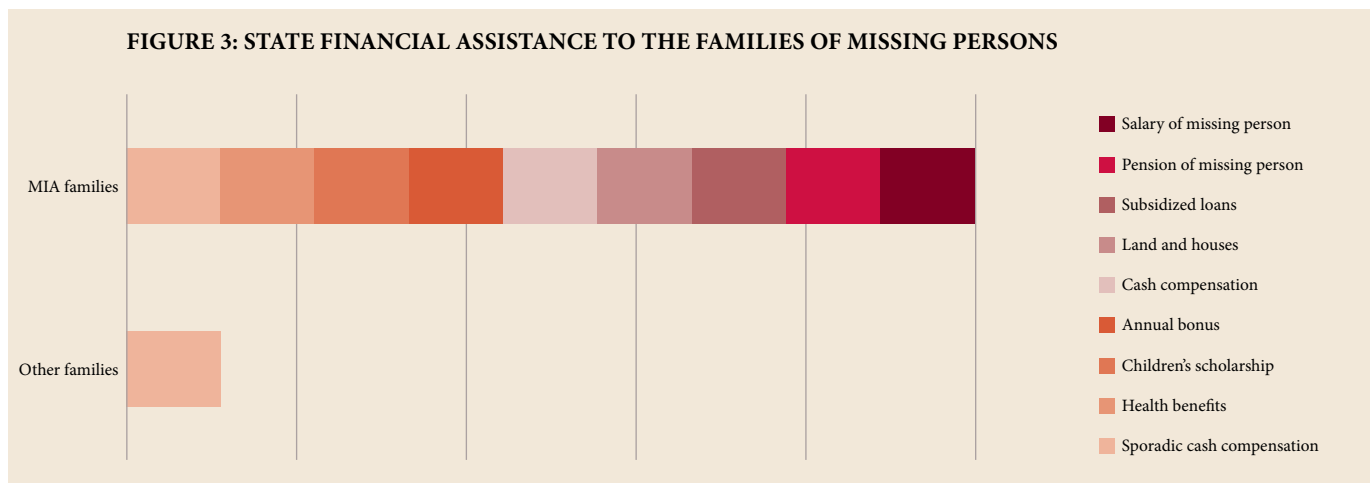
<sup>52</sup> Various factors have contributed to the families being in debt linked to the housing scheme. For instance, their personal preferences/aspiration for a bigger home, lack of financial literacy, poor management of a grant, the impact of inflation on building materials and increase in the cost of labour.

<sup>53</sup> As education is free of charge in Sri Lanka, this refers to expenses related to extra tuition, additional uniforms, etc.

**“I took a loan to build the house. I have to pay LKR 1’050 every week. I don’t have a steady income, this is very difficult to manage. If I don’t pay the loan, the bank will take my house. Sometimes I don’t even have money to feed my daughter, I don’t know where the next meal will come from, and every meal is a struggle.”**

**- Missing person’s wife -**

The families of persons Missing in Action, besides compensation, are entitled to the missing relatives’ salaries/pensions, and a number of additional benefits such as housing, vocational training, scholarships for children, and legal assistance. The table below shows the range of benefits that families of persons Missing in Action are entitled to in comparison to that of the other families.



Most families of persons Missing in Action did not face difficulties accessing the benefits they are entitled to and reported being content with the support provided by the authorities, especially in relation to claiming the salary and pension of the missing person. While these benefits help these families a great deal economically, the ICRC was made aware of the problems that can be faced specifically by parents of missing servicemen who were married. If the missing person was unmarried, the parents receive the salary and pension or any other compensation or benefits attached to the missing person. However, if the missing person was married, by default his wife receives most of the benefits, leaving most elderly parents economically vulnerable, especially if they do not have other children.

As reported by the families during the Assessment, such parents can apply for the “Ranaviru Mapiya” allowance. However, the parents of the servicemen Missing in Action reported that this does not solve their financial problems because the amount they receive is minimal (Rs. 750 per parent per month). In addition, the families reported that the “Ranaviru Mapiya” allowance was not always deposited on time, and/or that for some, the application process was complicated, lengthy and cumbersome, which was a significant issue for less educated families.

**“All benefits given by the authorities go to my daughter-in-law. My wife and I receive LKR 750 a month through the “Ranaviru Mapiya” allowance. It is not enough to survive.”**

**- Father of a serviceman Missing in Action -**

## 5.4. LEGAL AND ADMINISTRATIVE NEEDS

During the Assessment, it was made abundantly clear that one of the major problems causing not only administrative difficulties, but also psychological dilemmas for families of the Missing, is the fact that Sri Lankan law does not explicitly recognise the status of a person as ‘Missing’. The law opts for an approach that people are either dead or alive.<sup>54</sup> Therefore any redress sought by families whose relatives are unaccounted for is dependent on the missing person being officially declared dead by virtue of the fact that his/her existence cannot be proved.

**“When we are born there is official documentation. When we are dead there is certificate for that. My husband went missing, there should be a legal document to declare him as missing without me having to choose between the only two options of birth and a death certificate.”**

**- Missing person’s wife -**

<sup>54</sup>The Registration of Deaths (*Temporary Provisions*) Act No 19 of 2010 was enacted to provide for the registration of deaths of persons reported missing due to reasons stipulated in the Act. As far as the ICRC is aware, the operation of this Act was extended by virtue of Gazette Extraordinary No. 1824/3 of 21 August 2013 until 09 December 2015.

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Families referred to the following legal and/or administrative hurdles to address their day-to-day needs, because they were dependent on obtaining a certificate of death (CoD):

- inability to access / close the bank account of the missing person;
- difficulties in making insurance claims entered into by the missing person;
- inability to release property pawned by the missing person;
- difficulties to register children in school;
- inability to claim the monthly salary of the missing person which was deposited by the employer;
- inability to reclaim wrongful occupation of land owned by the missing person;
- difficulty / inability to make transactions with movable or immovable property owned by the missing person.

Families thus have no other option than to officially declare their missing relative as dead in order to obtain certain benefits and exercise certain rights. The fact that most families of the Missing (66%) are not prepared to apply for a CoD until the death of their relative is proved, in effect bars them from accessing services and benefits that are necessary for the continuation of their daily lives.

**“What proof do we have that they are dead? To insert a person’s name in the family card itself we need to show so many documents. So how can anyone expect us to take a death certificate without any proof or documents?”**

**- Missing person’s mother -**

The Assessment revealed that the majority of the families who did request a CoD, had done so primarily out of economic<sup>55</sup>/ administrative need. Forty seven percent of families who had obtained / received<sup>56</sup> a CoD said that if they had a choice, they would have opted for an alternative that recognised their relative as ‘Missing’.

A recurrent issue that families of missing persons spoke of during the Assessment is the difficulties encountered in understanding which services and social benefit schemes are available to them.

Some of the concerns expressed by families of persons Missing in Action are listed below:

- Families do not have a clear idea as to who is eligible for the compensation, the amount of compensation to be received and the procedure to follow including the authority responsible.
- Families had not received any response to their application from the authority concerned, when inquiring about land allotment issues.
- If the missing person was married at the time of disappearance, more often than not, the compensation and benefits are paid to the spouse of the missing person. This leaves the parents who were dependent on the missing person with minimal support.<sup>57</sup>
- Problems with receiving the “Ranaviru Mapiya” allowance such as families not receiving it regularly or according to the established procedure or the allowance being stopped after a certain period of time.

While most of the concerns expressed above regarding access to social benefit schemes are also applicable to all other families of the Missing, the legal / administrative concerns expressed specifically by other families of the Missing during the Assessment could be summarised as follows:

- Families lack a clear understanding of the procedure to follow or which authority to approach in order to claim their entitlements, e.g. to obtain a death certificate, claim Samurdhi, compensation, etc.
- Problems encountered with officials in charge of administering the process:
  - unnecessary delays in processing the paper work (either in issuing a CoD or processing claims for compensation based on the CoD) i.e. undue / unexplained time taken to process applications, allegations of political bias, being misguided by the authorities about the process;
  - unaware of the procedure to follow in processing the application for a CoD/ compensation;
  - unwilling / refusing to process an application for a CoD, which prevents entitlement to compensation;
  - refusing to process applications when they are not filed in the district of origin<sup>58</sup> (when the family has been displaced during / in the aftermath of the war).

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<sup>55</sup> Please refer to the Section on Economic needs of the families for more details.

<sup>56</sup> This refers to families of persons considered Missing in Action that received a CoD without applying for one.

<sup>57</sup> Please refer to the Section on Economic needs of the families for more details.

<sup>58</sup> The address where the missing person was residing at the time she/he went missing.

- Families are unable to provide the necessary documentation to apply for the CoD or compensation e.g. identity papers, CoD etc.;
- Families are ineligible for housing or social welfare because they are unable to contribute their share (in kind), e.g. due to extreme vulnerability;
- Families possess documents which are considered invalid by the government officials (because they were issued by the LTTE when the area was under LTTE control).

Additionally, the ICRC observed that there is an inconsistency between the compensation schemes available to all other families of missing persons and schemes available to families of persons Missing in Action.

## 5.5. NEEDS FOR JUSTICE AND ACKNOWLEDGEMENT

While the families of missing persons have many of the same needs as other victims of armed conflict, they attach a distinct priority to the need for information.<sup>59</sup> The families' paramount need to know the fate and whereabouts of their missing relative evolves into other needs, including the need to know who should be held accountable for the disappearance of their relative. For some families, there seems to be an implicit link between the need to know the fate and whereabouts of their relative and the need for justice.

The ICRC's experience in many countries shows that the families of missing persons often want acknowledgement of:

- the missing person's dignity and intrinsic value;
- the fact that the disappearance took place;
- the perpetrators' responsibility; and
- the steps that need to be taken to address the occurrence of disappearances.<sup>60</sup>

As for the mechanisms desired by the families to meet the need for accountability, the ICRC's experience shows that these can be judicial and/or non-judicial, but they all stem from the need for justice and acknowledgement of the loss suffered.<sup>61</sup>

Under IHL, States have an obligation to investigate and prosecute serious violations of IHL.<sup>62</sup> Accordingly, the ICRC considers accountability mechanisms as an important component of any transitional process.

### 5.5.1. NEED FOR JUSTICE

As explained in Section 4<sup>63</sup> of the report, in the course of the Assessment the ICRC did not ask specific questions on justice and accountability. However, these issues were raised spontaneously by the families when speaking about their priority needs. In this sense, the findings of this report should not be read as an evaluation of the families' need for justice, but more as an indication of their priorities at the time of the interview. It is also important to highlight the fact that the ICRC did not focus on specific categories of missing persons when interpreting the families' responses in relation to this need. While a number of families remained without any indication as to who should be held responsible for the disappearance of their missing relative, it is important to note the fact that having a family member missing due to an armed conflict is not always a direct result of actions undertaken by the parties to the conflict.

When asked as to what form(s) of responsive action or recognition they expected in relation to their missing relative, over 1/3 of the interviewed families expressed, amongst others, their need for justice. Out of the 34% requesting justice as a form of recognition of their loss and suffering, 17% asked for reparative justice<sup>64</sup>, 11% favoured retributive justice<sup>65</sup>, while 6% requested both.

**“I don't want any compensation on her behalf, it would be like selling my daughter and eating with that money. But, I will accept the Government's support if it is given for people who are facing economic difficulty because of the war.”**

**- Missing person's mother -**

<sup>59</sup> ICRC report: The Missing and their Families - Summary of the Conclusions arising from Events held prior to the International Conference of Governmental and Non-Governmental Experts (19-21 February 2003), p. 83, [https://www.icrc.org/eng/assets/files/other/icrc\\_themissing\\_012003\\_en\\_10.pdf](https://www.icrc.org/eng/assets/files/other/icrc_themissing_012003_en_10.pdf).

<sup>60</sup> *Ibidem*.

<sup>61</sup> *Ibidem*.

<sup>62</sup> Customary International Humanitarian Law, Rule 156, 158 and 161, [https://www.icrc.org/customary-ihl/eng/docs/v1\\_rul](https://www.icrc.org/customary-ihl/eng/docs/v1_rul).

<sup>63</sup> Section relating to the Methodology of the Assessment.

<sup>64</sup> Reparative or restorative justice refers to any programme that uses restorative processes in which the victim and the offender participate together actively in the resolution of matters arising from the crime, seeking to achieve restorative outcomes that include responses and programmes such as reparation, restitution and community service, aimed at meeting the individual and collective needs and responsibilities of the victim and the offender and achieving the reintegration of the victim and the offender, *Economic and Social Council (ECOSOC) Resolution 2002/12, Basic principles on the use of restorative justice programmes in criminal matters*, <http://www.un.org/en/ecosoc/docs/2002/resolution%202002-12.pdf>.

<sup>65</sup> Retributive justice is a system by which offenders are punished in proportion to the moral magnitude of their intentionally committed harms. K. M. Carlsmith and J. M. Darley (2008), *Psychological Aspects of Retributive Justice, Advances in Experimental Social Psychology, Volume 40, page 193-236*, [http://www.colgate.edu/portaldata/imagegallerywww/184416d4-5863-4a3e-a73b-b2b6b86e7b60/ImageGallery/Carlsmith\\_Darley\\_2008.PDF](http://www.colgate.edu/portaldata/imagegallerywww/184416d4-5863-4a3e-a73b-b2b6b86e7b60/ImageGallery/Carlsmith_Darley_2008.PDF).

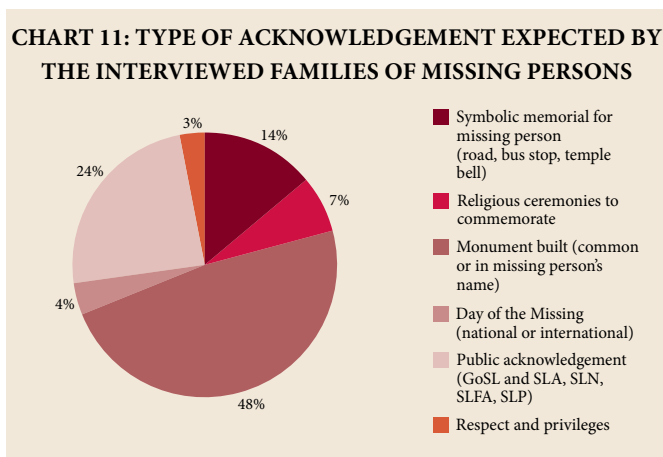
Families who favoured reparative justice spoke of financial assistance as a means to meet their basic needs, rebuild their lives and livelihood, support their families, educate the children and eventually become financially independent.<sup>66</sup> While no amount of money or services may fully compensate for the loss of a loved one, for families, it serves as a gesture from the authorities to acknowledge their suffering.

Families also expressed their fear that acceptance of the reparation packages could be interpreted by the authorities as an indication of the families ending the search for information on the fate and whereabouts of their loved ones.

## 5.5.2. NEED FOR ACKNOWLEDGEMENT

Twenty three percent of the families interviewed asked for some form of acknowledgement.<sup>67</sup>

Acknowledgement is distinctively interpreted by each missing person's family. For some of the families interviewed, public recognition constitutes acknowledgement that the disappearances occurred. In this light, some families requested symbolic recognition such as naming a road in the name of the missing person or erecting a monument in their remembrance. Others asked for their situation to be acknowledged through public statements by the Government and their suffering and loss marked annually through memorialisation ceremonies for the International Day of the Disappeared or a nationally dedicated day. Many families expressed frustration in not being able to freely assemble in groups or conduct any activities in the name of the missing person, especially in the North and East.



**“Even if we follow the procedure and inform everyone concerned in the district, families of missing persons do not get permission to gather and remember their loved ones.”**

**- Missing person's sister -**

As much as 45% of the interviewed<sup>68</sup> families of persons Missing in Action expressed a distinct need for recognition of the sacrifices the families and their relatives made in “service to the nation”. These families said that for them, such an acknowledgement should take the form of a formal ceremony organised by the armed forces, specifically in the name of servicemen Missing in Action, inspired by the ceremonies which are organised for servicemen who are Killed in Action. These families also expected that servicemen Missing in Action should be included in the authorities’ public communication, and that their contribution be specifically acknowledged and appreciated as much as the contribution of those who are Killed in Action. A few families also mentioned that they would like to receive the medals conferred to their missing relatives and that the missing persons’ personal belongings presently in the hands of the armed and security forces be handed over to them. Some were of the opinion that symbolic gestures such as erecting a monument or naming a road in the name of the missing person would also be an acceptable form of recognition.

**“I would like to have a proper ceremony with a sword carried by the military officer for my son and many like him who went missing during the time of the conflict, as well as honour him with the Sri Lankan flag that will later be folded and given to me after the ceremony. In addition, I would like a monument or some kind of souvenir in my son's name”.**

**- Mother of a serviceman Missing in Action -**

<sup>66</sup> This is fully in line with the hierarchy of needs as explained in Section 5 of the report; the families naturally give priority to the fulfillment of their basic needs - food, sleep, and survival, only to be able to think of other needs once the basics are fulfilled.

<sup>67</sup> Acknowledgement for some families is equal to the fulfilment of justice.

<sup>68</sup> One hundred and twenty nine families of persons Missing in Action were interviewed in the course of this Assessment.



## 6. RECOMMENDATIONS

Based on the findings described in this report, a set of recommendations has been developed to assist governmental and non-governmental, national and international stakeholders to address the issue of missing persons and their families in Sri Lanka, and place additional efforts to clarify the fate and whereabouts of the unaccounted for and to support their families during the process.

### 6.1. MAIN RECOMMENDATIONS ADDRESSED TO SRI LANKAN AUTHORITIES<sup>69</sup>

International humanitarian law casts an obligation on each party to the conflict to take all feasible measures to account for persons reported missing as a result of armed conflict and to provide their family members with any information it has on their fate.<sup>70</sup> Based on the findings of this Assessment, the ICRC has shared its detailed recommendations confidentially with the Government of Sri Lanka to assist national authorities to address the issue of missing persons and their families in Sri Lanka in a comprehensive manner. The ICRC's recommendations to the Sri Lankan authorities are centred on the following key issues:

#### ADDRESS THE NEED TO KNOW THE FATE AND WHEREABOUTS

- 1.1. Take all possible measures to relieve the families of their uncertainty and fulfil their need to know and establish an independent mechanism<sup>71</sup> by an Act of Parliament, with the main objectives of:
  - 1.1.1. Clarifying the fate and whereabouts of missing persons through individual case resolution and informing their families thereof.
  - 1.1.2. Consolidating a national list of missing persons.
  - 1.1.3. Coordinating and streamlining the activities of all government institutions and other organisations involved in the process of clarification of the fate and whereabouts of missing persons, prevention of disappearances and addressing the multiple needs of the families of the Missing (economic, legal, administrative, psychosocial, etc.).
- 1.2. Ensure that: a) appropriate technical forensic capacities are developed and available in the search for, recovery and identification of the remains of the missing persons; b) an adequate legal framework is adopted that mandates the full investigation of the deaths of missing persons, including the recovery, identification and return of their remains whenever possible; and c) this legal framework promotes communication, cooperation and coordination amongst all concerned stakeholders to promote efficient and effective delivery of information on the fate and whereabouts of missing persons to their families.

#### ADDRESS PSYCHOSOCIAL NEEDS

- 1.3. Address the psychosocial needs of the families of the Missing by:
  - 1.3.1. Filling the pending counsellor positions with individuals who have a degree in counselling psychology; increasing training opportunities for the counsellors and establishing a dedicated coordinating body which oversees all counselling activities across different line ministries.
  - 1.3.2. Providing greater access to NGOs and CBOs who work in different fields of psychosocial support, as organised and coordinated support to families' needs has to take place in forms of district-based support, where local resources and peers will assist the improvement of the families' well-being.
- 1.4. Integrate the theory of ambiguous loss and related intervention guidelines<sup>72</sup> in counselling and clinical psychology curriculums, as well as social work curriculums at the level of tertiary education.
- 1.5. Develop an environment where a sense of safety is felt by all, affording families the freedom to gather peacefully in groups and organise commemoration<sup>73</sup> services in remembrance of their missing relatives.

<sup>69</sup> A confidential report on the Families' Needs Assessment was presented to the Sri Lankan authorities in January 2016.

<sup>70</sup> Customary International Humanitarian Law Rule 117, [https://www.icrc.org/customary-ihl/eng/docs/v1\\_rul](https://www.icrc.org/customary-ihl/eng/docs/v1_rul).

<sup>71</sup> See Recommendations 9.48 and 9.50 of the Final Report of the Lessons Learnt and Reconciliation Commission (2011).

<sup>72</sup> Boss, P (2006), *Loss, Trauma and Resilience: Therapeutic work with Ambiguous Loss*, W.W.Norton Company, INC, ISBN:978-0-393-70449-5.

<sup>73</sup> Boss, P (2006), *Loss, Trauma and Resilience: Therapeutic work with Ambiguous Loss*, W.W.Norton Company, INC, ISBN:978-0-393-70449-5.



## ADDRESS ECONOMIC NEEDS

- 1.6. Recognise all families of missing persons as victims of the conflict and ensure consistency and non-discrimination in the services and benefits available to them.
- 1.7. Design specific social benefit packages to address the difficulties faced by families of the Missing in today's context. In doing so, it is important that particular attention is paid to labelling these packages (i.e. not using the word "compensation" and not providing social assistance as a form of a reparation package).
- 1.8. Provide information summarising and describing social assistance schemes available to the families of missing persons and the procedures to access them.

## ADDRESS LEGAL AND ADMINISTRATIVE NEEDS

- 1.9. Recognise a legal status for the 'Missing' and provide for its effects under Sri Lankan law, while establishing the administrative framework necessary for its implementation. The introduction of certificates of absence to families who so require, would allow them to address legal and administrative issues arising from the absence of their loved one, without having to declare the missing person dead.
- 1.10. Consider revision of the existing administrative rules and procedures to facilitate access for the families of missing persons to services and benefits, including access to relevant documentation (birth certificates, marriage certificates, identity cards, electoral registration etc.).
- 1.11. Provide information to the public on different legal and administrative processes and their requirements, in all three languages.

## ADDRESS ACKNOWLEDGEMENT AND JUSTICE NEEDS

- 1.12. Consider avenues to acknowledge the families' need to preserve the memory of their missing relatives, such as by dedicating a day of remembrance in close cooperation with all families of missing persons.
- 1.13. Include families of missing persons in consultations to determine which transitional justice mechanisms to establish, to adequately address their need for accountability and justice.

## 6.2. RECOMMENDATIONS TO OTHER STAKEHOLDERS

The ICRC calls upon other stakeholders – whether at national or international level – to support the State authorities to fulfil their primary responsibility to clarify the fate and whereabouts of missing persons and address the needs of their families, by:

- 1.1. Promoting the clarification of missing persons' fate and whereabouts and making funds available for it;
- 1.2. Considering the inclusion of families of all persons missing in relation to the armed conflict as a priority concern, developing programmes in their favour taking into account their identified multifaceted needs, and allocating sufficient funds to cover these needs adequately and holistically;
- 1.3. Pursuing the dialogue on including the issue of missing persons and their families in the transitional justice discourse and encouraging the inclusion of missing persons' families in the process; and
- 1.4. Coordinating efforts to ensure a synchronised response to the multifaceted needs of the families along with the authorities, to make certain that all categories of victims of the conflict are adequately supported, while the efforts are not duplicated and all potential gaps are covered.



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## 7. THE ICRC'S ACTIVITIES IN FAVOUR OF MISSING PERSONS AND THEIR FAMILIES IN SRI LANKA

The ICRC has been registering and resolving cases of reported arrests, separation of families and missing persons in connection with the past armed conflict in Sri Lanka since the establishment of its permanent presence in the country in 1989. Today, the ICRC remains with a case-load of over 16'000 missing persons, including over 5'100 security forces personnel Missing in Action, originating from all over Sri Lanka.

The ICRC consistently engages in a confidential dialogue with the relevant authorities to promote the need of families to know the fate and whereabouts of their missing loved ones. It also provides the authorities with expert guidance, when requested, to support their efforts to clarify the fate and whereabouts of missing persons, and address the needs of their families.

Over the years, the ICRC has deployed various modes of action – from providing assistance directly to the victims of the conflict, to supporting local structures and authorities in their activities, to persuading the actors to fulfil their responsibilities and obligations spelt out in IHL.

Since 2011, the ICRC has engaged in a dialogue with authorities to introduce the concept of a certificate of absence into Sri Lankan law as an alternative to a death certificate. A certificate of absence, as proposed by the ICRC, seeking to preserve the missing person's interests, would allow provisional arrangements to be made for the management of the missing person's property and assets, while addressing the immediate needs of his/her relatives and dependents.

In order to answer to the families' need to know the fate and whereabouts of their missing loved ones, and – amongst other issues – address their multifaceted needs, the ICRC has advocated for the establishment of a national mechanism to coordinate and streamline the activities of all government institutions.

In 2014, the Government of Sri Lanka accepted the ICRC's proposal to carry out a comprehensive assessment to better understand the needs of the families of missing persons in Sri Lanka and, from the findings, to draw recommendations on how to better address these needs.

As part of its humanitarian action in favour of missing persons' families and in order to address their multifaceted needs, as identified through the Families' Needs Assessment, the ICRC is implementing a project of Accompaniment of the families of the Missing, in partnership with local organisations and in agreement with GoSL and local authorities in several districts.

The main goal of the Accompaniment Programme is to strengthen the ability of close family members of missing persons to deal with difficulties related to the disappearance of their relatives. The programme addresses in particular:

- The emotional needs of the families through psychosocial support aiming to strengthen their capacities to face daily problems and responsibilities, by decreasing their psychosocial distress, and increasing their functionality at the individual, family and community level. This is done through individualized support but also through the formation and facilitation of peer to peer support groups;
- The economic needs of the most vulnerable families through assistance programmes aiming to reduce the impact of having a breadwinner or other economic contributor to the family unaccounted for; and
- The legal and administrative needs through referrals to existing local governmental and non-governmental service providers. The accompaniers will, for example, support the families in going through the administrative procedures to apply for and access the various available assistance schemes such as Samurdhi, housing loans, micro-credits, etc. Through access to local services, if needed, the families will obtain documents necessary to address their administrative difficulties: transfer of land ownership, access to assets of their missing relative, pensions, certificate of absence, etc.

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The programme was launched in November in the Anuradhapura district, followed by Mannar in December 2015 and Trincomalee in March 2016. In 2016, it will gradually expand to reach more families in Sri Lanka. The programme is designed by the ICRC and is implemented through local partner organizations and grass-roots level care providers.

Unfortunately, some of the persons who are missing may have died since the time of their disappearance. For this reason, the search for, recovery and analysis of human remains is often an essential component of clarifying the fate and whereabouts of missing persons, giving them back their names, and returning them to their families. These activities must be carried out by experts trained in the specific skill set required to appropriately excavate and analyse the compromised or degraded remains – the bones – of individuals who died some time ago. This is particularly important when many sets of remains are buried together in a common grave, which can provide unique and complex challenges.

The ICRC does not carry out forensic investigations in Sri Lanka – either the recovery of remains from single or mass graves, or their identification – because there is already a judicial medical system in the country. However, the ICRC provides support to existing structures.

The forensic experts in Sri Lanka are regularly carrying out judicial medical investigations on the recently deceased. However, as in most countries, these experts are not fully proficient in the specific skills required to recover and analyse bones, especially those contained within mass graves. For this reason, in coordination with the College of Forensic Pathologists of Sri Lanka, the ICRC is helping to establish an MSc programme at the University of Colombo in Forensic Anthropology & Archaeology, the expertise focusing on the recovery and analysis of human bones. The ICRC will also help to establish a teaching laboratory at the Institute of Forensic Medicine & Toxicology in Colombo, which will also serve as a functioning forensic anthropology laboratory at which the remains of missing persons can be analysed. Development of this MSc programme in Sri Lanka will help to ensure sustainability of expertise in the country that will not only target today's forensic practitioners, but also provide a platform to firmly root this expertise within the country for the long-term endeavour of recovering and analysing the remains of the Missing.

If requested and compatible with its mandate, the ICRC will continue to provide expert guidance and support at both technical and policy levels to help ensure that the remains of missing persons are professionally and comprehensively managed.



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## 8. CONCLUSION

The impacts felt by families of missing persons as a result of their loved ones' disappearance are multifaceted, and involve both psychological and social realms. In Sri Lanka, the past conflict which resulted in the disappearance of men, women, adults, minors, Tamil, Sinhalese, Muslim, servicemen, LTTE- members, from all districts of the country has left thousands of families burdened with these emotional and social sufferings. Whilst an end to this suffering and the challenges resulting from the relatives' disappearances are by no means simple to resolve, it is hoped that the findings of this Assessment will provide the information necessary to begin and support the process of addressing these needs and challenges.

The report provides a summary of the situation as expressed by the families of missing persons through interviews with the ICRC, and therefore provides a means of sharing direct accounts of the most pressing needs and challenges they face. Thus, it should be seen as a tool to inform and aid in ensuring efforts remain focused and appropriate to the families' needs.

Meanwhile, the ICRC will continue to support the families in their search for information on the fate and whereabouts of their missing loved one. The ICRC will also continue to support the families with the day-to-day challenges they face, living with the uncertainty caused by the unknown fate and whereabouts of their missing relatives, as well as contribute to the efforts being made by authorities and other stakeholders in addressing these issues.

For further information regarding these activities, or any other discussions that may arise from the content of this report, readers are encouraged to contact the ICRC Delegation in Colombo at the contact details provided on the back of the cover page.

**“I have spent the past 23 years of my life in uncertainty, not knowing if my husband is dead or alive. All my children are married and settled. But I live a lonely life. I am emotionally and mentally exhausted. I wish someone would just tell me for sure what happened to my husband.”**

**- Missing person's wife -**

#### MISSION

The International Committee of the Red Cross (ICRC) is an impartial, neutral and independent organisation whose exclusively humanitarian mission is to protect the lives and dignity of victims of armed conflict and other situations of violence and to provide them with assistance. The ICRC also endeavours to prevent suffering by promoting and strengthening humanitarian law and universal humanitarian principles. Established in 1863, the ICRC is at the origin of the Geneva Conventions and the International Red Cross and Red Crescent Movement. It directs and coordinates the international activities conducted by the Movement in armed conflicts and other situations of violence.



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