



Some of the text on the paper is illegible, but it appears to be a list or a document related to the study.

# FAMILIES OF MISSING PERSONS IN NEPAL

A study of their needs



ICRC



**International Committee of the Red Cross**

G.P.O. Box: 21225,

Meen Bhawan, Naya Baneshwor, Kathmandu

Tel: (00977) 1 4482285 / 4492679

Fax: (00977) 1 4482937

E-mail: [katmandu.kat@icrc.org](mailto:katmandu.kat@icrc.org)

[www.icrc.org](http://www.icrc.org)

[www.familylinks.icrc.org](http://www.familylinks.icrc.org)

© ICRC, April 2009

Cover photo : Pallavi Dhakal/ICRC

# CONTENT

<b>Definition</b>	<b>I</b>
<b>Executive Summary</b>	<b>II</b>
<b>1. Introduction</b>	<b>1</b>
<b>2. A profile of the victims</b>	<b>2</b>
2.1 The missing and their families	2
2.2 Alleged perpetrators and circumstances of disappearance	2
2.3 Victims and perpetrators	4
<b>3. Methodology</b>	<b>5</b>
3.1 Sampling	5
3.2 Research methods	6
3.3 Implementation	7
3.4 Response of subjects to the research	8
<b>4. The needs of families</b>	<b>9</b>
4.1 Hierarchy of needs	9
4.2 Need to know the fate and whereabouts of the missing person	11
4.3 Needs related to the psychological and psychosocial impact	16
4.4 Economic needs	21
4.5 Needs specific to wives of the missing	24
4.6 Justice	25
4.7 Reparations	28
4.8 Attitudes to the state and its institutions	32
4.9 Legal and administrative issues	33
<b>5. Conclusions and recommendations</b>	<b>35</b>



# Definition

“ *The missing persons* are those persons whose families are without news of them and/or are reported unaccounted for, on the basis of reliable information, owing to armed conflict or internal violence. The terms *family* and *relatives* must be understood in their broadest sense, including family members and close friends, and taking into account the cultural environment. ”

(ICRC, 2003)

In this document, "the missing" refers to all persons unaccounted for following the Maoist insurgency in Nepal (13 February 1996 to 21 November 2006). Most of them went missing after being arrested by state security forces (Nepal Police, Armed Police Force, Royal Nepal Army) or seized by persons affiliated with the Communist Party of Nepal (Maoist). A minority of the missing persons may have been killed while taking part in CPN-M armed action or during military and security operations.

## The terminology for missing persons in Nepal

There are no terms in Nepali exactly equivalent to the English usage of "missing" and "disappeared". "Disappearance" is often used by human rights organizations in the sense of "enforced disappearance".<sup>1</sup> The word almost always used in Nepali to discuss disappearances during the conflict is *bepata*, which can mean either missing or disappeared. The meaning can be specified by adding rarely used qualifiers (i.e. *bepata pariako*, forcibly disappeared; *bepata baheko*, missing in circumstances other than forced disappearances). In this report the word "missing" is used in the general sense of international humanitarian law (IHL), describing all those unaccounted for as a result of the armed conflict.

---

<sup>1</sup> "Enforced disappearance" is considered to be the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law. (*International Convention for the Protection of All Persons from Enforced Disappearances, Article 2.*)

# Executive Summary

**“...in the spring the new birds start singing, the cloud comes up and the cuckoo starts singing. The mother has the feeling that "maybe this cuckoo is my daughter who is still alive and has come to see me.”**

(Father of missing girl, Gorkha)

The present report sums up the findings of extensive research on the needs of families of missing persons in Nepal. It has been carried out by an external consultant familiar with the matter and the particular context of Nepal, under contract to the International Committee of the Red Cross (ICRC).<sup>2</sup>

The objective of the report is twofold:

- to give a voice to the families of persons unaccounted for in relation to the 1996-2006 armed conflict in Nepal;
- to provide stakeholders in the peace process under way in Nepal since 2006 with information giving them a better understanding of the families' needs.

The emphasis on needs is in contrast to the dominant rights-based approach deriving from a predominant legal discourse. There is a perception that the concept of rights gives agency to victims, since unlike needs, which are a passive concept, rights are something that can be claimed. This research in Nepal has shown that the contrary is true. When victims, families of the missing or others are asked about what they want, very few use the language of rights.

Thus for the majority of those met during this study, the fact that they have rights - to truth, to redress,

**“We hear people on the radio talking about these things. But nobody has come and told us about our rights. We don't have any concept of human rights.”**

(Sister-inlaw of missing man, Rolpa)

**“Sometimes I think that when they took our people, they should not have killed them, they have the right to live. (...) It is treating them like beasts to kill them immediately after the arrest. They treated our people like dogs. But I don't know exactly what are rights.”**

(Focus Group participant, Magraghadi, Bardiya)

---

<sup>2</sup> The ICRC works in armed conflicts throughout the world to ensure the protection of persons who are not or no longer taking direct part in hostilities, including detainees and civilians. It has been working in Nepal in accordance with this mandate since 1998. Since the conflict ended in 2006 the ICRC has been working with both the authorities and the families of missing persons to ensure that those families' needs are effectively addressed.

to justice and to reparation - plays little part in the formulation of their demands in response to their victimhood. The very language of rights remains an external discourse that means little to them. The vast majority of the families talk of the problems they face and the needs that emerge from those problems every day, and this becomes the natural language when discussing the issues arising from their victimhood.

The needs of the missing persons' families cannot be generalized; they will depend upon their family circumstances, education and economic situation. Most families do, however, agree on their priorities: they want an answer regarding the fate of the missing and they want economic support in the absence of breadwinners, whilst only a minority of families, notably the urban and the educated ones, mention justice as a priority.

Families are reluctant to believe that their loved one is dead; 80% of those met show some degree of ambiguity about the fate of their missing relative. Even though there are culturally appropriate ways to perform rituals in the absence of a body, for most families the only conceivable proof of death is the body itself. The performance of death rituals without this proof is not acceptable: 83% of families require the dead person's body. To believe that a body is indeed that of their loved one, families require either a scientific test, such as DNA testing, or a "chain of truth" that links the body and the gravesite to what they know of their relative's disappearance.

A majority of those met reported symptoms consistent with the impact of trauma, and a small minority were disabled by mental illness. Many of those met display chronic physical symptoms, presumably somatic, that they attribute to the long-term effect of the disappearance. A number of wives of missing persons face extreme stigmatization in their homes that has led to their being ejected by their in-laws, leaving voluntarily or continuing to live there in terrible conditions. In their communities the problems of missing persons' families are poorly understood; wives of the missing are often stigmatized for refusing to behave as widows are expected to.

Having a missing relative makes a family poorer. A minority of households face challenges in feeding their families, and a small number of households with no economically active member have no alternative but to beg for food. Families articulate their economic needs in terms of what they cannot afford, and for most this prioritizes food, education and health care.

A minority of families have to contend with administrative issues, notably concerning the transfer of land or property, owing to the ambiguity of the fate of a head of household. A majority of affected families favour a legal status of "missing" so that such issues can be addressed.

While justice is not their first priority, families want those responsible for their relatives going missing to be prosecuted. In addition to the direct perpetrators, families hold informers, those who gave the orders and those at the political level responsible and believe they should be punished. Most reject amnesty outright, but around one-third of families would accept amnesty subject to certain conditions in terms of knowing the truth and receiving compensation. There is a general confidence that with new laws it would be possible to prosecute perpetrators and receive justice in Nepal: any trials should be accessible to victims and should ideally be held in their local area.

The attitude of families to reparations is dominated by the need for economic support and for acknowledgement. For most, this results in an urgent demand for interim relief, while reparations and compensation must await the truth. Families also want to see the missing acknowledged as martyrs, if and when the truth of their fate is known, and to see memorials built in tribute to them.

Whilst most state victims believe that the CPN-M-led government will address the missing persons' issue, hardly any victims of the CPN-M share this view. Around half of all families would be ready to join a protest movement if the authorities do not address the missing persons' issue, and it is worth mentioning that 15% of them said they could envisage to start a new insurgency over the issue.

As a result of its findings, the ICRC has identified five areas where urgent action is needed, namely the inadequate inclusion of victims and family associations in the transitional process; the remaining uncertainty of families as to the fate of their missing relatives; legal issues concerning the status of the missing persons and their families; the families' difficult socio-economic situation; and the need of families and communities for psychological and psychosocial support.

The ICRC recommends that the Government of Nepal take all necessary measures to address the needs of the families of missing persons in the above-mentioned areas. These measures include the empowerment of family associations; the creation of an independent body in charge of supervising all activities to clarify the fate of the missing persons, with the objective of providing answers to the families concerned; the adoption of legal provisions designed to clarify the status and rights of the missing persons and their families; the development of assistance programmes (economic, social, medical, psychological, etc.) according to specific needs and vulnerabilities of the families and their members; and action towards a public acknowledgement of the situation of the missing persons' families (such as reparation policies, commemorative measures, etc).



The armed conflict in Nepal has left a legacy of some 15,000 dead (INSEC, 2007), and more than 1,300 missing (ICRC, April 2009).<sup>3</sup>

While Nepal's ten-year conflict is over, the victims are still suffering from its effects. The families of the dead can mourn and gradually rebuild their lives, but for the families of the missing there is no end to their pain: sons, husbands, wives and daughters have disappeared, taken by both parties to the conflict, and their families are still waiting to know where they are. Since the end of the conflict in 2006, the ICRC has been working both with the relevant authorities and with the missing persons' families to try to ensure that the latter's needs resulting from the absence of missing family members are addressed.

The ICRC has recorded over 1,300 persons reported missing in relation to the conflict whose families remain unaware of their fate. From the very start of the peace process in Nepal, politicians have promised that the missing persons issue will be addressed and that families will be given answers. In many of the agreements that formalized the peace process, including the Comprehensive Peace Agreement and the interim constitution, the parties to the conflict pledge to address the issue of disappearances in the short term. This includes commitments to establish a Commission of Inquiry into Disappearances and a Truth and Reconciliation Commission. At the time of writing, however, the families are still waiting.

Between June and September 2008 the ICRC contracted an external consultant <sup>4</sup> to conduct an research on the needs of the families of the missing in Nepal. The findings of that research are synthesized in this report which aims to give a voice to the families of those who are unaccounted for in relation to the conflict and to provide stakeholders in the peace process with an improved understanding of the needs of the conflict victims. Whilst the study is restricted to families of missing persons, it does contain potential lessons to be drawn about the needs of other victims. The families of those killed in the conflict may have economic needs very similar to those of missing persons' families; the same applies to some of the social problems faced by widows in their families and communities.

<sup>3</sup> INSEC: " Human Rights Year Book 2007", available at <http://www.inseconline.org> and ICRC: " List of names of people being sought by their relative, update 01.04.09", available at <http://www.familylinks.icrc.org>.

<sup>4</sup> The researcher, Simon Robins, is a PhD candidate at the Post-war Reconstruction and Development Unit at the University of York (UK) and a former ICRC delegate in Nepal (2006-2007).

## A profile of the victims

### 2.1 The missing and their families

While the missing themselves are the direct victims, the families they leave behind are also victims. The research subjects of this study are the families of persons unaccounted for as a result of the conflict. Individuals are affected according to their relationship to the missing person, which is determined to some extent by the culture and society in which they live. A minority of the missing (they include a significant number of students) are educated and urban, but most come from rural peasant backgrounds. Consequently many families of the disappeared are of a low educational level, barely literate or illiterate, and poor.

People from indigenous ethnic groups (Janajati) are over-represented among the missing, as are Madeshi people in the districts where they are present.

90% of the missing are males and 81% of them are married. Furthermore, 71% of the men went missing between 18 and 35 years of age, with the result that families have been deprived of breadwinners and women – often with young children to support – of husbands, further reducing their economic security.

The typical profile of interviewees (the *research subjects*) is thus that of a rural woman, of low educational level, often from an indigenous ethnic group.

The missing persons covered by this study went missing between 12 and 2 years prior to it, and for an average duration of 5 years.

### 2.2 Alleged perpetrators and circumstances of disappearance

In Nepal, most of the missing persons disappeared after their arrest and families can indicate those allegedly responsible.

#### **State agencies**

Cases of missing persons for which state bodies are allegedly responsible consist predominantly of those in which security forces arrested people at home. In such cases, families have usually not received any information about the fate or whereabouts of their missing relatives.

**“The people from Rajhena told me not to go there otherwise they would also kill us when they see us going through their village. But we went to the Chisapani jungle and river. I saw plenty of dead bodies thrown there without heads, and plenty of broken dead bodies. We went into the river and took some bodies out but I couldn’t recognize anyone. We were crying and looking everywhere to see if we can find our family members, but it was not possible without a head or because the body was broken. We came back home crying.”**

(Mother of two missing sons, Bardiya)

### **CPN-M**

The majority of cases of missing persons for which the CPN-M was allegedly responsible occurred in rural areas. In some of them, the body of the missing person has been seen by villagers and in many cases the CPN-M has made a public statement about the missing person’s death. This has often not been confirmed in terms of details of the circumstances of death or the return of the person’s mortal remains.

**“When my husband was abducted [by the Maoists] I was pregnant. I heard that they wounded my husband and killed him like a goat. The villagers saw these things but they could not tell me anything. The Maoists told me.”**

(Focus group participant, Rolpa)

For many families of those missing at the hands of the CPN-M, displacement has been an additional consequence of their victimization: fear of ongoing Maoist control of their home area has induced the family to leave their fields and move either to the district headquarters, a town in the Terai, or to Kathmandu. Such families are especially vulnerable, for they have lost their traditional livelihood as well as contact with their community. Those who have remained in their village face potential security issues.

**“I wish to leave this house and go elsewhere otherwise my son may be killed. (...) We are now living in the village in our family house with our enemies living around our residence. (...) The perpetrators are still threatening us, saying they will kidnap and kill us.”**

(Terai woman whose husband and father-in-law were abducted and reportedly killed by local Maoists)

### **Unknown**

In a number of cases the circumstances of the disappearance are unclear. They include those cases where a combatant from either party has failed to return home and the family have no information on his whereabouts, and cases where civilians have disappeared in circumstances that remain obscure.

“ I am really worried about my son. I don't even have any idea who took him. My heart and mind always think badly, which makes me more weak and mad. I don't know which political party or people can find my son. He has never been seen by anybody so it's very difficult to explain how he was taken and by whom.”  
(Mother of missing man, Bardiya)

### **2.3 Victims and perpetrators**

It suits many to see victims and perpetrators being at opposite ends of the spectrum, whereas categories of victim and perpetrator during the insurgency were often not far apart, and on some occasions overlapped. In a Terai district a man was interviewed whose relative disappeared at the hands of the state, and later that same day a woman was met who claimed that the very same man had been responsible for the disappearance of her husband while in Maoist hands.

This report will not seek to determine what role was played by whom among the missing or their families, but it will articulate all their needs on an equivalent basis, on the understanding that all families have the same rights.

The research agenda is driven by the concept that victims know, better than anyone else, what needs they have and how they should be articulated. The research design was therefore developed on a participatory basis with the family associations in Kathmandu and Bardiya.<sup>5</sup> The associations, together with individual families who are their members, determined the goals and methodology of the research process. This was essentially an emancipatory approach to participation, with the research driven by the researched. During the research design phase it became clear that women were impacted in unique and often extreme ways by disappearance. As a result of this an effort was made to ensure the greatest possible participation of women in the survey.

Both the engagement with family associations and the advocacy approach that emerged from it helped to build an ethical relationship between the researcher and the researched. The fact that the findings of the survey were to be published in a report made it easier to obtain informed consent, since this approach was both understood and supported by all families. The role of the associations also helped to address potential issues arising from the power relation between a foreign researcher and highly disempowered people in a deferential society<sup>6</sup>.

## 2.1 Sampling

The sampling frame used for the survey is the list, drawn up by the ICRC, of 1,227 persons missing as a result of the conflict and published at the start of data collection (ICRC, 2008). A selection of 10 of Nepal's 75 districts was made that enabled the worst affected districts to be included, whilst also ensuring a spread by region, geography (plains, hills, mountains), ethnicity and alleged perpetrator (state, Maoist). These 10 districts account for 43% of the missing persons in Nepal. All five regions of Nepal are represented, with the exception of the Far-West Region, where the victim profile is similar to that of the Mid-West Region. The ethnic mix represented by this selection is also a good reproduction of that of the sample as a whole, while the ratio of allegedly state-perpetrated to allegedly Maoist-perpetrated cases is relatively constant throughout the affected districts.

Within these districts a random selection was made from the ICRC lists per district.

<sup>5</sup> Family associations are non-governmental organizations grouping together families of persons who went missing during the conflict. Some associations are party-affiliated others include all the families of the missing in a district, regardless of which side is allegedly responsible for the disappearance of their relative.

<sup>6</sup> Robins, S. (forthcoming), 'A participatory approach to ethnographic research with victims of gross human rights violations: Studying families of the disappeared in post-conflict Nepal', in Ozerdem, A. and Bowd, R. (eds), *Participatory Research Methodologies in Development and Post Disaster/Conflict Reconstruction*, Ashgate, 2009

The concerned family associations selected focus group participants. Whilst this does not yield a representative sample, it does allow peer groups to be constructed. These included victims of the CPN-M or victims of the state from a particular district, wives of the disappeared from a particular ethnic group, etc.

District	Total missing (ICRC list)	Interviews				Focus groups	
		Alleged perpetrator			Total	Number	No. of participants
State	CPN-M	Not known					
Banke	97	6	0	0	6	0	0
Bardiya	240	28	2	1	31	3	19
Dhading	13	10	0	0	10	1	9
Gorkha	16	7	0	0	7	2	13
Kathmandu, Lalitpur, Bhaktapur	151	11	3	0	14	2	16
Rolpa	36	2	5	0	7	1	8
Siraha, Dhanusa	33	7	3	1	11	1	9
<b>Total</b>		<b>71</b>	<b>13</b>	<b>2</b>	<b>86</b>	<b>10</b>	<b>74</b>

Table 1| Summary of families met for semi-structured interviews and focus group discussions |

The total number of families met for interview (86) constitutes 7.0% of all victims on the ICRC list, with a further 6.0% (74 individuals) met in focus group discussions. Of those families interviewed, 67% were from indigenous groups (many Tharu, but also hill Janajati) 8% were Dalit and the remainder (25%) Brahmin or Chhetri. Of the persons missing from the families met, 93% were male, and 62% of the principal interviewees were female. The dominant age group among the missing persons is 15 – 30 years old, and the sample includes 9 missing persons under 18 years of age at the time they went missing.

### 3.2 Research methods

The research methods used in the survey were chosen to optimize the utility of the data collected, and in particular to mix research methods to increase the possibility of effective triangulation, given the various challenges to reliability and validity that may be present. As a result a range of different methods were used:

- Semi-structured interviews: areas of discussion were predetermined, but the subjects were permitted to approach these in their own way; a typical interview lasted around 90 minutes.
- Focus groups discussions: a group interview, with each participant given the chance to express himself or herself, but with the additional dynamic of inter-group discussion.

- Participant observation: an additional tool for triangulation, since it enabled the verbal data gathered in interviews and focus group discussions to be confirmed or refuted. Participant observation makes it possible to confirm much of the data about economic conditions, relations within community and family, and other subtle elements of social interaction. During interviews, in focus groups and throughout field visits field notes were taken of observations of participants and their environment.

### 3.3 Implementation

Data collection took place over a 4-month period. The vast majority of families were visited in their homes, and some (in Kathmandu) at their workplaces. Where the families selected by the sampling strategy were otherwise available (e.g. at family association meetings), interviews were also conducted outside the home.

Traditional hierarchies would often mean that a certain member of the family (typically the father or the eldest son) would be presented as the principal interviewee. Most often the entire family as a group would be met, with the result that all members of the family would have an opportunity to contribute to the discussion, much as in a focus group. This can be positive, not only for the support it offers during what might be an upsetting discussion, but also because it gives an insight into family dynamics. Early interviews revealed that women, especially wives of the disappeared, were most adversely affected, and so wives or mothers were preferentially spoken to within the family group. Since wives, particularly younger ones, were most likely to be impacted by social stigma, where possible they were spoken to in private or with other wives of the disappeared, in order to understand as fully as possible the social and family pressures to which they may be subject.

The researcher led all interviews and focus groups. A research assistant, whose role was to interpret both linguistically and culturally, accompanied the researcher in almost all interviews. Interviews were conducted in the Nepali, Tharu and Maithili<sup>7</sup> languages, and so assistants were drawn from the appropriate communities. A total of five assistants were used, two of whom were members of family associations and relatives of the missing and two of whom were women. All focus groups<sup>8</sup> contained or were accompanied by a member of the family association that had assisted in its organization, and a minority of interviews with families also included a family association representative who accompanied the researcher.

---

<sup>7</sup> Tharu is the language of the indigenous Tharu people who constitute the largest single indigenous group in the plains of Nepal; Maithili is one of the languages of the Madeshi community of the plains.

<sup>8</sup> One focus group was created in a part of Dhading where no formal family association is active and without the presence of a family association representative.

### 3.4 Response of subjects to the research

Some families have been met many times by human rights agencies seeking to collect testimony about violations. Despite repeatedly telling their stories, such families remain frustrated that they still see no action on their behalf, and this made them wary of what they saw as yet another demand for their story:

**“Our relatives and friends have been missing since the beginning of the war, from 2052 BS onward. The process of meeting us like this goes on and on. This year you came. And last year the ICRC people and the people from human rights came to visit us in our villages. But it does not take a decisive form (...) we are treated as a pond and the visitors come and swim in this pond making this an issue.”**

(Brother of missing man, Gorkha)

However, this study also included families whom only the ICRC has met and who were enthusiastic about talking again. The involvement of family associations at all stages of the process, as well as the fact that someone was showing interest in their needs rather than simply collecting testimonies on disappearances, probably increased the degree of confidence of families in the process itself.

**“We have been everywhere to tell our problems, including at national and international level. We are now hopeful that those who were disappeared would be made public. Your visit made us hopeful. We are glad. But we expect that you would give a wide publicity to it. (...) This time it seems to us that you have shown a great deal of sympathy with our pain.”**

(Focus group participant, Kathmandu)



Needs of families are not static, and the ICRC has seen such needs evolve from the time of disappearance and up to the present day. Needs differ not only between urban and rural, rich and poor families but within families, where they differ depending on the closeness of relationship each family member had with the missing person or persons; they also differ according to the position of the individual within the family. Moreover men will often be more engaged in politics and will see issues such as justice and acknowledgement of their loved one as a martyr as more important than a woman does, who will prioritize social and community issues. This is most extreme among those wives of the missing who have lost all value to the family with the loss of the husband: whilst the family may prioritize justice and compensation, for the wife restoring her status within the family will be a priority.

### 4.1 Hierarchy of needs

The first question asked during the interviews was an open question about the family's priorities: "What would the family like to see done in response to the fact that their relative is missing?". This question was asked before any others to minimize the bias resulting from potentially influencing the family. Families could give as many or as few answers as they wanted. Three types of response emerged far more frequently than others as needs:

- An answer about the fate of the missing person, the truth: "Is he dead or alive?" often phrased as a need to know "the whereabouts" of the missing person (64%).
- Economic support, often phrased as "compensation", or a demand for privileges regarding education, medical treatment and jobs for family members (62%).
- Justice, in terms of the punishment of those responsible (29%).

This suggests that the highest priorities of most families are to know the truth about the fate and whereabouts of their missing relative and to receive economic support. However, when asking families in more detail if they would like to see someone punished, the vast majority said they would. Thus the above represents a hierarchy of relative priorities, rather than a set of alternatives.

Families have a very deep and natural desire to see their loved ones again or to have the ambiguity of their disappearance resolved. Most cannot admit to themselves that loved ones will not return.

However, since most of them are poor and rural they also face very urgent economic needs, as the missing person was often the family's main breadwinner.

“We had a very big change in our life because of that incident. We couldn't [till] the land that year. They [her two missing sons] were both handling all the work outside and inside the house, taking care of the land and household needs. My other kids were still very young. I got sick and weak because of the tension. My granddaughter got sick and couldn't get good treatment. The whole house was in shock. My weak husband tried himself to take care of us but it wasn't useful. The land also didn't give us anything that year even though my husband tried. Everything became dry in our life that year.

We are in deep sorrow since our sons have gone away. (...) We borrow for things we need like food, clothes and medicine, and pay next year. My other two sons are now physically able to work but they don't have the experience to work in the field. Everything would be different and easier in our life if my sons were here today. We wouldn't be lacking anything in this house. I don't want anything else if they will return my sons. ”

(Mother of two missing sons, Bardiya)

While the need for justice is very real, it is, however, tempered by the lack of any confirmation of what actually happened to their beloved son or husband.

“I don't know who they [the perpetrators] are and who should be punished. I am just dying to get my son back. If he doesn't come then they have to take care of us. The compensation will help us in the short term, but my son would be taking care of us until the end of our lives. ”

(Mother of missing man, Bardiya)

### ***Different families, different needs***

The fact that families do not all share the same priorities and the same needs can be seen by comparing the rural women quoted above with families in Kathmandu who have been exposed to a political agenda and are much better able to articulate their needs. This is a concise outline of many of the needs faced by families of the missing:

“First, they have to return our husbands. If they are unable to, then they have to give us the facts and the truth of how they killed them, when and how and who killed them. The guilty should be punished for their misdeeds. They should arrange something for our family and for our children, especially education, and the Government should pay us compensation. We have somehow managed to live our lives but there are women in the villages that are still finding

**it hard to eat every day, for those the Government has to think seriously and act accordingly. ”**

(Wife of missing CPN-M activist, Kathmandu)

The most dramatic divergence of opinion concerning relative priorities can be seen when comparing responses from families in Kathmandu to the open first question (cited above) with those from Bardiya, the latter being an example of an overwhelmingly rural peasant victim population, (Table 2).

	Kathmandu	Bardiya
Answer about fate	0.85	0.70
Economic support	0.38	0.60
Justice	0.69	0.07

Table 2 | Fraction of families mentioning priorities in response to a general question |

This is an outcome of the greater degree of education and politicization of families in Kathmandu, as well as a greater exposure to agencies using the legalist language of rights.

## **4.2 Need to know the fate and whereabouts of the missing person**

**“It’s OK if they give us truth now, then the other things will follow. The first thing is finding out. (...) The first thing is the truth and then comes the matter of justice. ”**

(Focus group participant, Gorkha)

Whatever their background and location, the first priority of many families is to receive credible information about the fate of their relatives: are they dead or alive? But very often they also want to see a public acknowledgment of the disappearance so as to prevent any attempt to cast doubt on the existence of disappearances and ensure that wrongdoers cannot deny their responsibilities.

### **Efforts to find information, and lack of information**

Most often families have not been officially informed of their relative’s disappearance. Most families witnessed the arrest themselves or were informed by others who did: in most cases the identity of the perpetrators was not subject to doubt.

The vast majority of families immediately started to search for their missing relative as soon as they were aware of his/her disappearance. Many families made great efforts to find out what had happened to their loved ones, despite the precarious conditions during the armed conflict.

In the case of persons arrested at home, the families generally went straight to the police stations, the local administration or the local military bases to ask where their relative was. Often these entities denied having any information. It was then that the person became a “missing person”.

Even where the families had consistent information (eyewitness accounts that the person was taken into custody), the answers given by the relevant entities were often simple denials of the facts or information that seemed quite implausible, and are understandably unsatisfactory. In light of what the families do know, they are convinced that the authorities' representatives should have some knowledge of the whereabouts of the missing, since they were involved in the disappearances. In their minds, they continue to consider the person as being kept "somewhere".

In a minority of cases information about the fate of the disappeared was available. For instance, for many of those arrested by the security forces, notably in Bardiya, announcements were made on Radio Nepal several days after the arrest that the individual had been killed in an encounter between Maoist forces and the RNA. However, families did not receive official confirmation of the death and the mortal remains were not returned to them. In about 90 cases the ICRC obtained information from authorities confirming the death of the relative, allegedly during an encounter; the information was then transmitted to the families.

**“ Although we have lost 99% of our hope that he could still be alive, we still have 1% hope that he is alive. It [the information from the ICRC] further convinced us that he might not be alive. But in spite of this, we cannot be fully convinced that he is not alive since we have not obtained detailed information regarding the disappearance. (...) It does not explain where he died and how; it also doesn't mention why he died. Furthermore, it does not state where the dead body was kept after death. ”**

(Brother of missing man, Gorkha)

The lack of clear information about the circumstances of disappearance provides a breeding ground for rumour. Almost all families proceeded with their own personal investigations parallel to the steps taken above.

Some families are contacted by persons claiming they have influence with those holding the missing person, whether state or CPN-M forces. Money is occasionally paid out to official and unofficial sources in exchange for information. In some places unscrupulous individuals claimed to be affiliated with the security forces in order to extort money from families by promising that they will help to have their relative released. Some families have spent large amounts in searching for their missing relative, leaving them in debt.

**“ I spent some Rs. 3 to 4 lakh searching for him. It was spent as some said he may be somewhere. I sent some relatives at once to that place, likewise someone said [he] was in Delhi and I sent some persons to Delhi giving them some Rs.10,000; likewise I sent some persons to Kathmandu, Biratnagar, Punjab and everywhere where someone used to say, and I also spent too much money for palmists in different places. ”**

(Brother of missing man, Siraha)

For other families, traditional healers may be a credible source of information since they can provide them with an immediate answer to their questions. In most of the cultures of Nepal, traditional healers are consulted not only for sickness but also for their other abilities. Indeed, in some cases sickness is perceived as being caused either as a result of harm being done to a relative, or due to the spirit of a loved one.

In the following example a Tharu woman consulted both a *guruwa*, a traditional healer in their animist tradition, as well as a *baba*, from the Indian Hindu tradition.

**“ I went to a Tharu guruwa and Indian baba. According to them he is still alive abroad. The Tharu guruwa showed in the mirror my husband walking through the jungle and mountains, and the Indian Baba told me he is in another country. I had to take a loan to keep the Tharu guruwa for one week in my house. ”**

(Wife of missing Tharu man, Bardiya)

In another case the *guruwa* appears to have confirmed the death of a woman's husband.

**“ I visited 3 different traditional healers. Two of them told me that he is alive and one said me he's not alive. That was 3 years ago. One day my daughter was suffering from a stomach ache. I called the guruwa that night, and she told me that my husband is killed so it's giving you trouble. ”**

(Wife of missing Tharu man, Banke)

Others have told of contact with the spirit of the missing person, often in dreams, which have reassured them their loved one is alive.

**“ I dreamt him once. I felt him talking to me. He was telling me he stays wherever he works. I haven't been troubled by his spirit. Our traditional god troubles us if something goes wrong with a family member but it hasn't done anything so far. That makes us believe he is still alive. ”**

(Mother of missing Tharu boy, Bardiya)

All ethnic groups have spiritualists they consult. Whether an individual family will take this course depends upon their level of education and attitude to their tradition. It should, however, be clear that for many families of the missing such access to the spirit world is very real and can have a significant impact on their understanding of the fate of their loved one. Even though the information gathered through rumours, go-betweenes and traditional healers is questionable and is impossible for the families to cross-check, most of them still believe that this information is reliable and thus provides answers they are desperately seeking. It further encourages them to keep searching for their relative.

## **Difficulty of obtaining proof of the missing person's death, and the need for a body**

Most of the families are strongly reluctant to admit their loved one could be dead, so they feel a burning desire to receive proof of their fate. They need information that convinces them beyond doubt that the missing relative is dead, if that is indeed the case. Moreover, almost all families from the diverse religious traditions of Nepal say that they need either the body or absolute evidence of death in order to complete the rituals:

“ We need detailed information on what really happened to him. We want to know when and where he was killed so that we can perform our rituals. We also need the name of the (...) responsible for the incident. In any case, if he is no more, we want confirmation that he is dead. We should not be kept in doubt as to whether or not he will come back. They must show us where the corpse was buried; at least we need either the corpse or some sign that convinces that he is dead. ”

(Brother of missing man, Gorkha)

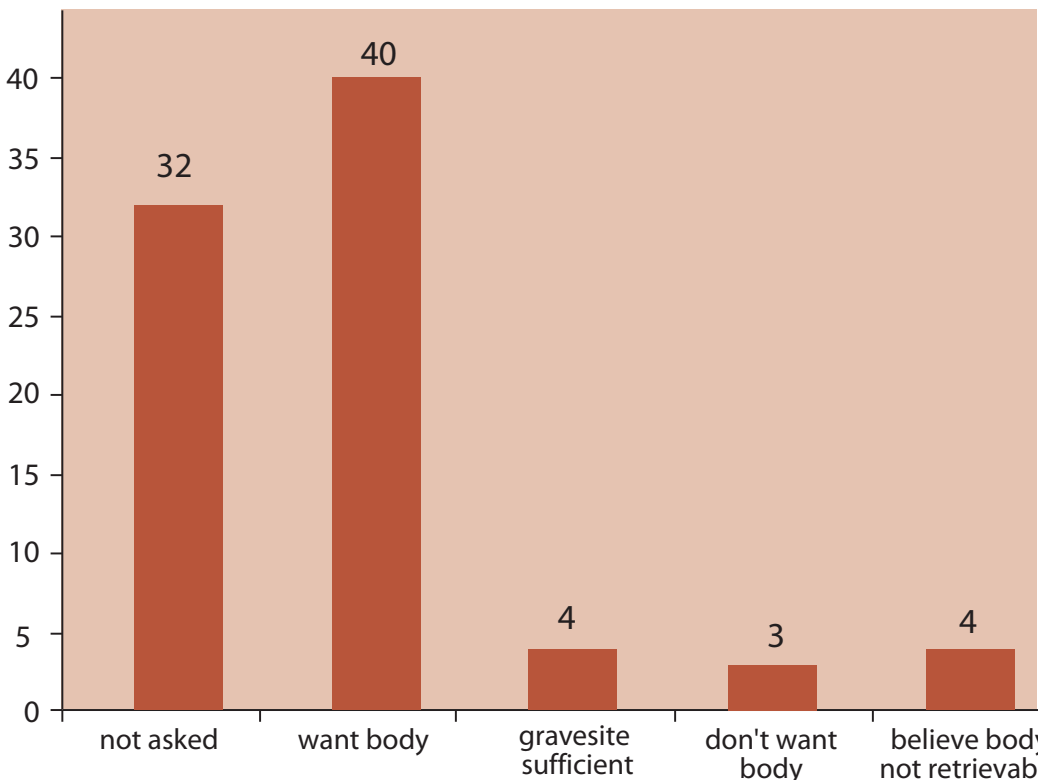


Figure 1 | Families' need for the body of their missing relative |

The figure 1 shows that 85% of the families asked sought to retrieve the body. As mentioned above, not only is the body required for religious rituals, but it is one of the very few ways in which families believe they can confirm that their relative really is dead. One-third of the families were not asked this question because they did not believe that their loved one was dead, and it was thus thought inappropriate to raise the issue.

Many families have the (erroneous) belief that that they will be able to identify the body through clothes or documents. Generally families do not trust the authorities to identify bodies. Some mention that they would prefer the process to be conducted by an independent body. Many families are not aware of procedures for the identification of human remains. As they never imagined their missing relative could be dead, they never imagined they might have to face the day when his/her body would be sent back to them.

Some families have suggested that a gravesite is sufficient, but this is largely rejected by the majority.

**“ It will be difficult to believe even if they show us her grave. I will prefer to open the grave to believe and make her rituals nicely. ”**

(Mother of missing woman, Bardiya)

**“ [Exhumation] is needed for proof and to make the rituals according to our religion too. ”**

(Focus group participant, Dhanusa)

**“ It’s really important to retrieve his body. We can’t believe until they give us proof in some solid way. Who knows if they are showing you someone else’s grave! We still don’t believe people even though they say he was killed. ”**

(Mother of missing man, Bardiya)

For many families, especially those who are illiterate, a document does not constitute sufficient proof of the death of their relative. In their culture death is always something that is experienced directly by the family. This need for proof is compounded by the remoteness of the state and their deep distrust of it.

**“ The authorities might lie to us, just showing someone else’s bones. (...) If [we receive] detailed information, mentioning the date and place of killing and the place where they have buried the body (...), there is a room for trust. Yes, we need the chain of truth; we have to be provided with the detailed information including who were the responsible for the arrest. We won’t believe in any bones brought by the authorities. ”**

(Brother of missing man from Gorkha)

The families suggest two main options that would make them believe that their relative is dead and that the body they would retrieve is indeed the body of their loved one. The first option would be a positive DNA identification: one family member from Gorkha suggested that “they have to submit us the skeleton with DNA test”. However, the DNA process is generally not well known by the families, and it is unclear what proportion of them would be convinced by such testing. The alternative to genetic testing is the establishment of a “chain of truth” that would – very often because the arrest was witnessed by the family – link the disappearance to the body that has been exhumed and presented to them. This would require families to be told where their relative was held following the arrest, and where and how he/she was ultimately killed. Families also assume that this information would include the names of those responsible and would thus provide a direct path to justice. Families appear to believe they could be satisfied by being given a credible chain of events that link the mortal remains to their loved one as they last saw him or her alive.

### **Death rituals**

Religious attitudes and ritual obligations after death shape views of death and accentuate the importance of human remains to families. For Hindu Nepalis, the ritual of burning the body and *kajkiriya* is a process which gives liberty to the soul and facilitates its passing. Without the ritual the soul will wander, possibly as a ghost. While it is vital to perform these rituals for the dead, it is crucial that the person must be known to be dead beyond a shadow of a doubt before the rituals are done.

“It is necessary for us to perform the rituals for my son because in the society we are still defamed since we have not performed the rituals. (...) The people in the community say “if your son was killed you must perform the ritual.” But we don’t believe that our son was killed, therefore, we have not performed our rituals.”

(Hindu father of missing student, Dhanusa)

While the rituals of other communities, such as the Janajati, Muslims and Buddhists, are different, the imperative need to perform them for both family and community reasons is similar. In some traditions a substitute for the body, such as a grass effigy, may be used in cases where death is confirmed but the body has not been retrieved.

### **4.3 Needs related to the psychological and psychosocial impact**

Whilst this survey may be able to identify some clinical signs that would indicate psychological disturbance, neither the methodology nor the expertise of the researcher is suited to diagnose any psychopathology. Instead it seeks to give general insight into the impact on families and to draw conclusions about the need for such professional assessment and intervention.



Of the families met, 80% demonstrated a certain degree of ambiguity about what had happened to their missing loved one, oscillating between accepting the likelihood of death and hoping that their loved one will return.

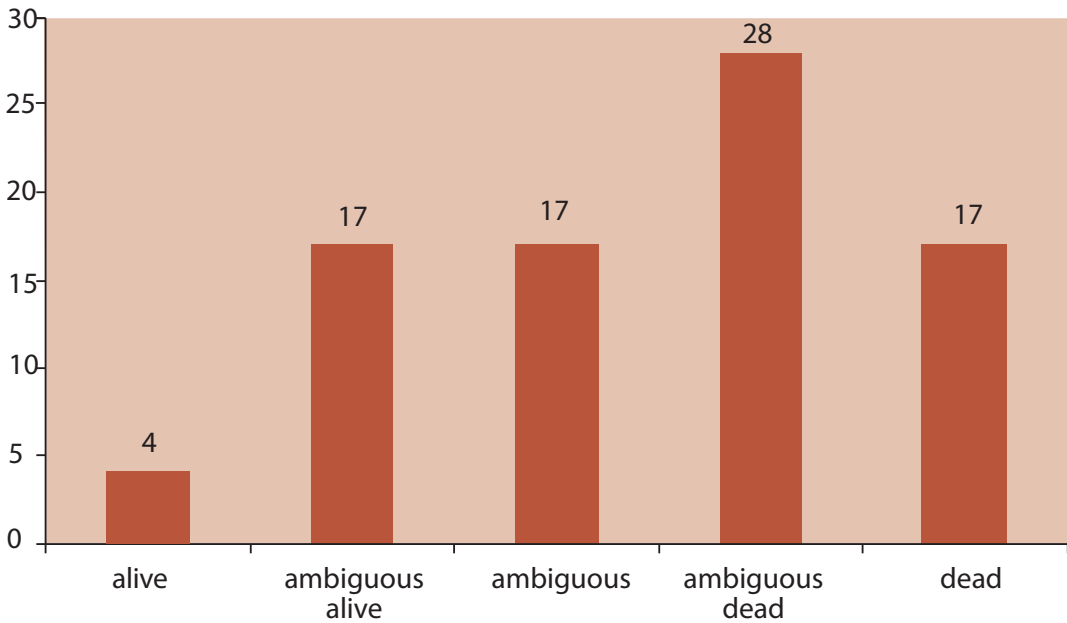


Figure 2 | Families' belief concerning the fate of the missing |

### ***Lack of information and ambiguous loss***

Many relatives of those allegedly arrested insisted that since they were taken away alive, they must be returned alive. Others have various reasons for believing that their relatives are still alive: some saw them some time after their arrest; others have received information from those detained with them; and in many cases myths have sprung up, about secret prisons or the missing being taken abroad, that are used by families to sustain hope.

“ I still hope my husband will come back, because lots of people came back after many years. I have seen those examples. Maybe he is kept hidden somewhere. (...) No. I never think that way [that he might not be alive]. He comes in my dream, which makes me believe he will be back. (...) I am always worried if he is healthy or if he gets enough food to eat, etc. I keep my hope of my husband's return until the government declare the news about the missing people. ”

(Wife of missing man, Bardiya)

For most families, however, the ambiguity is entirely unresolved.

**“There is still a small hope that he might be held somewhere. This is what you mean by disappearance. In the cases of other friends who were killed in the course of the People's War, the rituals were performed since we had detailed information on when and where they were killed. In our case, we only know that he was arrested, but we don't know anything else. It gives us a slight hope in a corner of our soul that he might still be alive.”**

(Brother of missing man, Gorkha)

Perhaps the greatest reason for families to believe their loved one may be dead is that time has passed and their relative has never come back. All have been missing for more than 2 years and in some cases for as much as 12.

**“We can't believe that our brother is dead, we still didn't get any information, we didn't get any proof. That's why we have to have hope. We have a little hope: it is 4 or 5 years ago, but we have a little hope. My mother hopes that one day her son will come home.”**

(Sister of missing man, Kathmandu)

**“NHRC has said that all the students including my son who were arrested were killed. But as there is no evidence to prove their death, our sons may be alive. In the past some people were declared killed but later on they were found alive.”**

(Father of missing youth, Dhanusa)

The time that has passed has reduced hope, but has not extinguished it.

In most families there will be a diversity of opinion about the fate of the missing. Often the men of the family will have understood that death is the most likely outcome of their relative's disappearance, whilst women, in particular wives and mothers, will be extremely reluctant to reach that conclusion.

The lack of information about the missing person plunges the family members into a state of distressing uncertainty, which can severely disrupt their lives. During the interviews psychological reactions were mentioned. In many family members the disappearance gave rise to constant thoughts about the missing person, disturbed sleep, repeated dreams of that person and sudden feelings of anxiety. Such symptoms resulting from the disappearance were described by 55% of those met.

**“We remember our missing folk fifty to a hundred times per day: this is a very intense pain. There is still the feeling when hearing someone knock at the**

**door at night that he has come home. This pain makes ... how can I express myself ... It seems that this is a never ending pain, it will be with us as long as we live. It would have been easy if the whereabouts of the missing had been made public. We are always hopeful, since he left us saying that he would come back after visiting a friend. ”**

(Wife of missing student leader, Kathmandu)

Many of the dreams recounted concern the missing person rather than the incident that led to his or her disappearance, and in many cases involve the subject attempting to provide for the missing person in some way, through concern about food or comfort. This does not suggest post-traumatic stress disorder (PTSD) that is related to a traumatic incident, but rather feelings of responsibility or guilt that characterize the impact of disappearance, particularly among women relatives of the missing.

Moreover 27% of family members, the vast majority of them women, complained of chronic physical symptoms that they ascribed to the disappearance, most often as a result of the constant tension and anxiety.

**“Whenever I go to check up my health, the doctor tells me that I have been suffering from chinte rog [my worries are my disease]. I have been taking medicine. (...) My son has been also suffering from the same disease, the disease created by worry. He used to faint when he was a boy and I took him to different places in the course of his treatment. The doctor said that his worry was the source of his disease. (...) He has given me medicine to sleep. ”**

(Wife of missing man, Gorkha)

**“This is the never-ending pain. We have undergone mental pain due to this problem and the mental pain has created other physical pains. ”**

(Focus group participant, Kathmandu)

Families said rather little about how they would seek to address these problems, other than through a more effective access to treatment. Some families mentioned that seeing justice done, in terms of prosecutions and punishment of perpetrators, would "reduce mental anguish". Whilst some families have access to drugs, notably sleeping pills or anti-depressants, very few have access to any formal counselling or other non-drug therapy. Many families have testified to the benefits of peers with whom they can discuss their problems, but all suffer from the paucity of psychiatric and psychosocial facilities.

Children may have difficulties in dealing with the disappearance of family members, especially a missing parent. Their understanding and ability to face his/her absence will be conditioned by the way other adults cope with the situation. Older children can be aware of the uncertainty surrounding

their parent's fate and may show the same problems of dealing with the ambiguity of their loss as parents do.

**“ The child asks about his father from time to time. This is the biggest tension to us. The other day amid all the other children, my seven-year prayed to God to send his father back home soon. It was very hard for me to bear all this. We have not been able to give confidence to the child that the father would come back nor have we been able to say that he would not return back. ”**

(Focus group participant, Kathmandu)

### ***Resilience and coping mechanisms***

Most of the persons interviewed show sufficient resilience (ability of individuals to withstand the impact of a traumatic situation) since they had not expressed severe psychological problems/disorders. The most discussed coping mechanism was that of sharing problems with someone. The value of such support was emphasized by the very positive response of those who had regular contact with a family association, since it solves the major problem of having access to someone who not only understands but shares your problem.

**“ Yes, we do share our problems with those with the same problems, but we never share with those who have a husband. We never share our problems with our elders or relatives because we don't want to give them pain and trouble, we only share with friends. The main thing is that the one who is suffering, only they can feel it. ”**

(Wife of missing man, Kathmandu)

### ***Psychosocial impacts and related needs***

As many as 47% of the interviewees reported that there was no-one in the family or community with whom they could talk. This reveals the dilemma of those who find themselves isolated with no-one who can understand their problems, and the fact that those facing problems within their families or communities are those most likely to be isolated. Even where there are other missing persons' families, wives wish to talk with other wives to share problems.

Perhaps most obviously, families see the truth about the fate of the missing person as an integral part of their being able to cope with the impact of the loss of their loved one.

**“ Our pains may be somewhat less if the government clarifies the actual facts and shows the place and the dead body with evidence; otherwise there is no remedy to lessen our pains and problems. (...) The clear announcement that they have been killed or what happened is important to lessen the mental anguish. ”**

(Focus group participant, Dhanusa)

But whilst spouses of victims will have a different reaction to disappearance, and different needs, to those of a victim's children and parents, the principal unit affected by the phenomenon is the family. The family will also be the principal coping mechanism and, in the case of Nepal, this will be the extended, or joint, family that is the building block of social organization. As a result, the discussion of needs as well as responses will emphasize the family, rather than the individual.

In Hindu tradition, if the death has left a widow, older widows take the bangles from the newly widowed woman's arms, the glass beads from her neck, the *mangal sutra*, a black pearl on a thread around her neck, and smash them on a stone. They wash the red *tika* and *sindhur* from her forehead, which have defined her as a married woman, and thus begins her widowhood. Those women whose husband is missing generally continue to wear the *sindhur*, bangles, *mangal sutra* and *tika*, and do not consider themselves widows.

**“ I haven't made any rituals. I still wear the symbols of marriage. I wear them because I haven't seen him dead: may be he is alive somewhere. ”**

(Wife of missing man, Banke)

This often creates tension with their community, which cannot understand why these wives refuse to behave as other widows do.

#### **4.4 Economic needs**

**“ I still can't control myself when I remember those times, when I had two sons and a daughter-in-law with me. I had a happy family. Can you imagine, now I beg in the village? I became a beggar when once I had everything in the house and two earning sons. ”**

(Mother of two missing sons, Bardiya)

A large majority (90%) of the missing are men, the traditional breadwinners in Nepali society, and a large number of these are of an age where their economic contribution to the family is crucial. Whilst having a missing relative does not necessarily condemn a family to poverty, the loss of a man of earning age necessarily reduces the economic security of the family. The overall livelihood of families of the missing is reduced by disappearance: families that were coping may begin to struggle, and families that were already struggling are plunged into extreme poverty. As a result, many of the needs discussed here are the same as those of the poorest in Nepal, whatever the reason for their poverty.

For the families of the missing, the various means of livelihood are often insufficient. The families met were evaluated as to the extent of their economic insecurity (Table 3). Here "necessities" were defined almost universally by families as food, medical treatment and the education of children.

Economic security status	Fraction
<b>Not mentioned</b>	<b>0.22</b>
<b>Moderate</b> - unable to afford some necessities	<b>0.59</b>
<b>Serious</b> - unable to afford many necessities	<b>0.15</b>
<b>Extreme</b> - reduced to begging for food	<b>0.04</b>

Table 3 | Summary of the economic status of missing persons' families met in interviews |

The most extreme cases are those where families are left with no economically active individual to provide support, notably older people who have no other children than the missing one to support them, or women heading households who have little capacity to earn a living. In such cases, families are dependent upon the kindness of their community or are driven to begging.

**“ Everything is difficult because he is not here. It's very difficult for me to live. No one will support me with money if I get sick. People won't give me a loan because I don't have my man to work and pay them back. My neighbours, my community doesn't give me any help. ”**

(Wife of missing man, Bardiya)

**“ In a family in Nepal, loss of your son means loss of pension. ”**

(Father of missing man, Dhanusa)

Many victims of the Maoists have been displaced. This has typically resulted in the complete loss of livelihood through a lack of access to land: a group of victims in Rolpa displaced to Liwang, the district headquarters, are completely dependent upon daily labour to support their families.

Some families have spent considerable sums of money that they can ill afford in searching for their missing loved ones. Where someone had been taken by Maoists, local cadres often demanded money from families as a ransom, even though this rarely resulted in the release of the abductee.

**“ In my case, they also took all my property with them, even my husband's clothes. They took 3-4 lakh rupees; they came to me from time to time and told me that they needed more money for their bosses to please them so that he could be released. I sold my and my daughters' ornaments and gave them the money they demanded to please their bosses. In this way, everything was taken away, my husband and the property. ”**

(Focus group participant, Kathmandu)

For most families the greatest sacrifices they have to make concern health care and education. Many families have seen their health decline as a direct result of their relative being missing, and yet this is accompanied by a financial inability to afford health care.

### ***Support received by families***

A small number of families (3 were met in this survey) have received compensation of Rs.100,000 as a result of the Supreme Court judgment regarding 79 cases of missing persons. In addition one family were met who, as victims of the Maoists, had received compensation at district level. Beyond this, modest support has come from two sources: NGOs and other agencies providing assistance; and political parties. A large number of families have received support from the ICRC's Micro-Economic Initiative programme to support conflict victims. Assistance has also been given by the CPN-M to some families of those whose disappearance was caused by the state; a significant number of rural families had received payments as apparent compensation for their loss, as well as ad hoc payments to cover certain expenses such as medical treatment. This assistance was administered on a local basis, through the district CPN-M structure.

A number of family members of the missing have also been employed in government ministries and associated offices under the control of the CPN-M since the formation of the interim government. All of the assistance given by the CPN-M was, of course, predicated on the recipient family having a certain relationship with the Maoist party, and apparently excluded all victims of the CPN-M.

### ***Support envisaged by families***

In many of the discussions with families they made it clear that they did not envisage compensation or reparation consisting of a single payment, but long-term support in specific areas, including support for medical expenses and education for the missing persons' children.

**“Many conflict victims don't want money or compensation but guarantees for the future of their children.”**

(Brother of missing man, Banke)

**“They should give compensation to the victim; they should educate our children. In Nepal one person works to feed ten people in the family and that person is disappeared from our family.”**

(Mother of missing man, Kathmandu)

The solution as far as families are concerned is to give them a sustainable way to pay for the necessities of life. This could mean that the government guarantees education and health care for families of the missing, or that families are given jobs that guarantee an income and thus provide them with economic security for the future. Whilst families did not mention the concept of a pension, this too would appear to satisfy their needs (see also section 4.7, "Reparations").

## 4.5 Needs specific to wives of the missing

The joint family that is the building block of Nepali society can offer great support, both economically and emotionally. However, the family can also become the greatest single stressor if individuals are alienated from it. Within traditional families there are power relationships that are dominated by older men and in which the younger wives are at the bottom of the hierarchy, expected to be subservient to their mother-in-law. Young women are dependent for their status within the family on their husband or their children, notably boys. The greatest problems with families are thus seen when younger women's husbands are missing, where their status may be less well established.

There is substantial stigma in a woman leaving the family home and/or remarrying, which is seen as a betrayal both of her in-laws' family and of her husband. Remarriage is further complicated by the fact that many women do not believe that their husband is dead, and so they may not consider it an option. In many cases where a woman has no children she will indeed leave and remarry, and the wife of a missing son will consequently often be perceived within the family as seeking an opportunity to leave it, typically through elopement with another man. This often leads to the stigmatization of wives of missing persons.

**“ My in-laws call me very bad things such as prostitute, witch, widow, etc. in front of my children when they see me around. ”**

(Focus group participant, Bardiya)

As women have no opportunities to work and earn money, they are unable to make an economic contribution to the household. As a result, they are perceived as bringing in nothing to the family, but simply being another mouth to feed. Furthermore, this situation of economic dependence prevents them from leaving their family home when the situation becomes too difficult for them.

**“ They will be quiet if we leave their house and don't show our faces to them; but the problem is we don't have income to survive and take good care of the children. At least labour work would be enough to be independent and to take care of ourselves, if there was free education for our children and job for us. ”**

(Focus group participant, Bardiya)

What women need most is an opportunity to raise their status within the family in such a way that they can satisfy the social obligation of living with their in-laws, but be respected as an equal family member. With economic independence comes the opportunity to make a free decision to stay or leave. This has dramatic implications for the type of compensation or reparation scheme that should be adopted for such families: whilst the family may well take the money from the wife if she is given compensation in a lump sum, a regularly paid pension offers the hope of raising her status within the home as someone who contributes.



**“ A pension paid every month might help our family. If they give us compensation in a lump sum then the family will ask me what I did with the money. If I get a pension I think I will spend it on my children's education and I will also save it for their future. ”**

(Wife of missing man, Dhading)

The problems causing the women to be stigmatized within the family can also lead to a similar situation at the community level: 18% of all women interviewed and 28% of all wives of missing persons said that they had problems in their community. Factors worth mentioning, for instance, are the ambiguity over a woman's marital status and her persistence in wearing the symbols of marriage, as well as the impression that the missing persons' wives are somehow predatory in their search for a new husband.

**“ There are not good relations with community members. When I go to ask for something from anybody, others say there may be some illicit relations with me and therefore nobody comes to help me anymore because I am still young. ”**

(Wife of missing man, Siraha)

One extreme case involved a group of drunken men seeking to sexually assault the woman in her home. One woman mentioned that a clear answer concerning the fate of the women's missing husbands would put an end to their stigmatization by clarifying their status.

**“ We have been trying our best, but I think the state should solve these community problems. If the government announces that our people are dead, we would make rituals and give up the symbols of marriage. At least the community would not have the problem of seeing us in married clothes and signs. And if my husband is alive they should publish his names so that also the community could be quiet. ”**

(Focus group participant, Bardiya)

## **4.6 Justice**

More has been said and written about justice for the families of the missing than any other need. Without being the first priority for most families, accountability remains something extremely important to many, with a large majority favouring prosecution of perpetrators.

When asked what justice meant to them, families replied as shown in Table 4.

Meaning of justice	Fraction
Prosecution	0.54
Compensation	0.45
Truth / Answer regarding fate	0.31
Acknowledgment	0.07

Table 4| What families regard as justice (where more than one response could be given) |

Prosecution is regarded as the most important component of justice, but economic support and truth are also crucial contributors to the families' concept of justice. While 8% of those met expressed a desire for revenge in terms of seeing the perpetrators killed, tortured or suffering the same fate as their victims, 68% articulated a need for retribution.

**“Many of our friends whose sons have been killed say that "Those who killed our sons should be killed in the same way they killed our sons". But we don't say this. First of all, the one who was responsible in killing should be arrested and then they have to be prosecuted. We want to see the guilty punished before our eyes.”**

(Brother of missing man, Gorkha)

There is also an understanding among a minority of a need to end impunity, as an example for the future.

**“We have to begin in Nepal to set an example by punishing those responsible for disappearances so that in the future these acts will not be repeated.”**

(Wife of missing man, Kathmandu)

**“Government security personnel, who killed people instead of providing security, should be punished. The punishment should be such that state jobholders would not repeat the mistake.”**

(Sister of missing man, Rolpa)

Families also justified the role of prosecution and punishment as part of their personal healing process.

**“Yes, it will certainly reduce the mental anguish if the justice is delivered and if the guilty are prosecuted and punished.”**

(Focus group participant, Dhanusa)

## Who to prosecute?

Families were asked who they thought should be punished for making their relatives go missing:

	Fraction
Direct perpetrator	0.65
Informers	0.29
Those who gave orders	0.19
Politicians	0.13

Table 5 | Who families believe should be punished |

Whilst the direct perpetrators are unsurprisingly at the top of the list, informers and those behind the perpetrators were also mentioned. In Bardiya, where informers were very widely used, informers are those for whom prosecution is most favoured. It can be speculated that this was because in a climate of terror during the state of emergency in Bardiya, it was the informer who truly determined who was taken, and families have had to continue living with those people in their community.

The most common opinion expressed was that any trial should ideally be local, since that would give the victim families the greatest access to it. There was no interest in an international trial, and concern that a trial in Kathmandu would not be accessible.

“There is no guarantee [if the trial is broadcast on the radio] that we can catch a Kathmandu station. We don't know, but we still prefer nearby the village. We are not able to understand Nepali clearly. We would have to find out from someone like you guys coming and informing us about what happened.”

(Wife of missing man, Banke)

## Amnesty

Of those asked, 69% rejected amnesty, and most of them did so quite strongly:

“[On amnesty for perpetrators] No, it's not OK, we will never agree to it. We will go against the Government if they try to.”

(Wives of missing men, Kathmandu)

“The truth about the facts should be clarified, but the perpetrators should not be given amnesty. If they are given amnesty, the mentality of the victim families will remain as it is. So, amnesty should not be given.”

(Wife of missing man, Siraha)

While 31% could envisage amnesty, more than half of these believed that it must be conditional, only being granted to lower ranks who were following orders, or subject to the demand that the truth about the missing be revealed.

**“ If they admit wrongdoing and tell us the details about what happened, I mean, if they provide us the details of where they killed and when and show us where they kept the body, they could be given amnesty. But if not, they should be punished. ”**

(Focus group participant, Kathmandu)

**“ If the perpetrators accept the wrongs they have done, then they should be given amnesty, but the truth should be declared. ”**

(Wife of missing man, Siraha)

### ***Families, communities and justice***

Most of the missing persons' families live in rural areas, in villages where families are part of a dense network of social relations. Having a relative go missing can undermine those relations and result in a change of attitude in the community towards a family or an individual. Thus 12% of all families met reported that there were still significant or extreme problems with their community; these included cases where families were being threatened, or were displaced from their homes because of such threats. The problems of the missing persons' families are linked to the broader divisions that remain between those associated with one side or the other in the conflict. Many families of persons allegedly made to disappear by the state are aware that informers in their community played a role, and this continues to perpetuate those divisions.

**“ ...we have been to the informers' house where their parents live. We threatened those families and told them not to come this way otherwise we'll beat them badly. Since then the informers don't come this way. Their mother doesn't say anything. She becomes quiet when I say something. ”**

(Focus group participant, Bardiya)

These findings indicate the need for a process of reconciliation, as well as for truth and justice, within communities affected in this way.

## **4.7 Reparations**

For many families the most reparative act that the authorities can perform is to give them an answer about the fate of their loved one.

**“We don't understand one thing; why don't people try to understand our feelings. We want our husbands and nothing else. We want our husbands' whereabouts made public. It makes us very angry when NGOs come and talk about compensation.”**

(Mother of missing man, Bardiya)

### **Compensation and relief**

There is a deep concern among families that compensation payments are somehow designed to distract families from pursuing the truth about their loved ones, and as such many believe that compensation should only follow admission of the truth. Thus 74% of families said they would not accept compensation if it preceded the truth.

**“First of all we want the truth about what happened (...). We need the facts about our family members first. Otherwise the compensation is not acceptable. Only receiving the compensation can't help our mind and heart to be calm. We'll be always thinking about what happened to them even when money or compensation is in our hand. The spirits will tease us until we find them and make the rituals.”**

(Mother of two missing brothers, Bardiya)

Reparations (paripuran) as a word was almost never used by families, compensation (chettiputi) was used rather consistently and dominated discussions, reflecting the priority of economic support. A minority, however, demonstrated that they clearly understood the concept of reparation.

**“Compensation is only the monetary amount and after that [the matter is] closed. But reparation may mean things like a memorial, the everlasting things. Reparation also includes justice according to the law (...) reparations include admission of wrongdoing.”**

(Father of missing man, Dhanusa)

Even where the word reparation was not known, families showed that the concept underlay their demand for compensation.

**“Paying compensation means an admission of wrongdoing even if there is no direct admission of the truth. Indeed, paying compensation means the state is paying the fine [for its wrongdoing].”**

(Brother of missing man, Gorkha)

**“The life of a person cannot be compared with money. So it cannot be adequate even if paid a lot of money. Therefore, first and foremost our loved ones should be declared national martyrs and the Government should provide**

**us letters of recognition as a Martyr's family, the government should provide all the facilities to the Martyr's family members such as a pension to the old persons, appropriate job or unemployment allowances to the unemployed members, free education to the children up to higher classes, etc. ”**

(Focus group participant, Dhanusa)

A number of families attempted to resolve the dichotomy between the need for immediate economic assistance and a reluctance to accept any compensation without the truth about their loved one by turning to the concept of relief (rahat).

**“ If they give us Rs. 1 lakh as relief then I will take it, if they say it is compensation then there is no way I am taking it. ”**

(Wife of missing man, Dhading)

Relatively few families conceive of compensation or reparation as a single payment after which the matter will be closed. The missing person would often have worked to support the family, notably the parents, throughout his life and this concept often underlies the need of families for long-term support.

**“ Without compensation, dependent family members will find it hard to survive. In my case, I am taking care of my parents (...). There are cases where there is no-one to take care of the children since the father has been disappeared leaving children behind. What can the wife do since she may not have a job and the produce of the land is not sufficient to support the needs of the family? Moreover, she has the problem of not being able to afford the education and health care of the children. ”**

(Brother of missing man, Gorkha)

Hence families often articulate their demands in terms of jobs for their family members, or land - the traditional form of capital for most Nepalis that can then ensure an income through agriculture.

**“ The government should also manage a job for at least one member of the victimized family. ”**

(Focus group participant, Dhanusa)

**“ The government should provide land for residence and arrange for the education of the children of those who have been killed by state security personnel. ”**

(Focus group participant, Dhanusa)

## **Acknowledgement and memorialization**

**“ ... The government has to recognize the contribution of these families in bringing change in the country. (...) The dead have to be declared as martyrs and a trust can be established in their names. Money is not everything; it comes today and it will be finished tomorrow; respect is something important.”**

(Brother of missing man, Gorkha)

Whilst acknowledgement is partly about gaining access to economic support, it is also about giving status to the families' opinion that their loved one is valued and played a role in the transformation of the nation that is now agreed to be positive. When asked what the mechanism of acknowledgement could be, some families mention compensation as a way for the government to recognize that a wrong has been done: this is reparation as acknowledgement (see above).

Many families use the language of martyrdom to describe the status they want to see accorded to their missing relative, and this is also partly linked to compensation. This attitude partly stems from the experience of having seen previous martyrs, notably of the Jana Andolan of April 2006, acknowledged and their families financially compensated.

**“ Yes, it [a memorial] is essential for recognition to make a history.”**

(Son of missing man, Siraha)

The families met during this survey mentioned their need for memorials to the missing though some reluctance about building memorials emerged as long as the fate of the missing is not known. Of those who mentioned memorials, 68% wanted something that would be local.

**“ They sacrificed their lives for the sake of the nation. So they must be recognized. Had we not been poor, we would have taken initiatives towards building the memorial. (...) We can also build a school hostel or construct a library in the name of the missing persons. (...) We may be able to make a chautari or a gate or a library or a small memorial in their name. Though we may not be able to build something grand as the state can, we would like to make something on our own initiative even if the state does not. We want future generations to remember the contribution of the person [our brother] for the sake of the nation.”**

(Brother of missing man, Gorkha)

## 4.8 Attitudes to the state and its institutions

At the time the research was being conducted, the government had published a draft Truth and Reconciliation Commission (TRC) Bill and families were asked their opinion about it. Although 23% of the families met had heard something about the proposed TRC, very few were able to provide any details about it; 53% of those who had heard of the TRC expressed a negative opinion about it, 6% were in favour, and the rest had no opinion. Thus the predominant attitude of families is one of ignorance: most know very little about the government's plans for a TRC. The main understanding of those who knew something about the TRC was that it was designed to grant amnesty and forgiveness.

**“ I have heard [of the TRC]. That is to give pardon to the perpetrators. I don't know in detail. ”**

(Son of missing man, Siraha)

One well-informed individual expressed the opinion that "reconciliation" in the sense that was being promoted by the TRC Bill was the same as amnesty, and accordingly commented:

**“ We don't need a Truth and Reconciliation Commission, we need a Truth Commission. ”**

(Brother of missing man, Kathmandu)

However, apart from the issue of amnesty, almost no-one met was able to comment on other aspects of the TRC Bill.

Families of the missing, like other victims, need assurances that the state has changed and that violations will not recur. Expectations that the government will address the missing persons issue were polarized according to the alleged perpetrators: whereas 71% of alleged victims of the state expected the issue to be addressed, only 22% of alleged victims of the CPN-M did. This reflects the deep distrust of state institutions by those who became victims of the party leading the current coalition government.

**“ I am not a hundred per cent confident because the leaders of the new Government are also involved in the incidents of disappearances and giving torture to the people. If this type of situation came [again], these leaders will be also prosecuted. Therefore, they will also set them aside from making provisions. I cannot confidently say that this Government will do such works. But if they could not do anything in this changed condition, they will lose people's confidence. ”**

(Father of missing man, alleged state victim, Dhanusa)



Whilst many families take a fatalistic approach (keh garneh? What to do?) to any action they could take if the government fails to address the missing persons issue, a majority of the state victims say they would react around half would take part in a political movement, while a significant minority (15%) would be prepared to launch a rebellion with the use of arms.

**“ If the Government will do the job, but will take time, then we are ready to wait, but if the Party betrays us then we will not hesitate to take up guns against our own party. ”**

(Wives of missing men, Kathmandu)

## **4.9 Legal and administrative issues**

Many of the missing persons' families, like most rural Nepalis, have little formal contact with the state. They are unaware of the laws governing the rights and benefits to which they could be entitled and of the administrative procedures/requirements to obtain them.

The lack of recognition of the missing persons' status also means that there is no legal framework for the families to deal with everyday practical issues. An additional burden that must be noted is that tradition prevails over the national law with regard to certain rights and the links between people. Therefore, when it comes to matters of inheritance, child custody or pension benefits for the loss of a husband, there is no effective legal protection for the wife of the missing person.

There are a number of areas where certain families face real problems as a result of the uncertain and undocumented fate of their missing relatives. Land and property, for which ownership documentation has become very important, constitute the most pressing administrative issues and were mentioned by 14% of those met.

**“ Although the land is not in my father's name it is difficult to transfer the land into our name, because the land should be transferred first to my father's name and then to our names according to the law. So it is very difficult due to lack of a death certificate. ”**

(Son of missing man from Siraha)

Other administrative issues also arise, notably that of pensions, which cannot be drawn by anyone other than the direct recipient, unless he is formally dead.

**“ After his arrest we came to live in Nawalparasi but all our property is still there in Gorkha, and although it's our home district we aren't able to go and use our property. My mother hasn't got my father's pension yet and the Government still hasn't given us the right to sell the property. ”**

(Son of missing man, Kathmandu)

It is clear from the attitude of many families to the fate of the missing that they are not happy to simply see their loved ones declared dead. However, families who face legal and administrative problems would favour a practice that has been applied in other countries (e.g. Argentina, Bosnia), where an official status of "disappeared" can be given whereby the missing person is not declared dead but absent for legal purposes, with the effect that property, pensions, etc. can be passed on to heirs. But there was also concern that such a declaration could be abused by authorities who are already the object of deep suspicion. It was thought that the issuing of a certificate or otherwise declaring someone officially disappeared would remove the obligation of the authorities to truly resolve that person's fate. A majority of those with administrative problems nevertheless supported such a declaration of disappearance.

# 5

## Conclusion and recommendations

The picture that emerges from this study is of a group of families striving simultaneously to cope with the practical effects of the loss of their missing relative – especially the economic impact – while enduring the emotional strain of not knowing whether a loved one is alive or dead. The difficulties faced by the families are numerous and interlinked, and affect various aspects of their daily lives. A multi-faceted approach is required.

The study shows that there is an urgent need for the Nepalese authorities to honour past public commitments to resolve the issue of missing persons. Both the families' status and their right to know their missing relatives' fate must be confirmed, and the families' lack of confidence in the government's ability or will to resolve the issue should be addressed.

While preparations are being made to set up a commission to deal with the issue of forced disappearances, it is unclear at this stage whether that commission will meet the needs of all the families of missing persons. As a result of the study's findings and the needs expressed by the families themselves, the ICRC has made a series of key recommendations whose implementation would help the government to meet the families' needs.

### **Recommendations regarding a State body to ensure respect for the families' right to know**

- A State body must be open-ended in the length of its mandate and have the authority to coordinate the State's response to the issue of missing people. Its task must be to provide the families with answers regarding the circumstances of the disappearance and, if relevant, the circumstances of the death of the missing relative. These must include place, time and cause of death, and whereabouts of the remains. To that end, the State body should actively collect, centralize and process all relevant information from all possible sources.
- The State body must address the cases of all those missing as a result of the conflict, be they civilians or combatants. It must not limit itself to the issue of forced disappearance.
- The families of missing persons should be regularly informed about the work carried out by the State body and the results achieved. Families, including those living in remote areas, must be provided with the means to gain access to the State body.

- The State body must have access to professional resources for investigation and for exhumation and identification of the remains of people who have been reported missing. It must ensure that death certificates are issued and forwarded to the families of individuals identified and that the victims' remains are returned in a dignified manner to their families. It must also ensure that the families of people judged beyond reasonable doubt to be dead receive appropriate official written information about the death of their relative, even when efforts to recover that person's remains have been unsuccessful. The State body must ensure that unidentified remains are disposed of in a dignified manner.
- The State body must ensure that the authorities publicly acknowledge what happened to a missing person when that person's death is established.
- The State body should have a strong basis in law, including:
  - the ability to take measures and use appropriate procedures to assist in clarifying what has happened to missing persons;
  - laws that define the status of missing persons, without distinguishing between cases on political or any other grounds, and recognizing the rights of their relatives and dependents to receive social and economic benefits;
  - regulations on the management of human remains and the protection of personal data.

## **Recommendations concerning the legal needs of the families**

- A special missing-person status needs to be granted to the individuals concerned, thereby recognizing publicly the difficult situation of their families and allowing those families access to legal, social and economic benefits similar to those provided for families of the dead.
- The State body must help the families gain access to judicial mechanisms for the purpose of ending the impunity enjoyed by individuals responsible for disappearances.
- In addition to any prosecution, the government should introduce a procedure of vetting or dismissal from positions in State institutions for those found to be responsible for disappearances, thereby allowing the victims' families to rebuild their trust in those institutions.

## **Recommendations concerning the socio-economic needs of the families**

- A comprehensive national reparations policy must be prepared and implemented to meet the needs of victims as expressed by the victims themselves. That policy must fully consider the difficulties faced by the wives of missing men so as to avoid further stigmatization. It must define

with clarity which family members have the right to benefits, and must ensure that this right is respected. The national policy must contain provisions regarding:

- the education needs of the children of missing persons;
  - the livelihood needs of the families of missing persons;
  - health care for the families of missing persons.
- Steps must be taken to ensure that, in the meantime, government interim relief reaches all families of missing persons.

### ***Recommendations concerning psychological and social support for families and communities***

- Special events and commemorations need to be organized and local and national memorials created as a means of recognizing the suffering that the conflict inflicted on the society as a whole and on the victims and on their families in particular.
- The government must assist family associations, thereby allowing the families to meet together and ensuring their participation in the overall process of searching for answers.
- The government should seek ways to heal divisions within communities prompted by disappearance-related issues. These include divisions that cannot be addressed by judicial means.

### ***Recommendations concerning preventive measures***

- As a State party to international humanitarian law and human rights law instruments, Nepal should incorporate in its domestic legislation and practice a wide range of measures to prevent people from disappearing during armed conflict and other situations of violence, to protect the rights of the missing and of their families, and to ensure prosecution of those responsible for disappearances.



## **The ICRC's Mission Statement**

The International Committee of the Red Cross (ICRC) is an impartial, neutral and independent organization 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.



ICRC