An assessment of the needs of families of the Missing in Nepal

Simon Robins
Acknowledgements

This study would not have been possible without the support of ICRC Nepal, and in particular Jean-Paul Corboz and Mary Werntz whose enthusiasm for understanding the Missing issue in Nepal led to the ICRC's engagement with this research. The support of the ICRC Kathmandu protection team and the Nepalgunj and Pokhara sub-delegations was greatly appreciated. My research assistants were also indispensable and I would like to thank Devendra, Puja, Shreedar and Jai Kishor for their great patience with me, resilience in the face of the adversities of the field and sympathetic approach to the victims. I was in close contact with many people from the family associations whose sympathy for the goals of the study allowed us to cooperate closely. I would particularly like to thank Sonu Pokherel, Ram Kumar Bhandari, Kabita Adhikari, Bhagiram Chaudhary, Krishna Chaudhary and the many other relatives of the Missing who worked to make this research possible and supported me whenever they could.

Most of all I would like to thank the families of the Missing for giving me their time and in many cases their energy, and join them in hoping that this report may contribute to their situation finally being acknowledged and addressed.

Executive Summary

"... a grave disservice is done to victims by those who seek to speak on their behalf, whether in the name of justice or reconciliation. By so doing, [...] they render the victims silent. Generalised and conveniently summarised victims’ expectations tend to denigrate the complex and inconsistent human identity of such victims and survivors, ignoring the extent to which needs vary from victim to victim and change across time. Presumptions that victims need or demand punitive justice are no more reliable than are the claims that victims are willing to forgive perpetrators who confess, or that they merely seek acknowledgement and symbolic reparations." (Cullinan, 2001: 19)

Whilst Nepal’s ten year Maoist insurgency is over, its victims still suffer from the effects of the conflict. The families of the dead can mourn and rebuild their lives, but for the families of the Missing there is no end to their pain: sons, husband, wives and daughters were taken by both parties to the conflict and families still wait to know where they are: ICRC has recorded over 1200 Missing from the conflict whose families remain unaware of their fate. Since the very start of Nepal’s peace process politicians have promised that the issue of the Missing will be addressed and that families will be given answers, but families are still waiting. The Government has recently unveiled a proposed bill to both criminalise disappearance and to create a Commission to investigate the fate of the disappeared; and yet no efforts have been made to consult with the families of the Missing to understand what it is they want. There are many who are prepared to speak for the families of the Missing but the voices of the families remain largely unheard.

This research aims simply to ask the families of the Missing what they want. The aim is to give a voice to victims, many of whom are traditionally disempowered, so that they can articulate their own needs, in their own terms. This study does not replace the broad consultation exercise with victims and others that is needed before the authorities create a Disappearance Commission or a Truth and Reconciliation Commission.

A participatory methodology was used for this study, in which associations of families of the Missing and their members steered the research design and implementation. A sampling strategy was used that aimed to ensure that a representative sample of families of the Missing was met. Research methods used were ethnographic, with semi-structured interviews and focus group discussions being made in 10 districts over a 6 month period. 160 families were met for the study. By constructing focus groups of peers (wives of the Missing, Tharu women etc.) with the support of family associations the most marginalised, notably women, were given an environment in which they felt free to speak.

The results of the study made it clear that it is impossible to generalise about the needs of families of the Missing: needs depend upon family circumstances, education and economic condition. Most families however do agree on their priorities: families 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, mention justice as a priority, all families say when asked that they want to see prosecutions of perpetrators.

Families are reluctant to believe their loved one is dead, with 80% of those met having some degree of ambiguity about the fate of their loved one. Even though there are culturally appropriate ways to perform rituals in the absence of a body, the only proof of death of which most families can conceive is the body itself. To do death rituals without this proof is not acceptable: 83% of families require a body. To believe that a body is indeed that of their loved one, families require either a scientific test, such as DNA, 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. Chronic physical symptoms that are attributed to the long-term effect of the disappearance are also widely reported, presumably somatic. These factors indicate that family members may be subject to various depressive and anxiety disorders. A number of wives of the Missing face extreme stigmatisation in their homes that has led to their being ejected by their in-laws, leaving voluntarily or continuing to live in terrible conditions. In their communities the problems of the families of the Missing are poorly understood; wives of the Missing are often stigmatised for refusing to behave as widows are expected to\(^1\), and are often perceived as being predatory in pursuit of a new husband. No ongoing psychosocial or mental health programme addressing families of the Missing was encountered during the study.

Having a missing relative makes a family poorer and so many of the problems faced by the families of the Missing are the same as those faced by other poor families in Nepal. A minority faces challenges in feeding their families, and a small number of households with no economically active member have no alternative but to beg for food. Most are in debt. Families articulate their economic needs in terms of what they cannot afford, and for most this prioritises education and health care. For the families of the Missing their children will leave school earlier, or perhaps never enrol, due to the challenge of affording education. When sick the families of the Missing are less likely to be treated because of the cost of treatment.

A minority of families faces 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 favours a legal status of “Missing” so that such issues can be addressed.

Families overwhelmingly seek to see prosecutions of those responsible for their relatives being missing. 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 concerning their receiving truth and compensation. There is a general confidence that with new laws it is possible to prosecute perpetrators and receive justice in Nepal: any trials should be accessible to victims, and ideally held in their local area.

Families’ attitude to reparations is dominated by the need for economic support and for acknowledgement: for most this results in a desire for financial compensation from the state. However, families also seek the truth about the Missing before they can accept reparations. This leads to an urgent demand for *interim relief*, while reparations and compensation must await the truth. Families also seek to see the Missing acknowledged as martyrs, if and when the truth of their fate is known, and to see memorials built to their memory. Most families remain suspicious of those institutions responsible for making people go Missing, namely the Nepal Police, the Nepal Army and the Communist Party of Nepal (Maoist) [CPN-M]. Violators must be prosecuted and excluded from these bodies to satisfy families.

Whilst most victims of the state believe the CPN-M led Government will address the Missing issue, hardly any victims of the CPN-M share this view. Whilst around half of all families say they will join a political movement against the Government if it fails to act on the missing issue, 15% of victims of the state say they are prepared to launch an armed rebellion over the issue.

The Disappearance Bill passed by ordinance fails to meet the needs of families in many respects, perhaps unsurprisingly since it was written without consultation with victims. The Disappearance Commission will not contain representatives of victims, immunity for perpetrators is foreseen and the reparations scheme is narrow and limited.

\(^1\) A widow in Nepal is expected to stop wearing the symbols of marriage that include bangles, and the red *sindhu* powder worn in the hair.
Families have received rather little support to date. Compensation has been received by only a handful of the families met for this study. The ICRC Micro Economic Initiatives programme has provided assistance to a large fraction of families of the Missing in targeted districts and in some cases this has improved livelihoods. A number of local NGOs have provided modest assistance, and the CPN-M has provided significant support, both financially and through the employment of victims of the state in Government jobs. There are no ongoing psychosocial interventions that impact on families of the Missing. However, where family associations exist and families have access to them, these have been seen to provide valuable solidarity and emotional support, in particular to wives of the Missing. Such associations have also been able to articulate the needs of families and represent families to the authorities and others.
1 Introduction

...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)

Responses to gross breaches of international humanitarian law, such as disappearance or other acts that leave people unaccounted for in conflict, have typically been motivated by a desire to either “build peace” following conflict or institute a legal response to crimes committed. In both cases, efforts to understand the needs of victims are traditionally minimal: international peace builders are concerned largely with re-establishing institutions, whilst the human rights and transitional justice discourses emerge from a legalist analysis and prioritise justice, restricting their interest to the minority of victims whose cases will be brought before a formal mechanism such as a trial or truth commission. Such prescriptive approaches, premised on Western models, are unlikely to succeed in dealing with the past or achieve successful social reconstruction in societies emerging from the experience of gross violations.

Approaches that emphasise institutions have been challenged by those who assert that recovery from conflict must be rooted in an understanding of how mass violations have impacted and transformed affected populations (e.g. Pouligny, Chesterman and Schnabel, 2007; Breen Smyth, 2007). In many post-conflict interventions both the individual and collective consequences of violations remain largely unexamined. To go beyond a prescriptive approach, studies are required that engage with those who have experienced violations, understanding the meaning that populations give to such events and the symbolic and social worlds people occupy:

“It is not possible to respond to the different needs of the victims and survivors of mass crime if one does not understand the local forms and logic of social ties, their transformations and the manner in which local actors have tried to survive and understand mass violence: their cultural strategies of dealing with death, mourning and suffering.” (Pouligny, Chesterman and Schnabel, 2007: 2-3).

This is particularly true of the families of the Missing: to root a response to a missing relative in the experience of those most affected demands an empirical and an ethnographic approach to reach a holistic understanding, within a cultural context, of the transformations wrought by conflict. Such an approach necessitates empirical work of a highly interdisciplinary nature and an understanding of the role of the so-called “primary” institutions of the family and community that hold the key to recovery from such extreme events.

One constraint on the emergence of such studies of victims has been the lack of methodologies that permit such empirical research in societies emerging from extended periods of conflict, usually of a civil or ethnic nature. The human rights community interprets responses to gross violations through a legal lens, and so has developed methodologies for collecting victim and witness testimony, essentially the gathering of facts about the violation (e.g. OHCHR, 2006a), but has neglected ways of understanding the broader impact on and needs of affected communities and individual victims. Indeed, in post-conflict contexts (including Nepal) the assertion of a rights-based agenda has often taken precedence over needs that victims may articulate that fall outside the typical remit of a human rights response.

Significant empirical work has been done with populations affected by conflict and violations, including the exploration of relevant methodologies. Pham and Vinck have proposed an “evidence based transitional justice” (Pham and Vinck, 2007: 231). They have developed what aims to be a comprehensive approach to empirical research with populations emerging from conflict, with the express intention of impacting the development and assessment of transitional justice mechanisms, derived from the significant practical experience of the Human Rights Centre at the
University of California, Berkeley. Pham and Vinck have identified participation of the community being researched as essential: the tendency to see victims of violations as passive objects with little agency in the process of recovery has hampered efforts to root transitional justice in the experience of those affected. If victims can be seen as actors, having significant resources of their own, then these can be mobilised to aid recovery. In the field of transitional justice, a need for participatory approaches has been identified, both in order to challenge the international tendency towards an “off the shelf” approach to post-conflict societies and to ensure that voices from the grassroots are heard in the development of process to respond to violent pasts. This has been articulated as “transitional justice from the bottom up” (McEvoy and McGregor, 2008) and a need to “…explore ways in which those same institutions of transitional justice can broaden ownership and encourage the participation of those who have been most directly affected by the conflict”. (McEvoy and McGregor, 2008: 5) Pham and Vinck conclude however that: “At a basic level, participation can be achieved through consultation.” (Pham and Vinck, 2007: 232) This reduces participation to the population becoming subjects of research, with no agency concerning the research agenda.

This highlights the contrast between the typical transitional justice methodology and that used here. The frame for most studies that have emerged from the transitional justice discourse is set by a vision of transitional justice as a predominantly legal enterprise, where justice and accountability are the principle interests of the research, rather than broader recovery. Such studies aim to understand how a society can address the crimes of the past, rather than asking victims what their needs are of a transitional process. Here, in contrast, we aim to avoid imposing such an external agenda on the research, but to let those most affected by conflict and violations define their own needs as individuals and as communities. This can also be thought of as taking a “thicker” definition of transitional justice than the narrow legalistic one. (McEvoy, 2007)

Here, a methodology is presented that allows a comprehensive approach to needs and through them an understanding of the global impact of conflict on a population or particular subset of a population, here the families of the Missing. This methodology allows the researcher to work with victims to understand their needs holistically, whether or not those needs are a direct consequence of their victimhood. This methodology also allows for an understanding of issues arising in families and communities that can have a huge impact on victims, but fall beyond the remit of a transitional justice approach. The aim is to inform and influence the development of transitional process in Nepal. Since the end of hostilities in 2006 many agreements between the parties to the conflict have pledged to address the issue of those missing in the conflict, and commitments to establish both a Truth and Reconciliation Commission (TRC) and a Disappearance Commission have been made, with no result to date. It is hoped that all of those concerned with policy development in this area, including Government, political parties, donors and agencies will take on board the needs that victims have expressed in this study. Here, the aim is to understand needs in order to influence the development of the transitional process, but the methodology could serve equally as a tool to monitor and evaluate the performance of transitional justice mechanisms in delivering what victims need while mechanisms are in operation or after they are complete. This would thus constitute a participatory evaluation tool of transitional process as a victim-centred exercise.

This study was made in partnership with Associations of Families of the Missing in several districts of Nepal, with the aim of ensuring that families of the Missing participated in the conceptualisation, design and implementation of the research (see Section 3). In development work it is almost unthinkable not to consider participatory approaches when attempting to inform interventions, but in the field of transitional justice participatory approaches remain rare. Here, a close engagement with the family associations has permitted many ethical issues, including that of the security of the research subjects, to be addressed appropriately. It has also permitted the building of trust with victims such that “emotional access”, i.e. ensuring that research subjects are comfortable to talk freely, is granted. It was agreed with the family associations that the study would emphasise the goals of transition, rather than the specific mechanisms. This was motivated largely by the lack of knowledge of potential mechanisms (such as trials, Truth Commissions etc.) by victims, as well as
the lack of any concrete proposal from the authorities that could be put to families. It also coincided with the philosophy of the study that individual families would determine their own priorities in terms of needs. It was however possible to test attitudes to particular approaches, such as compensation, prosecutions and amnesty.

This study has taken an ethnographic approach, i.e. a detailed investigation has been made of a well-defined social group (here the families of the disappeared) using qualitative research methods. Qualitative methods offer a depth and richness of data that illuminate the dynamics of the processes under study and identify more complex themes than would be possible using a quantitative, questionnaire approach. However, the large sample size (relative to the population under study) and the nature of the sampling are more characteristic of a quantitative approach. Thus, whilst the principle aim of the study is a qualitative understanding of the attitudes of families of the disappeared, the methodology used also allows statements to be made that can be generalised to the entire population under study.

Whilst this study is restricted to families of the Missing it does have lessons concerning the needs of other victims. Economic needs of the families of those killed in the conflict will be very similar to those of families of the Missing, as will some of the social problems faced by widows from their families and communities.

1.1 The Missing and the disappeared

Persons missing in conflict are those: “unaccounted for as a result of international or non-international armed conflict or internal violence” (Crettol and La Rosa, 2006: 355). The issue of missing persons is relevant in a large number of contexts, with almost every contemporary conflict leaving significant numbers of families with no news of loved ones. Legal definitions can be used to identify those whose absence violates international humanitarian law or international human rights law and from these legal definitions flows an implicit definition of missing persons. Human rights law refers to “disappearance”, meaning enforced disappearance, where persons are arrested by a state party or those associated with it (UN Convention on Forced Disappearance, 2006). In the Nepali context this excludes those made missing by the CPN-M. International humanitarian law constrains parties to conflict to ensure that the fate of those killed or taken into custody is known, and this has led the International Committee of the Red Cross to talk of a “right to know” the fate of those missing in conflict (Crettol and La Rosa, 2006).

The difference therefore between the “missing” and the “disappeared”, is that the latter refers only to those arrested by a state party while the former includes all of those whose fate is unknown, regardless of perpetrator (if any); the category of missing also includes those persons killed in combat whose families are unaware of their fate and those known to be dead but where the gravesite is not known. In some states the term “missing” is itself defined in law. This can be relevant for persons missing in internal conflicts, and such law has been prompted by the problem of the Missing in several contexts.

In practice, all those who work with the issue of missing persons are forced to acknowledge that implicitly it is the families who decide if their loved one is missing, within some broad understanding. However, this normative approach, in contrast to a formal definition arising from law, is in itself problematic, since it ensures that any definition remains substantively subjective.

Here, “the Missing” refers to all those unaccounted for due to the ten year Maoist insurgency in Nepal (3 February 1996 to 21 November 2006). A majority of these were persons taken under the control of either state security forces (Nepal Police, Armed Police Force, Royal Nepal Army) or by persons affiliated with the Communist Party of Nepal (Maoist) or their armed wing the People’s Liberation Army (PLA); i.e. most of the Missing were “disappeared”. Cases also arise in Nepal of those apparently killed during their participation in CPN-M armed actions, but whose families have
not received confirmation of their fate, or information regarding gravesites and those persons who joined the PLA and whose families have not seen them since. A number of cases arise where the affiliation of those responsible for arrest is unknown or where the nature of being unaccounted for is unclear, but there is a suspicion that it is conflict related.

2 The Missing issue in Nepal

2.1 The conflict in Nepal

Nepal’s Maoist insurgency was driven by a legacy of centuries of feudalism in a Hindu kingdom built on a codified framework of social and economic exclusion, derived from the Hindu caste system that excluded indigenous people, lower castes and women. Within families and communities traditional culture relegates women to a subservient role, and women have been largely absent from decision making at all levels. The vast majority of the nation’s 25 million people live in rural areas, working in agriculture, often as tenants of feudal landlords and living lives of desperate poverty. Historically, political power was vested with a king, and political parties illegal. In 1990 a “People’s Movement” forced the king to relinquish absolute power and permit the creation of an elected parliament. A new constitution was written and a democratic multi-party system instituted. However, the process led to little change for most Nepalis.

In 1996 a small party from among Nepal’s fractious Marxist left, the Communist Party of Nepal (Maoist) [CPN-M], declared a “People’s War” against the regime, claiming that the issues of greatest importance to the mass of Nepal’s people could not be solved within the existing system. The insurgency grew rapidly from its initial base in the hills of the impoverished Mid-west with the Maoists conducting military operations throughout most of the country. They propounded a politics that explicitly encompassed an end to exclusion on the basis of ethnicity, caste and gender and as a result a significant fraction of their cadres were drawn from these marginalised groups (Hangen, 2007). Whilst disappearances had occurred from the start of the conflict, and even before it, the introduction of the Royal Nepal Army into the conflict in 2001 dramatically increased human rights violations of all kinds. (INSEC, 2007) Between 2000 and 2003 Nepal was responsible for a greater number of cases of disappearance reported to the UN’s Working Group on Enforced Disappearances than any other state (Human Rights Watch, 2003). Persons were also made missing by the Maoists, but the majority of cases are the responsibility of the forces of the state. Because of the ethnic profile of the insurgent forces, many of those disappeared belonged to indigenous minorities.

The conflict came to a dramatic end in April 2006, with a second “People’s Movement” uniting the Maoists and the constitutional parties against a king who had again seized absolute power. As part of an ongoing peace process the monarchy has been abolished and following elections to a constituent assembly the Maoists are now the largest party in the legislature, and their leader Prachanda Prime Minister. The conflict has left a legacy of some 15,000 dead (INSEC, 2007), and more than 1,200 unaccounted for (ICRC, 2008). For those families whose loved ones are missing as a result of the conflict the suffering of war continues: these families are the research subjects of this study. Many of the agreements that formalised the peace process, including the Comprehensive Peace Accord and the interim constitution committed both parties to the conflict to address the issue of disappearances in the short term. This included commitments to establish a Commission of Inquiry into Disappearances and a Truth and Reconciliation Commission. However, at the time of writing neither body has yet been established.

2.2 The cultural context

Nepal is the poorest country in Asia, and the 12th poorest in the world (UNDP, 2004). Income per capita is barely over $400 per year and 30% of the population lives on less than $1 per day. The feudal social relations that have persisted into modern times impact upon livelihoods, with a
significant fraction of the rural population being landless, and working as sharecroppers for landlords, and 44% of rural people being only marginal landowners; 5% of the population owns 27% of agricultural land. (Deraniyagala, 2006). A lack of access to land is the dominant cause of rural poverty. Indeed, in some areas of the Midwest, the Maoist insurgency either encompassed or paralleled a separate conflict between indigenous tenant farmers and higher caste landlords. In Bardiya, the district worst affected by disappearances, this as much as the Maoist insurgency drove disappearances.

Nepal is a mosaic of ethnicities, languages and castes, having a unique and complex ethnic geography. The kingdom of Nepal was unified in the 18th century, under a dynasty that migrated from India in the centuries before. The many other ethnicities in Nepal, notably the indigenous (Janajati) and more recent immigrants to the plains of the Terai from neighbouring Indian states (Madeshi), have been systematically excluded from the very idea of the Nepali nation, with many traditionally being denied citizenship. The Janajati were traditionally Buddhist or animist in their belief systems, but have been “Hinduisised” through exposure to a hegemonic Hindu culture that has been characterised as Nepali. As a result many of the indigenous peoples of Nepal now consider themselves Hindu, but continue to practice many non-Hindu traditions². The Hindu caste system formalised discrimination against indigenous groups as well as against those who share ethnicity with the ruling Brahmin and Chhetri castes, but are considered of lower standing. The lowest castes (Dalits or untouchables) face mortality, literacy and income far below the nation's meagre average (UNDP, 2004). The net result is that the majority of the population is excluded from certain parts of the economy and from politics. At the start of the 21st century the Brahmin and Chhetri castes, which constitute some 30% of the population of Nepal made up 87% of civil service staff (Battachan, 2006).

In all communities, and in particular the poorest, women are further excluded. The position of women in Nepali society increases their vulnerability in all ethnic and caste groups. Land and property inheritance is patrilineal, women live with their husband's family and early marriage is common. Their status in the family is traditionally subservient and can be precarious; they are expected to work and to produce sons and their value to the family lies largely in this. Women marry to gain access to property and social acceptance but have no inheritance rights (ADB, 1999): as a result the loss of a husband can have catastrophic consequences. Women consistently fall behind men in educational achievement and skill development, often leaving them with few livelihood opportunities. Whilst when a husband dies in some indigenous groups it is traditional for a woman to marry her husband’s younger brother, in Hindu tradition remarriage brings shame to the family and is thus highly stigmatised. As girls are considered an economic burden for whom a dowry will eventually have to be found, so boys and men are economic assets for a family and the greatest insurance for the future support of the old. As such, the loss of sons is a considerable economic blow to a family.

Attitudes towards death and mourning in Nepali society are discussed in Section 5.2.

2.2.1 The language of disappearance in Nepal

There are no words in Nepali that are exactly analogous to the English use of “missing” and “disappeared”, where the principle difference between these two is the implication of an agent in the latter, i.e. someone is actively made to disappear. The closest to missing is haraunu, a verb meaning to go missing, which would be used for example when a child fails to return home (past participle haraeko). However, the word almost always used to discuss disappearances in the conflict is bepata, which can mean either missing or disappeared. Human rights agencies use bepata to mean actively disappeared, while ICRC uses it to mean missing. The meaning can be

---

² During this research a Tharu woman was asked what her religion was, at which point she turned to the other women with her and asked “Are we Hindu or Muslim?”. This well summarises the relationship many indigenous people have with the dominant religion of Nepal.
made precise with qualifiers (i.e. *bepata pariako*, disappeared; *bepata baheko*, missing - both past participles) but these are rarely used.

### 2.2.2 Needs, rights and victim agency

The emphasis here on needs is in contrast to the dominant approach to issues of disappearance, which is rights based and derived from a predominantly 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*. The experience of this research in Nepal is 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:

> 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-in-law of man disappeared by the state, 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)

Thus for the majority of those met in this study the fact that they have rights, to redress, to justice and to reparation, plays no 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 talk of the problems they face and the needs that emerge from these. Families of the Missing and other victims have to confront the needs generated by their victimhood every day, and this becomes the natural language when discussing the issues arising from their victimhood. To impose a language of rights onto how victims articulate what they want is to take away their agency to set their own agenda. This is not to suggest that the rights of victims should be compromised: rights to restitution and reparation are well established in law and should be articulated by those who are able to, but victims should be permitted to use their own language and formulate their own demands, and that is done here.

### 2.3 A profile of the victims

Whilst the Missing themselves are victims, the families they leave behind are also victims. Individuals are affected according to their relationship to the Missing person, mediated by the culture and society in which they live. But whilst spouses of victims will have a different reaction to disappearance, and different needs, from a victim’s children and parents, the principle unit affected by the phenomenon is the family. The family will also be the principle coping mechanism, and in the case of Nepal this will be the extended, or joint, family that is the building block of social organisation. As a result the discussion of needs as well as responses will emphasise the family, and the unit of analysis of this study will be the family, rather than the individual.

A minority of the Missing are educated and urban (a significant number of students are among those missing) but most come from rural peasant backgrounds. As a result, many families of the disappeared are of low educational level, illiterate and poor. The Missing are predominantly younger males with the result that families have been deprived of breadwinners and women of husbands, often with young children to support, further reducing economic security. As a result of women’s position in both the community and family the loss of a husband can have catastrophic consequences.
The *janajati*, those people considered indigenous to Nepal, were successfully mobilised by the Maoists and thus became more vulnerable to becoming casualties of the conflict. The janajati of both the hills and Terai are among the most excluded and poorest of the people of Nepal and the conflict reduced further their ability to cope both as a community and as individual victims of the conflict. In the Terai, the Tharu, particularly in Bardiya district, were victimised by the forces of the state to the extent that they constitute approximately 80% of those Missing in the district (CVC, 2007). In the hills of the Mid-west, and in particular the Rapti region that includes the districts of Rukum and Rolpa where the insurgency began, a large number of Magar people are Missing as a result of actions of both parties to the conflict. In the central and eastern Terai the Madeshi population constitutes a large majority of the Missing.

The sampling used in this study is described in Section 3.2, and aims to be representative of all families of the Missing. A total of 86 families of the Missing were interviewed and a similar number met in focus groups. Here, the profile of those interviewed is described. The tables below show a breakdown of the sample used in this study in terms of gender of the missing person, status (civil, combatant etc.), ethnicity, religion, the year they went missing, perpetrator and the relationship of the principle interviewee to the Missing. The ethnicity of persons met for this study is shown in Table 1.

<table>
<thead>
<tr>
<th>Ethnic group</th>
<th>Location</th>
<th>Families interviewed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brahmin / Chhetri</td>
<td>All districts</td>
<td>21</td>
</tr>
<tr>
<td>Dalit</td>
<td>Various</td>
<td>7</td>
</tr>
<tr>
<td>Tharu</td>
<td>Bardiya, Banke</td>
<td>28</td>
</tr>
<tr>
<td>Madeshi Hindu</td>
<td>Janakpur, Siraha, Banke, Bardiya</td>
<td>12</td>
</tr>
<tr>
<td>Madeshi Muslim</td>
<td>Bardiya, Banke</td>
<td>2</td>
</tr>
<tr>
<td>Magar</td>
<td>Banke, Rolpa</td>
<td>9</td>
</tr>
<tr>
<td>Chepang</td>
<td>Dhading</td>
<td>4</td>
</tr>
<tr>
<td>Tamang</td>
<td>Gorkha, Kathmandu</td>
<td>2</td>
</tr>
<tr>
<td>Gurung</td>
<td>Dhading</td>
<td>1</td>
</tr>
</tbody>
</table>

Table 1 Ethnic and caste composition of the sample of families met for the study.

<table>
<thead>
<tr>
<th>Perpetrator</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>State</td>
<td>71</td>
</tr>
<tr>
<td>CPN-M</td>
<td>13</td>
</tr>
<tr>
<td>Perpetrator unknown</td>
<td>2</td>
</tr>
</tbody>
</table>

Table 2 Perpetrators responsible for the person being Missing.

The perpetrators responsible for the person becoming Missing, for the families met in this study, are shown in Table 2. In a number of districts (e.g. Kapilvastu, Dailkeh) there were also vigilante forces responsible for persons becoming Missing, i.e. civilians mobilised by the state but not formally part of state security forces; no families of such victims were met in this study. The two cases where the perpetrator is unknown consist of one case where a young man working away from home disappeared in a zone of conflict and one where a man was abducted in the Terai by individuals known to have worked with both the CPN-M and the security forces.

<table>
<thead>
<tr>
<th>male</th>
<th>female</th>
</tr>
</thead>
<tbody>
<tr>
<td>79</td>
<td>7</td>
</tr>
</tbody>
</table>

Table 3a Gender of the missing person.

<table>
<thead>
<tr>
<th>male</th>
<th>female</th>
</tr>
</thead>
<tbody>
<tr>
<td>33</td>
<td>53</td>
</tr>
</tbody>
</table>

Table 3b Gender of the principle interviewee.
Figure 1 shows the age of the Missing when they went missing. The distribution peaks for those aged 15–30 years. Given that the vast majority of the Missing are male (Table 3a), this has the effect of depriving families of those who are at their most economically valuable, resulting in often extreme challenges to livelihood. Most of these young men had recently married (86% of all the Missing were married), and many had fathered children who were young at the time of disappearance. Nine of the Missing are under 18 years of age, more than 10% of the sample.

![Figure 1 Age of the Missing at the time they went missing.](image)

During the pilot phase of this study when the family associations were met to design the research (see Section 3.1), it became clear that women were subject to different and often more extreme problems than men as a result of disappearance. The economic problems very often fell on the women, both because they are largely responsible for children and in particular where they were left heading the household due to a missing husband. Because of women’s position in Nepali society, women were subject to stigma both within the family and the community. As a result of this an effort was made to ensure the greatest possible participation of women in the study (see Section 3.4).

<table>
<thead>
<tr>
<th>Civilian</th>
<th>53</th>
</tr>
</thead>
<tbody>
<tr>
<td>Security forces</td>
<td>2</td>
</tr>
<tr>
<td>CPN-M member or supporter</td>
<td>25</td>
</tr>
<tr>
<td>PLA fighter</td>
<td>2</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Wife</th>
<th>28</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brother / sister</td>
<td>17</td>
</tr>
<tr>
<td>Son / daughter</td>
<td>14</td>
</tr>
<tr>
<td>Mother</td>
<td>11</td>
</tr>
<tr>
<td>Husband</td>
<td>3</td>
</tr>
<tr>
<td>Other</td>
<td>4</td>
</tr>
</tbody>
</table>

Table 4a Status of the missing person.  

Table 4b The relationship of the principle interviewee to the missing person.

The status of the missing person is subject to some uncertainty and that presented here is based on what was said by the family. It is however clear that most families of victims of the state did not have a clear idea of the role of their loved one in the CPN-M, if any, i.e. as a supporter, member or PLA fighter. It is also likely that some kept their political activities secret from some family members. The family members of missing security force personnel included in this sample are those of a policeman taken by the CPN-M and an off-duty RNA soldier made missing by the RNA in Bardiya.
The number of missing in each year of the conflict represents a measure of the changing intensity of the conflict, Figure 2. The average time passed since the person went missing was more than 5 years at the time of research (June – September 2008).

2.3.1 State perpetrated cases in Kathmandu
In Kathmandu 123 persons are missing with another 28 in Lalitpur and Bhaktapur (ICRC, 2008). Most of those missing were taken by the state as a result of their political activity. Many of those taken were student activists, and all those victims of the state whose families were met were involved in CPN-M activity. Almost all were Brahmin or Chhetri, and arrested from their homes or on the street following monitoring by the state. Many had been arrested and released prior to the arrest that led to disappearance. Many have been confirmed to have been in state custody through the testimony of co-detainees but no information has been forthcoming about their fate. OHCHR has reported on the case of 49 persons arrested by the RNA and held at Maharajgunj military barrack in Kathmandu, and allegedly taken to Shivapuri in a national park north of Kathmandu, and never seen again (OHCHR, 2006b).

There is almost no contact in the capital between families of the Missing perpetrated by the two parties to the conflict, and so in Kathmandu one sees a great deal of politicisation of the Missing issue, with family associations affiliated to political parties formed by victims of both sides.

2.3.2 State perpetrated cases in Bardiya

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 recognise 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 from Bardiya, while looking for her sons among the bodies of those arrested and killed by the RNA.)
Bardiya is the district of Nepal worst affected, with 213 persons missing, according to ICRC figures (ICRC, 2008), and 209 according to the Bardiya Conflict Victims’ Committee (CVC, 2008). Of these some 80%, according to CVC, are Tharu, despite the Tharu constituting only 53% of the population of the district (Dahal, 2005; based on the 2001 census). This is a result of the fact that the Tharu as an indigenous ethnic group has seen dominant caste groups usurp land ownership rights over recent decades, reducing many Tharu to bonded labourer (Kamaiya) or landless status. In the decade prior to the Maoist “People’s War” a number of Tharu land rights movements, some violent, had arisen to challenge Brahmin-Chhetri dominance in the district. Whilst the CPN-M had a degree of success in mobilising the Tharu, it appears that the principle reason for the Tharu being targeted by state security forces in Bardiya was as an extension of the struggle over land (OHCHR, 2008). The greatest number of disappearances occurred following the appointment of a local landowner to a RNA command position; a very large number of the Tharu people missing had no connection with the CPN-M, but were community leaders, teachers and activists. Many were simple peasants with no connection to any political movement. In most cases security force patrols, usually led by the RNA but often including Nepal Police in a “Unified Command” structure, would enter villages at night. In some cases informers, often hooded to conceal their identity, would point out the homes of those to be arrested, who would then be dragged from their homes by the security forces. In some cases, groups of those arrested were held in temporary camps, where the community saw them, before being taken away and never seen again. In many cases Radio Nepal would announce in the days following arrest that the person concerned had been killed in an encounter between the security forces and Maoists. A very large number of persons arrested were taken to Chisapani military barrack, on the Banke-Bardiya border. Reports of those released from Chisapani include testimony of persistent ill-treatment, of executions within the barracks, and of large numbers being taken from the barracks at night and not returning. For some of the Missing, including those allegedly held at Chisapani, candidate gravesites have been indicated by witnesses. It has been suggested that the huge scale of violations of humanitarian law, apparently both widespread and systematic, seen in Bardiya by the RNA may constitute crimes against humanity. The vast majority of those missing in Bardiya are Tharu peasants, largely younger men, who have left behind young wives and children.

2.3.3 State perpetrated cases elsewhere

In other districts state perpetrated missing cases are dominated by those where security forces arrested people from home and they have not been seen since. In such cases families have usually received no information about the fate or whereabouts of their missing relatives.

In one incident at Kotwade, in Kalikot district, a group of labourers working on an airport site were apparently mistaken by security force personnel for Maoists fleeing the site of an attack in neighbouring Achham district. 36 people were reported subsequently killed, allegedly by the security forces, either from shooting from helicopters, or following arrest. A group of 20 of these labourers came from villages in Jogimara VDC, in Dhading district and their families were met for this study. These families come from the Gurung and Chepang indigenous groups as well as from Dalit and Hindu caste groups. Some information has reached the families about the course of events at Kotwade, but no official information about what happened to their loved one has emerged.

For state perpetrated cases there is strong evidence that personal disputes became grounds for disappearance when one party involved the security forces by accusing their enemy of Maoist involvement. One such story was told by an interviewee:

The name of the informant is X, he is the relative of Y who is at present a member of the Constituent Assembly. His brother had raped a girl and so a panchayat was held in which

---

In the sample selected here of 31 families met, 28 (90%) were Tharu.

The panchayat is a traditional structure of village elders with responsibility for governance and dispute resolution within the community.
he was punished. That was the reason X sent my father's name to the police alleging him to be a Maoist. On those grounds the army personnel took my father from my house. (Son of man missing from the Terai.)

2.3.4 CPN-M perpetrated cases
The majority of missing cases where the CPN-M was responsible occurred in rural areas, where the Maoists had de facto control, and would take under their control those they perceived as acting against the CPN-M, in particular those accused of spying for the state. Some of these were held for extended periods by the CPN-M, before being released or killed. In some cases, 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 death of the missing person. This has often not been confirmed in terms of details of circumstances of death, or return of human 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 victimisation: fear of ongoing Maoist control of their home area has led the family to leave their fields and move either to the district headquarters, a town in the Terai or Kathmandu. Such families are especially vulnerable since they have lost their traditional livelihood as well as contact with their community.

2.3.5 Missing cases with no known perpetrator
In a number of cases the perpetrator is unclear. This includes those cases where a combatant from either party has failed to return home, and the family have no information of his whereabouts, and cases where civilians have disappeared in circumstances that remain unknown:

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.)

2.3.6 Victims and perpetrators
It suits many to see victims and perpetrators as at opposite ends of some spectrum. Indeed, since the end of the conflict some have attempted to differentiate between “innocent” victims and those who may have been involved in some way in the insurgency. This study has shown that 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 had been made missing by the state, and later that same day a woman was met who claimed that same man had been responsible for the disappearance of her husband by the Maoists. In Bardiya I met a young policeman whose sister had been made missing by the security forces while he was on duty elsewhere in the country. In Nepal's conflict many people either chose or were forced to take on various roles. This study will not attempt to determine who among the Missing or their families played what role, but will aim to simply articulate all their needs on an equivalent basis, on the understanding that all families have the same rights, and similar needs, following a disappearance.

2.3.7 Family Associations
Families close to the CPN-M first established an association of families of the disappeared in Kathmandu during the conflict. This group, known as Sofad (Society for the families of those disappeared by the state) brought together families to campaign for the state to inform them of the whereabouts of relatives and to release them. Sofad also acted as a channel for economic support from the CPN-M to victim families. Soon after the end of the conflict family associations were established in other parts of the country, often independent of any political party and trying to represent the victims of both sides. However, in many districts victims of the state dominated such
groups and so their impartiality was often compromised. Those associations that have an explicit political affiliation are seen to sometimes experience a conflict between representing their membership and following the line of their political masters, and such cleavages may grow as political action begins to create mechanisms to address the missing issue. Whilst all associations emphasise a campaigning agenda one of their most important roles has been to bring families with similar experiences together. In this way the family associations offer emotional and psychological support services to families of the disappeared. The family associations became a crucial platform for the participatory methodology of the study (see Section 3.1).

One aspect of the Family Associations observed during this study was that, whilst the majority of active members of the Associations are women, the leadership remains exclusively male. This potentially compromises the ability of such Associations to represent the views and agenda of women, and a greater leadership role for women would be positive. It is unclear as to the extent that other hierarchies within communities are reflected in the Association leadership; it has been seen that Association leaders are better educated than the typical Association member, but during the study it was noted that the ethnicity of the leadership was indeed representative (e.g. Tharu in Bardiya, Madeshi in Dhanusa).

2.4 Action to date by the authorities

The Government of Nepal has pledged to address the issue of the missing since the first step in the peace process. Initially mentioned in the 8th November understanding of 2006, the Comprehensive Peace Agreement (CPA) of November 2006 committed both parties to “make public the information” about the disappeared within 60 days, to ensure the rights of families of the disappeared to “relief”, and to create a “High-level Truth and Reconciliation Commission” (CPA, 2006). The interim constitution which followed further promised “To provide relief to the families of the victims, on the basis of the report of the Investigation Commission constituted to investigate the cases of disappearances made during the course of the conflict” (Interim Constitution, 2007: 33(q)).

In March 2007 a Supreme Court ordered Task Force on Disappearances reported, confirming that “systematic and widespread disappearances” by the security forces had taken place and ordering the formation of a “high-level Investigation Commission for Disappeared People” and new legislation to criminalise disappearance (Supreme Court, 2007a). In June 2007, the Supreme Court further ruled on a group of 79 habeas corpus cases concerning state perpetrated disappearances, ordering that the whereabouts and status of the disappeared to be made public and relief to be provided to families (Supreme Court, 2007b). The Supreme Court ordered that compensation of Rs. 100,000 (1 lakh) should be paid to the families of the 79 missing persons. During this study a number of families were met who had received this compensation, but it was also clear that not all those eligible had received it.

In July 2007 the Ministry of Peace and Reconstruction (MoPR) published a draft bill “for discussion and consultation” proposing a Truth and Reconciliation Commission (TRC). This bill contained significant provision to grant amnesty to perpetrators of violations that could lead to persons disappearing, and became the subject of criticism from both Nepali and international human rights agencies (e.g. OHCHR, 2007; ICTJ, 2007). Following the publication of the draft bill a number of public consultations were held, in Kathmandu and elsewhere, where the MoPR met victims and others to discuss the draft. The bill was revised somewhat in the light of both the comments received and the consultations, but the prospect of it being presented to the Constituent Assembly remains unclear.

In November 2008, after the completion of the research for this study, the Government published a draft bill on disappearances that retrospectively criminalises acts leading to disappearance and provides for the establishment of a “high level independent commission in order to conduct
investigations on the disappeared persons" (Disappearance Bill, 2008). This Act is discussed in detail and its provisions compared with the needs articulated by families in this study, in Section 11.2. An amended Bill was passed by ordinance in February 2009, but has yet to be passed by the legislature.

In the time since the end of the conflict at district level, conflict era legislation has continued to be implemented. This has permitted a district level “security committee” composed of Chief District Officer (CDO) and local Army and Police commanders to identify victims who are not associated with the insurgency and to recommend compensation payments. As such, this process has benefitted only those victimized by the CPN-M and not the majority of families of the Missing, victimised by the forces of the state. In a number of districts a broader process has occurred and victims of the state have also received modest payments. The Ministry of Peace and Reconstruction has initiated a process of data collection through CDOs that has involved political parties forwarding the names of persons they believe to be victims of the conflict, and it is understood that this process is largely complete. Some CDOs have told victims that they will receive compensation in the current financial year, but this process remains extremely opaque to victims.

2.4.1 Exhumations and identification
A number of exhumations of human remains of the Missing have been both made during and after the conflict. In March 2007, OHCHR supported the exhumation of remains of a teenage girl, Maina Sunwar, allegedly killed following arrest by officers of the RNA in 2005 (OHCHR, 2006c). The remains have since been confirmed as Maina’s following DNA tests.

The National Human Rights Commission (NHRC) has made a number of recommendations to the authorities concerning missing persons, but little action has been taken as a result. NHRC has arranged exhumations using national medical expertise in a number of cases with identifications made through property found on the body rather than forensically. In two cases, police have reportedly exhumed bodies without forensic assistance (Advocacy Forum & Human Rights Watch, 2008). The fact that exhumations have taken place without the appropriate experts present, and a general lack of forensic expertise in Nepal, remains a problem for future exhumation and identification efforts. NHRC has reportedly received a number of requests from families seeking assistance in investigating grave sites, but does not have the resources to do so.

There remains no capacity within Nepal to either perform exhumations on a large scale or to perform DNA testing. Samples have been sent to India at a cost of INR44,000 (approximately US$900) per test. NHRC is also beginning the collection of ante-mortem data for disappearance cases.

3 Methodology

3.1 Research concept: participatory research design
In Nepal, the researcher worked during and after the conflict with families of the Missing, and played a key role in catalysing one of the earliest Associations of Families of the Missing. Since the end of the conflict victims, often from marginalised ethnic communities in rural areas, have become increasingly frustrated both at their inability to influence the transitional agenda and at being represented by elites from the capital remote from their own lives. This research aims to exploit the mutuality of the research agenda and the desire of victims for dissemination of their needs. This co-dependence allows a deep understanding of both the problems victims face, and their resources and strengths.
The research agenda is driven by the concept that victims know their needs better than anyone and how they should be articulated. As such, the research design and conceptualisation process was executed in a participatory way with the family associations. The associations, together with individual families who are their members, determined the goals of the research process and the methodology. This was done over a period of about two months through a process of continuous interaction with two family associations, one in the capital and one in the rural Mid-west. The association leadership led the process but involved ordinary members of the association, both in their offices and through trips to field made by the researcher with association leaders. The researcher provided expertise and facilitated decision making through the presentation of options and discussion of possibilities. This was essentially an emancipatory approach to participation, with the research driven by the researched.

The output of this process was that the research would be rooted in an advocacy effort, would be ethnographic, and that the family would be the unit of analysis. Families wanted their needs to be communicated and advocacy can attempt address this; the advocacy approach allows the addressing of many of the ethical challenges by ensuring that families are supportive of the research and can potentially benefit from it. The final research report, produced together with the associations, permits the dissemination of the results as a tool of advocacy. The family associations benefited from the expertise of the researcher whilst gaining a degree of ownership over the research results. The research must be ethnographic: the issues being investigated are subtle and sensitive and only a qualitative and ethnographic approach can offer the cultural insights needed to understand the lives of victims and the impact their victimhood has had on them. The family is the unit of analysis: the nature of disappearance is such that it impacts families, rather than individuals alone. In the Nepali context the family is the principle unit of social organisation and is the most natural way to approach the issue. The range of victim families reflected the huge variety of Nepal’s population, ethnically, by caste, geography and economic status. It was decided that whilst a qualitative methodology would be used, efforts would be made to ensure that the sampling would be such as to represent all victims to validate the advocacy component and as such the sampling technique used was more typical of a quantitative approach.

The study emphasised the goals of transition, rather than the specific mechanisms. This was motivated largely by the lack of knowledge of potential mechanisms (such as trials, Truth Commissions etc.) by victims, as well as the lack of any concrete proposal from the authorities that could be put to families. It also coincided with the philosophy of the study that individual families would determine their own priorities in terms of needs. It was however possible to test attitudes to particular approaches, such as compensation, prosecutions and amnesty.

The associations participate in the research as a community of victims, and following finalisation of the research design were partners in its implementation with the associations, their leadership and members acting as gatekeepers and mediators with families. They briefed family members on the nature of the research and assisted in the building of trust between the researcher and the researched. Ethically, this engagement with family associations helped to address many issues (see below) and facilitated access to families through the construction of an ethical relationship with research subjects. Family Associations in Bardiya (the Conflict Victims’ Committee, CVC) and in Kathmandu (Society for the Families of those Disappeared by the State, Sofad) were engaged in the development of research design and methodology. Family associations in Dhanusa, Rolpa, Gorkha and Lamjung were involved in the implementation of the research, as well as an association of victims of the Maoists based in Kathmandu.

---

5 An edited version of this report was published and widely distributed by the ICRC in April 2009.
3.2 Sampling

Different perceived needs exist in rural and urban, rich and poor families, and between families with significant contact with human rights agencies and those without. As such a sampling procedure was developed to reduce biases from preferential selection of certain types of victim. To achieve a non biased sampling it was clear that families must be visited, rather than allowing some self-selection by research subjects through an invitation to a meeting.

The sampling frame used for the study is the list of 1227 persons missing as a result of the conflict drawn up by ICRC and published immediately prior to the start of data collection (ICRC, 2008). This list contained the names of persons whose families ICRC staff had met in the previous 12 months and who had confirmed that their relative was indeed missing. Whilst unlikely to be comprehensive, the ICRC list appears to be the most complete available. This list has been ordered by the address of the enquirer, i.e. the family member who has approached ICRC to inform about the missing person.

A selection of 10 districts from among Nepal’s 75 was made that permitted the worst affected districts to be included, whilst also ensuring that a spread by region, geography (plains, hills, mountains), ethnicity and perpetrator (state, Maoist) was achieved. These 10 districts account for 43% of those missing in Nepal. All five regions of Nepal are represented, with the exception of the Far-west, which was not badly affected by cases of disappearance and where the victim profile is similar to that of the Mid-west. The ethnic mix represented by this selection also reproduces well that of the sample as a whole while the ratio of state to Maoist perpetrated cases is relatively constant throughout affected districts.

<table>
<thead>
<tr>
<th>District</th>
<th>Total missing</th>
<th>Interviews</th>
<th>Focus groups</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>perpetrator</td>
<td>number no. of</td>
</tr>
<tr>
<td></td>
<td></td>
<td>state CPN-M not known</td>
<td>total participants</td>
</tr>
<tr>
<td>Banke</td>
<td>97</td>
<td>6 0 0 0 6</td>
<td>0 0</td>
</tr>
<tr>
<td>Bardiya</td>
<td>240</td>
<td>28 2 1 31</td>
<td>3 19</td>
</tr>
<tr>
<td>Dhading</td>
<td>13</td>
<td>10 0 0 10</td>
<td>1 9</td>
</tr>
<tr>
<td>Gorkha</td>
<td>16</td>
<td>7 0 0 7 2</td>
<td>13</td>
</tr>
<tr>
<td>Kathmandu, Lalitpur, Bhaktapur</td>
<td>151</td>
<td>11 3 0 14 2</td>
<td>16</td>
</tr>
<tr>
<td>Rolpa</td>
<td>36</td>
<td>2 5 0 7 1</td>
<td>8</td>
</tr>
<tr>
<td>Siraha, Dhanusa</td>
<td>33</td>
<td>7 3 1 11 1</td>
<td>9</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>71</strong></td>
<td><strong>13 2</strong></td>
<td><strong>86 10 74</strong></td>
</tr>
</tbody>
</table>

Table 5 Summary of families met for semi-structured interview and focus group discussions.

Within these districts a random selection was made, using a random number generator to choose entries in the ICRC district wise lists. These families were then visited and interviewed. 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: within a “family focus group” these dynamics can be explicitly probed. The pilot phase 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, so as to best understand the social and family pressures to which they may be subject.

The concerned family associations selected focus group participants. Whilst this does not yield a representative sample, it does allow peer groups to be created. 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.

The final distribution by district of families met for the research is shown in Table 5. The total number of families met for interview (86) constitutes 7.0% of all victim families on the ICRC list, with a further 6.0% (74 individuals) met in focus group discussions.

3.3 Research methods

The research methods used in this investigation were chosen to optimise the utility of the data collected, and in particular to mix 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. These comprise:

- Semi-structured interviews
- Focus groups discussions
- Participant observation

3.3.1 Semi-structured interviews

Interviews provide the opportunity for subjects to present information on their own terms: an interview combines structure with flexibility. For a study such as this one it is an ideal technique to allow families of the disappeared to tell their own stories and articulate their own needs. During the pilot studies an approach was developed in which families were invited to talk about their situation, their disappeared relative and the circumstances that they found themselves in as a result, through open questions. This was followed by more specific questions to understand how family roles have changed, to quantify economic insecurity and other details. The interview is semi-structured in the sense that the areas of discussion are pre-determined, but the subjects will be permitted to approach these in their own way, however indirect. The “script” for this interview (see Appendix I) was used as a guideline: the course of questioning was determined by the responses of the interviewee, and rarely was every subject asked every question. Rather, this was a framework upon which a discussion with the families was hung, with the family determining the issues of greatest interest to them. A typical interview lasted around 90 minutes. The topics in the script included the following:

- General information (relationship to the disappeared, family size and structure and role of the Missing with it etc.)
- General priorities: an opportunity for families to express, unprompted, their own understanding of their needs and problems.
- Attitude to the fate of the Missing: is the Missing believed dead, have rituals been made, it is necessary to retrieve the body.
- Psychological and Psychosocial issues:
  - emotional impact and effect on daily functioning
  - effect on and within family and community; coping mechanisms
- Economic situation and needs
- Legal and administrative issues
- Justice, acknowledgement, reconciliation, memorialisation and rights
- Institutions and response of the state
The interview began with a general discussion of the circumstances of the family, the role of the missing person within it, and the nature of the disappearance. Families were then asked an open question: “What action you like to see taken in response to your relative being missing?” This allowed families to identify what they saw as their priorities, whether that be an answer concerning the fate, economic support, prosecution or something else. More detailed questioning concerning the various potential needs of families then followed this. The interview finished with a request to discuss any issues that the family had considered had not been covered, and for any comments or questions for the researcher.

3.3.2 Focus group discussions
A focus group is essentially a group interview, with each participant given the chance to express himself or herself, but with the additional dynamic of inter-group discussion. Traditionally such groups consist of peers, i.e. individuals with similar viewpoints or demographics. The questions used to initiate discussion were very open, inviting participants to choose, and then discuss, the greatest problems they were facing as a result of the disappearance of their relative, with the ensuing discussion permitting detailed attitudes to emerge. For individuals who may feel vulnerable, such as families of the disappeared, a focus group can create an environment that is more secure for the expression of feelings, particularly where all members feel some solidarity. The most striking success of this technique was when wives of the disappeared were invited to discuss their problems, and chose issues in the family and community that have not previously been widely articulated by conflict victims in Nepal (see Section 6.2.1). The different peer groups for which focus group discussions were held included wives of the disappeared from the Tharu ethnic group, family members from a single village where many disappeared, families from indigenous ethnicities as well as groups defined by the perpetrator of the disappearance (state, Maoists).

3.3.3 Participant observation
The traditional ethnographic method of participant observation was also used throughout the contact the researcher had with families of the Missing. Given that the researcher met more than 160 families over a period of 6 months, very often in their own home or community, there was an opportunity to collect a large volume of data. In particular, participant observation was an additional tool for triangulation, since it allowed the possibility to confirm or refute the verbal data gathered in interviews and focus groups discussions. Some forms of these data will be obvious: many of the reactions of research subjects will be non-verbal, from crying in response to recall of the events of disappearance to indications of insincerity when a young women assures in front of her in-laws that there are no problems at home. Additionally, participant observation provides the possibility of confirming much of the data regarding economic conditions, relations within community and family, and other subtle elements of social interaction. During interviews, focus groups and throughout field visits field notes were taken of observations of participants and their environment that formed part of the data analysed.

3.3.4 Research protocols
In this research the guidelines of the CCFJS for working with vulnerable individuals and families was followed through use of the following protocols (adapted from CCJFS, 2003):

- Only those who have chosen to share their experience of having a missing relative through contact with a family association or another agency, will be approached.
- Interviews begin with a discussion of the subject’s current situation to determine their readiness to discuss topics of interest.
- Subjects are reminded regularly that they are not obliged to respond to any questions.
- Interviews with family members are conducted in peer groups, either with other family members, or other victims.
- Interviews are conducted by the researcher himself, with the aid of an interpreter as required. At any sign of distress an offer is made to terminate the interview.
- Each participant is guaranteed that the information they provide will be kept confidential.
Data collected is held in a way such that the concerned individual cannot be identified, and stored such that only the researcher has access.

3.4 Implementation

Following the 2-month pilot phase, 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 work places. Where the families selected by the sampling strategy were otherwise available (e.g. at family association meetings) interviews were also conducted elsewhere. The logistical challenges were considerable: in some areas families could only be reached by walking for days, or by travelling by motorbike or bicycle.

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 Nepali, Tharu and Maithili\(^6\) 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’ contained or were accompanied by a member of the family association that had assisted in its organisation, and a minority of interviews with families also included a family association representative who accompanied the researcher.

The aim of the research, and in particular its advocacy goal, was explained to families, with the assistance of the family association members if available, and their consent sought for participation in and recording of the interview and focus groups, subject to the maintenance of the confidentiality of the participants. Consent to record was refused on two occasions, where notes were taken by hand. No family member declined to be interviewed. The recording of the interview or focus group discussion was then translated into English from the original language by a research assistant and transcribed for analysis. The texts emerging from the translation and transcription process were analysed together with the researcher’s field notes of all interviews and focus groups, by the researcher himself. These texts were iteratively coded for analysis by both frequency of topic data and for selection of relevant text segments.

3.5 Response of subjects to the research and ethical issues

Some families have been met many times by human rights agencies seeking to collect testimony about violations. Despite telling their stories many times 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:

> These organizations and people like you should not just collect the data and submit and forget it but these things should come to happen. (Son of man missing from Kathmandu.)

> Our relatives and friends have been missing since the beginning of the war. 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 man missing from Gorkha.)

\(^6\) 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, people considered to be of recent Indian origin.

\(^7\) One focus group was made in Dhading where no formal family association is active, and this was made without the presence of a family association representative.
However, this study also met families who had been met before only by ICRC and who were enthusiastic about talking. In particular, the interest being taken in their needs, rather than just in their testimony regarding the disappearance gave some confidence in the process, as did the fact that family associations were involved at all stages. Families were largely grateful for the interest being taken in their cases, and very much welcomed the advocacy approach of the research (see Section 3.5)

We have been everywhere to tell our problems, including 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)

The response of families to the research was largely positive. A large number reported that the interview had allowed them to raise issues that troubled them, in an appropriate environment. One thread that ran through comments was gratitude that an outsider was taking an interest in their issues, and that this was the first time anyone had consulted them on their opinion of their needs and the action they sought. A minority reported that many representatives of human rights agencies had asked them to detail the circumstances in which the person went missing, with no apparent result, which was seen to be highly frustrating.

We have met many researchers who claim that they would advocate in favour of us. [...] Now we are with you in course of the interaction. In other words we are really tired of participating in this type of interactions. (Focus Group Participant, Gorkha.)

The advocacy approach was readily understood by almost all interviewees, who saw the researcher as a conduit for the transmission of their needs and problems to the authorities, exactly the aim of the publishing of the results:

Through you our voice reaches the Government and the work starts as soon as possible. (Wife of missing man, Kathmandu.)

The fact that the researcher offered a route (through the published research results) to authorities, who are perceived to be able to address their needs was seen as empowering by victims owing to the remoteness and inaccessibility of the Kathmandu Government to many. The importance to victims of the family associations was also underlined by their expression of the value they saw in them:

When they first joined the family association they used to weep all day. But they understood that it was not only their problem but that of the many who have come to join this organisation. [...] Now they don’t worry about only their own case but for the collective. They concern themselves with all the missing and share their sorrows. Now they don’t feel weak. (Brother of missing man, Kathmandu)

This reaction vindicates the decision to work with and through the family associations and this engagement addresses many potential ethical issues. Despite populations in regions affected by conflict having increasingly been the subject of social science research there exists a perception that ethical considerations of such research remain under explored (Jacobsen and Landau, 2003). A suggestion has been made that research into others’ suffering can only be justified if alleviating that suffering is an explicit objective (Turton, 1996). This study has the production of an advocacy tool as an explicit aim, and thus does aim to positively impact the subjects of the research, albeit indirectly.

The data collection of this research involved interviews and group discussions with members of families of the Missing. In most cases the individuals and families concerned were poor, of low
formal educational attainment, often women and very often from socially marginalised ethnic or caste groups. They are also people who have survived the traumatising effect of conflict, live in an environment that may still be highly divided and are being questioned about the issue of a disappeared relative that is potentially traumatising. Such research subjects are highly vulnerable in many ways, and there are significant ethical issues to be addressed. The ethical approach is driven by the principle of non-maleficence (Beauchamp and Childress, 2008), an obligation to avoid exposing others to harm, but beyond this aims to achieve reciprocity with participants that promotes agency and builds capacity, through an ethical relationship with the researcher.

### 3.5.1 Security and access

Security issues arise largely from an ignorance of local circumstances and thus could be understood through the family associations who were aware not only of local conditions, but knew the individual families concerned. Since most families were victims of the state, and the state remained largely absent in rural areas, there were few such issues. When dealing with victims of the Maoists however there remained potential security issues, and in some cases families were met away from their homes for their security:

> 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.)

Access to victims is not just a matter of physical access, but also “emotional access”, to ensure that research subjects feel able to talk. The volume and quality of data collected was a direct result of the victims talking freely and openly about their experiences and problems. This was most in evidence when the environment of the discussion lent itself to frankness. For example women would only mention problems within their families and issues such as remarriage when absent from them (see Section 6.2).

A true understanding of the ambiguity families feel about the fate of the Missing could be seen best when wives and mothers refused to admit they were dead, despite male relatives believing they were. Indeed, discussions between family members were often the most revealing. An interview with the young wife of a missing man, in the presence of her father-in-law, had been unsuccessful; she was reluctant to say anything. Later, during a focus group, a loud argument erupted between them in which they discussed which of them would benefit from compensation since she had left the family home. Accessing such personal discussions demonstrates the trust with which the researcher was received; the participation of the family associations was essential in this.

### 3.5.2 Consent and power relations

Social science research demands that subjects understand the terms in which they participate in research and that they give informed consent to those terms. However, in conflictual contexts in developing states, relationships between the researcher and the researched are likely to be asymmetric. To find what have been called “routes to accountability” (Petesch et al., 2004), the consideration of ethics thus has to go beyond the terrain of confidentiality, consent, and risk/benefit considerations; in these cases, ethics is as much about being attentive to a collective morality that resonates in the context as to do with respect for the individual rights of the subject. As such, the best approach is one that prioritises an understanding of the context and its local mores, and one which attempts to be as participatory as possible, in the sense that local people, and the peers of those being researched wherever possible, provide the logic for the form of contact with subjects. In this research the main tool to promote this is the participation of the associations of families of the disappeared. Those leading family associations share culture and status, in almost all its forms (economic, ethnic, caste, social) with their members, but are often somewhat better educated. They are thus able to both understand the nature of the research and the demands made on the researched in a way that places them well to explain it to other families. The long-term relationship
between the researcher and the family associations amounted to a prolonged process of negotiation of the obligations of the researcher, in analogy to the concept of "iterative consent" (Mackenize et al., 2007).

Through the adoption of an advocacy approach, families could readily appreciate that the research could potentially offer them indirect benefit. Giving research subjects a stake in the research and its results, with a goal that could be understood by all, thus provided a route to accountability, in which the researcher is seen as a conduit for victim needs:

Thank you very much for coming here and understanding our feelings. We just request you to give them [the authorities] pressure from our side. (Mother of missing man, Bardiya.)

Social science research has traditionally adopted a very Northern ‘primacy of the individual’ approach and considered the individual as the most appropriate unit of study. This focus has practical implications for researchers when seeking informed consent from individuals located in highly deferential communities (Nuffield Council on Bioethics, 2002: 43). In this study these problems are reduced by the fact that the family is the unit of study, itself a more natural approach in a Nepali context. Whilst many families deferred to the researcher, families appeared content to see the researcher working for them from his perceived position of authority. There was however a significant number of families, notably those involved in the associations, where the researcher’s long-term engagement with the research allowed a much more equitable relationship to develop, and where there was a perception that the researcher and families were working together towards a common goal. In turn, these families served as mediators with other families. It remains a concern that the researcher’s academic agenda, beyond the advocacy aim, was well understood by only a minority of families met: whilst families participated willingly in an advocacy effort, they were mostly unable to understand the academic agenda, despite efforts to explain it.

The concrete issues to be understood and consented to by all subjects included confidentiality and the anonymous transmission of statements. Once the general aims of the research were understood, the nature of recording and anonymous transmission was explained to the families at the time of the interview or focus group. This was justified by the need to “take the words of the families to the authorities”, an accurate shorthand for the process of transcription and reporting, and was mostly well understood. Consent was then the result of a discussion within the family and involving the researcher. One potential problem with the family making the decision is the resulting dependence on traditional power relations within it: women for example will generally have less input to such decisions. Some families expressed concern that the recording was being made for radio broadcast, and had to be reassured this was not the case.

3.5.3 Psychological issues

Interviewing those who have lived through conflict about their experiences is necessarily highly invasive. This is particularly true where, as in this study, the psychological impact of events is under explicit investigation. Whilst there is a literature on working with traumatised victims of conflict from a therapeutic viewpoint, there is little written on how researchers without an agenda to intervene therapeutically should proceed.

Some researchers “believe that with skilful and sensitive interviewing, subjects actually benefit from talking openly about their experiences” (Bell, 2001: 185), and there is some quantitative data to support this (Newman and Kaloupek, 2004), largely regarding the emergence of new insights as a result of subjects’ participation. Negative effects of trauma victims participating in research have also been found: there is a danger that having reopened the trauma, the researcher can cause emotional distress and then leave the subject in an environment that is unsympathetic (Bell, 2001; Newman and Kaloupek, 2004):

“This second injury occurs when the victim perceives rejection or a lack of anticipated support from his/her family or society which leads to the sense of helplessness. Another
component of second traumatisation is the failure to allow the telling of the story, the giving of testimony, which leads to the failure to recognise one’s own strengths and restore a sense of control over one’s own life.’ (Ilic, 2004:380)

However, most literature emphasizes the retraumatisation potential of public truth telling (e.g. Broneus, 2008; Ilic, 2004), particularly in judicial settings, a very different experience from this research. Retraumatisation is most likely to occur in those persons showing symptoms of post-traumatic stress disorder (PTSD) (Kammerer and Mazelis, 2006). It is important to understand however that having a missing relative is not a pathology (Boss, 2004), and that the vast majority of families live with no clinical symptoms of PTSD, which may anyway not be a relevant approach outside a Northern culture (Bracken et al., 1995).

Smyth (2001) draws attention to the timing of interventions with the traumatised: meeting subjects too soon after traumatic experience may report early shock and denial, in contrast to the true impact of trauma. In this study the most recent violations have occurred at least 2 years previously, and the majority significantly before this. Bell (2001) suggests that interviews should be made in the company of peers and that efforts should be made to provide support for subjects following interviews. In the context of this research however essentially no professional therapeutic service is available and peer support must be relied on. Efforts were therefore made to create the most supportive environment possible for those telling their stories. Wherever possible, interviews were made in either a family context or in a group of peers. Those individuals and families being interviewed were met only after confirming with the family association that they were not considered to be psychologically vulnerable. The research protocols followed allowed the study to be implemented on the understanding that there was “minimal risk”\(^8\) to those participating.

Many subjects became distressed during interviews, at which point the family was asked if they wanted to terminate the interview, but this offer was never accepted. On occasions when a wife or mother became distressed, a son or other family member took the role as the principle discussant, another advantage of the family based approach. The environment of discussion within a family or peer group appeared to be extremely supportive, and sustainable beyond the presence of the researcher. No interviewee was met where the upset caused by the interview lasted beyond the end of the interview, and no reports were received from the family associations of family members suffering any ill effects of interviews following the departure of the researcher. In the case of three families, it was reported that family members had experienced extreme and disabling mental illness as a result of the disappearance. In all these cases the families themselves suggested that it was not appropriate to meet these individuals, suggesting that families had a good idea of which individuals could be negatively impacted by such discussion.

A handful of subjects made negative statements about the impact of the research:

We had almost forgotten our pain; you came and reminded us of these things. The wound was healing and you scratched it again. We who have lost our husbands and our sons have been gradually forgetting the pain in our hearts, now you called us to gather and share these things. Why did you do this? We firmly believe that what has happened has happened and cannot be undone. (Focus group participant from Rolpa)

This prompted a discussion within the focus group about the nature of remembering the disappeared and the incidents that led to disappearance. Other members of the same group disagreed, saying that they did not seek to forget, and could not forget: “I have lost my son, how...“

\(^8\) Minimal risk is defined as the probability that harm or discomfort anticipated in the research are not greater in and of themselves than those ordinarily encountered in daily life or during the performance of routine physical or psychological examinations and tests (National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, 1978).
can I forget him."], “This thing cannot be completely forgotten.” This goes to the heart of the nature of healing following such trauma, and the experience of the research very much confirmed the literature that suggests the most healing approach is indeed that of remembrance within a supportive environment. None of these statements challenged the “minimal risk” hypothesis. At the end of the interview or focus group all subjects were asked if they had any questions or comments on what had been said. This opportunity was not used by any subject (even those who had made negative comments) to mention a problem experienced during the research process.

Some of the symptoms described by respondents coincide with those of PTSD, including anxiety, nightmares, obsession and sleeping problems (see Section 6.1). However another symptom of PTSD is difficulty in the verbalisation of a traumatic experience, which was almost never seen in this study. Indeed, perhaps the greatest evidence in favour of interpreting the research experience as minimal risk for the vast majority of families was the enthusiasm with which interviewees talked: in almost every case there was an apparent determination to “tell the story” of the disappearance and its impact. Whilst it is probable that some respondents had been impacted by the trauma of disappearance, and it cannot be claimed that no respondent was suffering from PTSD, there was no evidence of any harm being sustained by any interviewee, beyond the perhaps natural upset of discussing the disappearance. As such, the modalities of the research were at worst neutral and in some cases beneficial to victims in psychological and emotional terms. Hamber points out that: “The psychologically healing process of testifying or telling one’s story is not dependent upon the content of the story (as lawyers tend to assert) but rather on the environment and the process of the actual re-telling.” (Hamber, 1996) The modalities of the research resemble to such an extent approaches to dealing with and addressing such trauma, in particular disempowerment and disconnection⁹, that it can be said that the assumption of minimal risk is confirmed. This is further confirmed by the enthusiasm of respondents to talk, no adverse affects observed during interviews, and none being raised by the family associations in the weeks and months following the interviews.

3.6 Limitations of the methodology

The most obvious source of bias in this study is the possibility that families perceive the researcher as someone who can deliver assistance to them: such a perception will lead to the potential for exaggeration of the impact of disappearance on the family. The greatest protection against this is the presence of the family association who are both aware of the nature of the research and of the true condition of the family. In practice few people claimed extreme economic issues (i.e. a lack of food), and in those cases that did this could be explicitly checked with both the local community and the family association. Unreasonable expectations can be raised by the research but the long-term engagement with family associations and the resulting negotiation of responsibility is an effective tool in addressing this, as seen from the very appropriate understanding most families met for this study had.

There remains a more general question as to the extent to which families are honest about their needs. A large number of families of the Missing are political, very often explicitly party political, not least because a disappearance is highly likely to politicise a family. During this research a constant awareness was maintained that families may have an agenda beyond that of the research, namely to advance a political position. Indeed one of the factors that appeared to determine which needs were emphasised by families was their political engagement. It was consistently seen that political families would emphasise issues of justice, compensation and acknowledgement of the Missing as martyrs (see Section 4). This was not considered a bias in the study, but just a statement that the environment in Nepal is highly politicised, victims in particular are likely to be political and this impacts on needs articulated. As such a family’s politics and politicisation are considered as a potential factor in determining the needs voiced.

⁹ Herman (1992: 135), writes that “[t]he core experiences of [...] trauma are disempowerment and disconnection from others.”
4 The evolution and hierarchy of needs

Needs of families are not static, and ICRC has seen the needs of families evolve from the time of disappearance through the conflict until the present day. At the end of the conflict many believed that their loved ones were in detention, and would shortly be released. At this stage a need for information regarding the fate was the principle need. As it became clear that the state was not going to admit to their detention, the fact that the Missing were potentially dead began to dawn on families. At the point where families were losing hope that their loved one was alive (even if they are unable to admit this to themselves), and probably believing him extra-judicially killed, a need for justice as well as a true answer emerged.

As the memory of conflict receded, families have become less afraid of the consequences of speaking out. Parallel to this, a community of human rights activists has begun working with families, emphasising an agenda of truth, justice and prosecutions. At the time of writing, when no concrete evidence of the fate of the Missing has emerged, families need both knowledge regarding the fate and have a yearning for justice. Where family associations exist these have served to highlight issues of justice through the natural solidarity contact with others brings. What family associations have also clearly shown is that families and communities have huge resources of their own to cope with some needs of victims:

Let's talk about this mother: even while walking on her way, she could not help weeping. But after joining this association, her voice has become loud – she doesn't need a microphone! She knows that she has to fight for her rights; she won't get them by asking. Therefore, instead of tears falling from her eyes, her voice is coming through her mouth. She has a loud voice. She says, 'Either give my son back or I will destroy you, exploding like a bomb'. The families of the missing have become so brave. (Brother of missing man and family association leader, Kathmandu.)

Superimposed on these emotional needs, is the day to day struggle of supporting children when the economic situation of the family has been devastated by the absence of the principal breadwinner. Where a mother is unable to feed her children or afford to send them to school she cannot think about how she will initiate a legal case against the state, particularly if she is illiterate and understands nothing of the law. Thus it must be understood that families will have priorities, set by the immediacy of needs: whilst almost all families want the truth, as long as they are hungry it will not be their first priority. From this there emerges a hierarchy of needs within every family that is dependent upon their economic status, education, political engagement and the extent of their exposure to a human rights agenda. For many families who have not been confronted with the possibility of justice it remains something they have barely considered, since they are themselves so completely disempowered.

The priority of needs will also differ within families: 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 who will prioritise 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 prioritise justice and compensation, for the wife restoring her status within the family will be a priority (See Section 6.2).

4.1 The hierarchy of needs

The first question asked, following introductory discussions, during the semi-structured interview 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 minimise 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, the truth: “Is he dead or alive?”: often phrased as a need to know “the whereabouts” of the missing person.
- Economic support, often phrased as “compensation”, or a demand for privileges regarding education medical treatment and jobs for family members.
- Justice, in terms of the punishment of those responsible.

The only additional need expressed in response to this question, by a handful of families, was that concerning administrative or legal issues. Whilst this study aims to be largely qualitative, it is interesting to note the frequency with which these responses were given, where families could name one or more such priorities:

- An answer 64%
- Economic support 62%
- Prosecutions 29%

This appears to suggest that for most families the truth regarding the fate of their missing relative and economic support are of the highest priority, with justice being seen as less so. However, on asking families in more detail if they would like to see someone punished, the vast majority said they would (see Section 8): thus this represents a hierarchy of relative priorities, rather than a set of alternatives.

Even with such a simple and open question, some families were simply unable to give a coherent response:

I don’t know. [I want] the same as other people say. Give us whatever is given to others. (Mother of missing man, Rajapur, Bardiya.)

We are very illiterate people; we have no idea what to say. We don’t care about clothes, shelter and food but we want our son back. We just want our child. (Mother of missing man, Bardiya.)

Families have a very deep and natural desire to see their loved ones again or to allow the ambiguity of their disappearance to be resolved. Most cannot admit to themselves that loved ones will not return. However, being mostly poor and rural they also face very practical and urgent economic needs as a result of the loss of a relative who was often a principle breadwinner.

We had a very big change in our life because of that incident. We couldn’t crop 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 shocked. 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 2 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)

The need for justice is very real, but is 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)

4.2 Different families, different needs

The fact that families do not all share the same agenda and the same needs can be seen by comparing the rural women quoted above with families in Kathmandu that have been exposed to a political agenda and who are much better able to articulate their needs. This is a succinct summary 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 different priorities of families in different circumstances can be illustrated by considering the needs mentioned in responses to this first question, as a function of various variables. Perhaps the most dramatic divergence of opinion concerning relative priorities can be seen when comparing responses from families in Kathmandu with those from Bardiya, the latter being an example of an overwhelmingly rural peasant victim population (Table 6).

<table>
<thead>
<tr>
<th></th>
<th>Kathmandu</th>
<th>Bardiya</th>
</tr>
</thead>
<tbody>
<tr>
<td>Answer regarding fate</td>
<td>0.85</td>
<td>0.70</td>
</tr>
<tr>
<td>Economic support</td>
<td>0.38</td>
<td>0.60</td>
</tr>
<tr>
<td>Justice</td>
<td>0.69</td>
<td>0.07</td>
</tr>
</tbody>
</table>

Table 6 Fraction of families mentioning priorities in response to a general question.

This shows the dramatic difference in attitude between families in Bardiya and those in Kathmandu. Whilst the fractions mentioning the need for an answer concerning the fate are comparable, those for other priorities are very different. It is clear that in a district such as Bardiya where poverty is endemic, the need for economic support will be greater than in the capital, where access to livelihood opportunities may be greater. Perhaps more surprising is the extreme difference in the mentioning of justice: of 30 families interviewed in Bardiya, only two mentioned justice in response to the question about priorities. In contrast, in Kathmandu a significant majority saw justice as a priority. This is perhaps unsurprising since a majority of those families met in Kathmandu are political: 80% of families of victims of the state who were met in the capital are affiliated with the CPN-M, compared to only 29% over the whole sample and 4% in Bardiya. Such families in Kathmandu have regular contact with cadres of the Maoist party, with other families who have a missing relative and with human rights agencies that emphasise judicial issues. In contrast, those families in rural Bardiya (and elsewhere in rural areas) have less political contact, have no contact with human rights agencies and are less likely to meet other families in the same position.

5 Knowledge of the fate of the Missing

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.)
One of the principle aims of families of the Missing has been to see the truth emerge. The first priority for families is usually an answer as to the fate of the Missing, are they dead or alive? But very often this need will be accompanied by a desire that the fact of disappearance, and those responsible, be known and made public to counteract both the covertsness of the act of disappearance and to refute the denials of those responsible. This is an effort both to expose the truth of what has happened and to gain acknowledgement from those responsible, very often the state. A debated discourse has emerged from psychology that families not only want truth, but that truth is “healing”. For families of the Missing it will be seen (Section 5.3) that a body is in some sense the “best” truth, in that it most effectively informs the family of the fate of a loved one, and in many cases how he or she died. Given that families never cease to hope the Missing are alive however it also the “worst” truth.

5.1 Attitude to the fate of the Missing

Almost every family met demonstrated some degree of ambiguity about what had happened to their missing loved one. Many 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 sometime after their arrest, others have received information from those detained with them, 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.)

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 e.g. Sita Paudel. Though she was declared killed, after one and half months she was found in the house of the army Major. (Father of missing youth, Dhanusa.)

He was a lawyer and a reporter so I too think my husband is still alive: he was too involved in so many things so I really don’t believe that they could have done anything to him. Our cases are filed with Amnesty International. [...] I saw my husband on the 21st day after his arrest so I believe that he is still there, they have kept him somewhere. (Wife of missing man, Kathmandu.)

Others appear to be denying the most probable outcome:

I could never imagine that he was killed. He is alive and he must be alive. There must be a reason to kill him; since there is no reason, I think that he is alive; my family also thinks the same. I have never imagined that a person like him who worked in a restaurant to earn his living was taken away and killed. He did not explode bombs, he was just a worker. I have no doubt he is alive. (Brother of missing man, Kathmandu.)

One phenomenon that was observed is the tendency of some to seek to reassure families of the Missing that their loved one is actually safe and well. In one case a mother told how a neighbour had returned from India and had seen her son who was now working in Ladakh, a remote part of Kashmir; despite having had no contact with her son for seven years, and despite reliable reports of his arrest, this mother was content to believe this and denied he was missing.

For most families however ambiguity most summarises their situation:
I am in a dual state of mind regarding whether she is dead or alive. If the door makes a noise at night, the children think that their mother might have come back. The children and I could not sleep properly till midnight because of the pain. The children are still hopeful that their mother will come back. (Focus Group participant, Kathmandu.)

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 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. [...] Had he been declared as dead, we could console our heart that he is no more; we could say that he chose that path and died. But in the case of disappearance, deep inside our heart we always think that he might return. (Brother of missing man, Gorkha.)

Perhaps the greatest reason for families to believe that their loved one may be dead is the time that has passed. Since the conflict ended almost 3 years ago, all have been missing for more than 2 years and some 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.)

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.

In a minority of cases there is some information about the fate. For many of those arrested by the security forces, notably in Bardiya, some days after the arrest announcements were made on Radio Nepal that the individual had been killed in an encounter between Maoist forces and the RNA. However, remains were never returned to families, or any other official confirmation given. Both ICRC and OHCHR have been submitting cases of persons missing during the conflict to the authorities and have received answers in some cases. Families have received news from both organisations, usually stating that the individual concerned was killed in an encounter. In many cases however, families state that the dates given in such communications are incompatible with the date of arrest and that the place of death is often far from the place of arrest, and thus not credible. In many cases such news has cruelly given families additional hope because they believe its apparent falsity indicates that it does not refer to their relative.

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 letter from 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. From the content of the letter it seems that ICRC is not also convinced by the information it has obtained from the police since it states that the ICRC cannot confirm the truth of the information it has obtained. The month mentioned as his date of birth in this letter is also incorrect. Instead of Chaitra, it should be Falgun. (Brother of missing man, Gorkha.)
In many cases perpetrated by the CPN-M, announcements were made or notices posted about the death of the missing person; in some cases local people saw the body but the family were unable to retrieve it. Even in such cases however, families maintain a faint hope that their loved one may be alive:

The Maoists pasted pamphlets saying they had killed him at the border of Rasuwa, Sindhupalchowk and Nuwakot. [...] On the basis of the pamphlet the Maoists had distributed we performed the death rituals even though we could not bring back his body. [...] We are 95% sure that he would not come back, though deep in our hearts we still have a small hope. (Brother of missing man, Kathmandu.)

An extreme example of this occurred at a public forum where the wife of a man made missing by the CPN-M was told by a Maoist leader that information passed at a lower level may not be correct. She responded by saying:

Was the news in the newspaper bearing the death of my husband false? Have you still kept my husband hidden somewhere with you while giving false news at that time? I have become hopeful that you might bring my husband back alive! (Wife of missing man, Bardiya.)

In all communities and all types of missing case we see a huge reluctance of families to admit that their loved one is dead, and a burning desire for proof of their fate (see Section 5.3).

5.1.1 Efforts to find information

Many families made great efforts to learn what had happened to their loved ones, despite the very great risks associated with this during the conflict. This often involved asking at local barracks or police stations, where families were harassed and threatened. In some places unscrupulous persons claimed links to the security forces which they exploited to extract money from families with the promise that they would make efforts to release relatives. Families also spent money and time in pursuit of stories of sightings of their missing relative:

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 Ram Kumar 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.)

In most of the cultures of Nepal traditional healers are consulted not only for sickness but also for their other powers. 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 this example a Tharu woman consulted both a guruwa, a Tharu 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 this case, the woman spent a considerable amount of money on these spiritualists, despite being in extreme hardship. Another woman described how the guruwa showed her brothers-in-law images of her husband in the custody of the army:

I still contact [the guruwa] when we get sick. I send my brothers-in-law to visit them. They saw my husband walking barefoot, being beaten by the army people. The army were
throwing water on them in the winter, my husband was begging for his life. The guruwa was showing in his fingernail things about people like my husband. (Wife of missing Tharu man, Banke.)

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 spirits of the Missing, 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.)

Whilst these examples are from the Tharu, all ethnic groups have spiritualists whom they consult. Whether an individual family will take this path 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 significantly impact on their understanding of the fate of their loved one. It can also permit an understanding grounded in their culture of the repeated dreams that often result from a disappearance (see Section 6.1).

5.2 Mourning and death rituals in Nepal

While most of the Missing are Hindu, minorities are Buddhist, Muslim and from “Hinduised” indigenous groups with animist traditions, notably the Tharu. Religious attitudes and ritual obligations after death shape views of death and the importance of human remains to families, and so an effort is made here to give some background to cultural attitudes to death in Nepal.

Mourning for the families of the Missing is a very different process than for those who mourn following the death of a family member. In fact, disruption of this mourning process is part of the painful cycle of hope and despair. The problem is complicated by a tendency to deny the death of a loved one. However, it is important to appreciate that because of the diverse cultures in Nepal, there can be no single understanding of the mourning process. It will be a function of ethnicity, caste, economic and educational status, as well as the attitude of the concerned family and the circumstances of the disappearance. In order to fully understand the inability to mourn, we need to understand the death rituals of the society. While death rituals vary from caste to caste, and from region to region, there are some fundamental common customs and beliefs for which there will be few exceptions.

Most people in Nepal, as Hindus, burn the bodies of the dead. However, certain minorities such as Buddhists as well as some Janajati groups (including the Tharu), Muslims and Christians generally follow the ritual of burial. Hindu children below 16 years, or those who die an unnatural death, may also be buried rather than burned. For many of the Janajati groups rituals will be a synthesis of tradition and mainstream Hindu belief which has been learnt in recent decades as the presence of the Nepali state and its Hindu culture has eroded traditional cultural approaches. For example, in Tharu society whether a family will burn or bury the body of a relative is a function of their attitude to Hindu Nepali culture, which may see it as modern and positive, or alien and colonising.
For Hindu Nepalis, the ritual of burning the body and *kajkiriya*, the Hindu rituals around death, is a process which gives liberty to the soul and facilitates its passing to heaven (or hell). 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 dead beyond a shadow of a doubt before the rituals are done. If the person for whom *kajkiriya* was performed later returns alive, that person and the family will not easily be accepted in society. The other reason that death rituals are not observed merely upon receiving news of the death, is that if at some point later, the body is retrieved, the rituals can never be repeated for the same person. For this reason, only in cases where the news of death is absolutely certain, and it is known that the body will never be retrieved, is the *kus* ritual performed. This entails making an effigy of kus grass and burning it with some personal belongings of the dead person such as clothes or shoes. An example of such a case would be if the family themselves, or someone they trusted, witnessed the body burned in a fire, or eaten by a wild animal, and all hope of one day getting part of the body back had gone. A Tharu community leader said during this study that for his community the *kus* ceremony could be performed only where a witness to the death was present; in this case the *kus* effigy would be buried according to traditional Tharu practice. A Madhesi family explained how they could potentially make a ritual using *kus*:

I mean the rituals should have been performed within 13 days of the death, according to Madhesi culture, but we could not find my father's body. There was also another method to perform the rituals, making his figure from kus but at that time the situation was such that we would have to choose to either face the bullets of the security personnel or save our lives. So, we could not perform the rituals in such a difficult situation. (Son of missing man from Siraha.)

Where there is no confirmation of death, Nepali law states that death will be presumed after 12 years of disappearance. This appears to be based upon elements of Hindu tradition. One family member said:

We have to wait twelve years according to our Hindu religion before performing rituals if there is no confirmation of the death. We would only perform the rituals after we have some type of confirmation, by any means, otherwise we shall wait for twelve years and then we shall perform the rituals. (Brother of missing man, Siraha.)

Following the burning of the body there are typically 45 days of mourning. Depending on the particular ethnicity, caste or region, either the oldest son, or all the sons, or the husband, will shave their heads and wear white clothes; the immediate family members eat food without salt, oil, and meat. During these 13 days they are untouchable. On the thirteenth day everyone who participated in the funeral again gathers, and many special dishes of oily and fried food are prepared. A little from each dish is set aside in a clay dish, which is for the dead soul, and will be placed on the roof or in a special place (but not a place of worship). Traditionally, people gathered again after 45 days, but this is becoming more difficult for working people, so concessions are made to adapt the mourning process to a shorter period, at least for extended family and friends. Since the soul is still believed to be present in some sense for one year, traditionally the mourning process lasted for one year. Whether it is now 13, 45 or 365 days of mourning, during this time those who mourn cannot enter the temple to worship. At the completion of mourning there will be a cleansing ritual for the purification of the mourners, after which they may once again do puja.

The Buddhist family of a missing Tamang girl described the demands for death rituals within their tradition. Like Hindus, they also demand some element of the body:

We need to find the *astu*, in order to perform the rituals. […] This is some part of the dead body with the help of which we can perform our rituals with our Lamas. This is the process of sending the dead spirit to heaven. The Lamas would revive the dead body with the help of the bone or nail and tell the spirit religious stories. This is how the ritual is performed.
[And if its not possible to get the parts of the body back] according to our religious provision, we must do the ritual after one hundred years. (Father of missing girl, Gorkha.)

Where a family feels unable to perform the rituals, they may be subject to pressure from their community:

We fear that we will be excommunicated from society since we have not been able to perform the last rites; we have never before breached the tradition that was handed down by our predecessors. (Hindu focus group participant, Kathmandu)

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.)

In some cases the rituals are expensive, either because a priest must be paid, or because the extended family must be invited and fed. In cases where disappearance has destroyed a family’s livelihood, this can be impossible:

As I have no money and am facing too many economic difficulties even to bring up my children, I could not perform any rituals because it costs too much to make rituals even to the lowest standard. (Wife of missing man, believed dead, Siraha.)

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: maybe 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 (see Section 6.3).

What is remarkable across the diverse religious traditions of Nepal is the unanimity of families in terms of their needs to satisfy religious ritual. Almost all families say that they need either the body or absolute evidence of death in order to complete rituals. A dilemma for the families of the Missing is that without a body they have no proof and so the body becomes the proof of death. This has implications for the needs for human remains.

### 5.3 The need for an answer and human remains

#### 5.3.1 Ambiguous loss

Grief is the sorrow, suffering and mental distress caused by the death or loss of a loved one. Mourning is the process of responding to loss and death, accompanied by traditions and rituals which focus feelings of grief. For families of the Missing however, due to the lack of clarity over their fate, the death of their loved one is something almost impossible to admit to themselves. This can disrupt the normal grieving process, since the bereaved are deprived of proper mourning, and may lead to arrested grief or atypical reactions, known as ‘complicated grief’ (Blaauw and Lahteenmaki, 2002). This phenomenon has also been understood in terms of “ambiguous loss” to...
understand problems of family members who are “there, but not there”. (See Boss (2004) and Section 6.1).

The fact that death can only be assumed for families of the Missing, with no details of time or place of death makes acceptance of the fact of death problematic. Where families have no proof of death the loss is denied,\(^\text{10}\) grieving processes are frozen, family roles are confused and tasks remain undone. “The disappeared are denied a place among the living and also denied a place among the dead.” (Eppel, 2001) To understand the impact of ambiguous loss both the individual and family responses must be assessed. It is important to understand that family members will rarely reach the same conclusion at the same time: while one member will accept the death with a formal notification for example, another will insist on seeing a body.

![Figure 3 Family belief concerning the fate of the Missing.](image)

Figure 3 shows what families believe about the fate of their missing relatives. When asked what they thought had happened to their loved ones, their responses were coded according to one of five categories, ranging from “alive” to “dead”, and passing through various degrees of ambiguity. It can be seen that around 20% believe their loved one is dead, but the vast majority have a degree of ambiguity in their understanding of the fate of their loved one.

The ambiguity with which families have been living, often for many years, has been compared to a long and slow torture. Families find themselves torn between wanting to believe their loved ones are alive and facing the fact that after so long they are not coming back. Families are literally stuck: trapped in the conflict period when the uncertainty of war meant one didn’t know if a family member would survive the day or not; for the families of the Missing the war continues.

My heart says she is still alive, but it has been a long time. I don’t have any news so sometimes I think she may have been killed. Now slowly my hopes are breaking down. But hope is still there. (Mother of missing girl, Bardiya.)

\(^{10}\) This is well demonstrated by the attitude of the mothers of the Missing in Argentina, Las Madres de Plaza de Mayo: “We cannot and do not want to admit it,” said one Mother. “To admit their death would be to kill them a second time, and it would play into the hands of the assassins.” (quoted in Femenia, 1987: 13)
It has been five years since he was disappeared, and so we and even his wife are convinced deep in our hearts that he is no longer alive. But the problem is that we have not found any evidence as to where he was killed. It has been so difficult for us to convince her to perform the rituals. [...] Until now she has not considered herself a widow. [...] During the time when they issued the statement about the killing, they issued it from the district level. And since this was during the conflict we had seen some cases of individuals whom the Maoists claimed they had already killed coming back home. There were instances of individuals returning after the death ritual was performed. That was the problem in the past. But now the conflict is over, and so we think that it would be good if the Maoists issued a reliable statement about what exactly they did. (Brother of missing man, Kathmandu.)

We hear that our husbands are dead but no one has confirmed if that is true or not. How much longer can we wait and hope for answer? It seems like our life will be finished by waiting. (Focus group participant, Katarniya, Bardiya)

For families to move on, to conduct rituals and to look to the future rather than the past they need an answer. An answer concerning the fate must be something that convinces the family beyond all doubt that their missing relative is dead. One way of doing this is to give families all the details of what happened to their loved one:

We need detailed information: on what date, at what time and where he was killed. The Government has to create an environment of confidence before giving us information about this. We would not believe any information that comes without details. The first criterion for the environment of confidence is the compatibility between what they tell us and what is found in the course of the investigation that follows. They have to give us the exact dates not the false ones in course of telling us the truth. [...] We want to know whether he was killed by being thrown into the river or pushed from a cliff or if he was denied food and left to die. (Brother of missing man, Gorkha.)

If they are no more alive, we have to be informed when and where they were killed. [...] We will not remain quiet just by getting information that that they died. They have to win our confidence before saying that ‘your person died’. We have to be informed when, where, on which command, in which barrack our dear ones were killed. (Focus group participant, Gorkha.)

We think that if they were alive it would be good to see them come home. But just now we got a written answer from ICRC that they were killed. But both brothers were taken from here in front of our eyes and they were kept in Madichaur Police Station that night. They were taken to Liwang at dawn the next day: they were seen by many who knew them: people saw them being taken into the District Police Office. So, it is not possible that they were killed in Mijhing after so many days. It is quite unbelievable for us to believe that they were killed in an encounter. [...] We need a truthful answer, a real answer that this person was killed in this way. (Sister-in-law of two brothers missing from Rolpa.)

There is cynicism towards the state that was responsible for many missing cases, that an official commission alone can deliver what families need:

As we heard a commission will be organised to make the whereabouts of the disappeared persons public, as has been asked by the Red Cross. How shall we get evidence about that? How can I believe on the basis only of the publication by the Government after making the Commission on Disappearance or according to the pressure from ICRC? How can I believe only on the basis of the publication? (Son of man missing from Siraha.)

More than this however, most families believe that retrieving the body is an essential part of proving that the missing are indeed dead:
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 police 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.)

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

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.)

One young man whose father is missing expressed the minority view that the body was not important if his father’s death and gravesite were confirmed:

If the fate is made public then I would have to ask my elders or some old men about what should be done as I do not know about this matter. The place where my father has been killed should be shown to us. If my father has been already killed then the bones are of no use to me and therefore that is not necessary. […] If the government gives a certificate that the security personnel have killed my father, then we will be satisfied. (Son of missing man from Siraha)

Whether this youth is unsure of the demands of tradition, or is simply articulating his own view is unclear; this does however remain very much contrary to the expression of most families.

5.3.2 The need for a body

The needs of families of the Missing emerge from the literature, notably the need to end the ambiguity of loss. It appears that the most effective way to do this is through physical remains: “There appears to be a universal human need to bury one’s dead… even where common sense suggested the missing person was dead” (Boss, 2004: 561). The emphasis on burial reflects the culture of the contexts in which existing research has been done, the need for a body does indeed appear to be universal, and families strongly express the need to perform the rituals appropriate to their culture (e.g. see Stover and Shigekane, 2002; Eppel, 2002). This has been explicitly articulated in one context where thousands remain Missing:

“For the Srebenica survivors, and especially the women, the absence of bodies has robbed them not only of funerary ritual but of the visual cues that would help them to acknowledge the death of loved ones and to pass through the states of mourning and grief.” (Stover and Shigekane, 2002: 860).

Boss ascribes several reasons for the primal need for a body:

- The evidence of a body, and the rituals that accompany mourning and disposal of remains break down the denial of death.
- Cognition and rationality demand a body: in its absence families cannot grieve or make decisions.
- The body allows family to say goodbye, and promotes detachment.
- The body allows rituals that are themselves comforting, and bring people around the family to support them. (Boss, 2002)

In most cases, the only way families will be able to have access to remains of loved ones is through the painstaking process of exhumation and identification. There is a risk of retraumatisation when notice of death is received, or human remains are presented to the family. However, in the light of the above discussion, it is generally agreed that it is normally conducive to the bereavement process (Blaauw and Lahteenmaki, 2002). This has been summarised by what the Chilean widow of a victim of the military regime said when the remains of her husband and others who disappeared with him were disinterred some 15 years after his arrest: "They may be dust but they are loved dust." (Summerfield, 1995: 495).

The families met in Nepal confirmed the impression gathered from other contexts:

- The first reason the body is important is that we need to perform the ritual ceremony and the second one is to be able declare them as martyr’s because they fought for their country. [...] There is nothing else that can satisfy the family; it’s difficult because according to the Hindu religion we have to do the death ceremony and it’s important as we do it every year. If we don’t do it then there is a belief that the spirit of the dead will always trouble the family. (Brother of missing man, Kathmandu)

- We need the body because we have to the rituals and even to believe that he is really dead. (Wife of missing man, Dhading.)

- This [the body] serves as proof that he is dead. Therefore, we need the dead body: even a bone can convince us that he is no longer alive. We also have to perform our rituals on the basis of it. We need a sign of proof of his death. (Brother of missing man, Gorkha.)

- [We need the body] as proof he is really dead and that they are not lying. They can kill him afterwards if we don’t ask for proof. He can be killed if we don’t pay attention and the Government can think we shut our mouths with only their compensation or money. (Son of missing man, Bardiya.)

Figure 4 shows the response of families when asked if they sought to retrieve the body of their missing relative. Around 25% of 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. Of those that were asked, and believed it was not impossible to retrieve the body, 85% sought to retrieve the body. Not only is the body required for religious ritual, but it is one of the very few ways in which families believe they can confirm that their relative really is dead. Especially for families that are illiterate a document cannot communicate something as important as the death of a relative; in their culture death is always something that is experienced. This is compounded by the remoteness and deep distrust of the state.
It has been seen that 20% of families believe that their missing relative is dead. Despite this understanding a majority of these families also seek the return of human remains since they have needs to do rituals. In this sense the needs concerning the body are very similar between all families, regardless of their opinion regarding the fate.

### 5.3.3 Identifying a body

Many families have a belief that they will be able to identify the body, often through clothes or documents:

My husband took his citizenship with him so from there we can find out whether it is him or not and also with his shoes. (Wife of missing man from Lamjung.)

But I can recognise her by the clothes she was wearing, her bangles and ear rings. She was a wearing black dress and white blouse. (Mother of missing girl, Bardiya.)

Families distrust of the state extends to a lack of confidence in any body that might be returned to them by the state.

Yes it is important to retrieve [his body] but how can I recognise his body? They could lie to me. They can show me anyone’s dead body. (Wife of missing man from Bardiya.)

It will be very difficult to believe the bones are really theirs because they could also show us bones from the graves of others. How can we believe that the bones are really their bones? They [the Government] should be honest if they want to show that they have really changed, or they should tell the truth that these people were taken from here, they were killed here and buried here. If they honestly come up with such things, we can trust them. Otherwise, it is difficult to believe in the bones taken from any grave. (Sister-in-law of man missing from Rolpa.)

---

**Figure 4** Family need for the body of their missing relative.
How could I trust on the basis of bones alone? This is a very difficult question. If this test proves that there is similarity in the tests of the brother to the tests carried out in my body and my father's body, then we can believe in it. It has to be carried out in the presence of independent organizations like ICRC, National Human Rights, OHCHR, ICJ as witnesses. (Brother of missing man from Gorkha)

On the other hand, the authorities might lie to us just showing someone else's bones. [...] If the security personnel who were responsible for the killing give us 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 police responsible for the arrest. We won't believe in any bones brought by the authorities. (Brother of missing man from Gorkha)

And so we see that families themselves propose two potential solutions to the problem of believing that the body returned to them is indeed their loved one. One is to trust tests that some families are vaguely aware of: one family member from Gorkha suggested that “they have to submit us the skeleton with DNA test”. However, such tests are both expensive (many hundreds of dollars per test, Section 2.4) and presently beyond the technical competence of any forensic capacity in Nepal. A comprehensive DNA programme would only be possible with substantial donor support. It is anyway unclear what fraction of families would be convinced by such testing. The alternative to genetic testing is that suggested above: that a “chain of truth” could be established that would link the arrest that was very often witnessed by the family to the body in the ground that has been exhumed and presented to them. This would demand that families be told where their relative was held following arrest, and where and how he was ultimately killed. Families also assume that this information would include the names of those responsible and would thus provide a direct route to justice. By being given a credible chain of events that link the human remains to their living loved one as they last saw him or her, families appear to believe they could be satisfied.

5.3.4 Alternative to human remains

The experience of other post-conflict contexts suggests that the majority of bodies of the Missing in Nepal will never be found. As such, it may be necessary to find other ways to give families what they need in terms of proof of death where the Missing are dead, and the ability to perform the necessary rituals according to their culture and tradition. This contact with families however, gives rather few indications that such an avenue exists for most families: they need the body to be sure of the fate.

One family suggested that even in the absence of a body the facts of the case, if presented to them appropriately would satisfy them, but this was not a representative view:

If the facts of what happened to my father are made public with evidence by the authorities, then we shall perform the rituals as necessary in social life to perform the cultural and traditional rituals. (Son of man missing from Siraha.)

The possibility of making a ritual using kus (see Section 5.2) or some other proxy for the body also requires death to have been established, and this is impossible for most families without the body. One family from Gorkha suggested an alternative:

We would like to get something from the place where the body was buried. We need this since according to the Nepalese religious tradition, it is believed that even if someone died in a foreign land, the dead person’s soul will rest in peace if we can bring the soil where the dead person lay to perform the ritual. (Brother of missing man from Gorkha.)

But it is unclear to what extent this would be acceptable to others: it was otherwise not mentioned by the families met for this study.
5.3.5 Summary
The literature of "ambiguous loss" appears to be borne out by the attitudes of the families of the Missing in Nepal. Families are reluctant to believe their loved one is dead, with 80% of those met having some degree of ambiguity about the fate of their loved one. Even though there are culturally appropriate ways to perform rituals in the absence of a body, the only proof of death of which most families can conceive is the body itself. To do death rituals without this proof is not acceptable: 83% of families require a body. To believe that a body is indeed that of their loved one families require either a scientific test, such as DNA, or a "chain of truth" that links the body and the gravesite to what they know of their relative's disappearance.

6 Emotional, psychological and psychosocial impact

Sometimes we laugh out of crying and at other times we cry out of laughing. (Wife of missing man, Gorkha)

One cannot separate the psychological aspects of experience (i.e. thoughts, emotions and behaviour) from the wider social experience (relationships, traditions and culture) (Psychosocial WG, 2003). Whilst mental health and potential posttraumatic stress symptoms are clearly an area of interest when attempting to understand the response of victims to disappearance, it will be seen that in many cases the social context is a major contributor to the needs of families of the Missing. Families of the missing are mostly found to suffer from normal emotional distress after extremely upsetting events, rather than psychiatric disorders. In the semi-structured interview that drove this study (Appendix I) human capacity was probed by understanding the extent to which the stress of disappearance and coping with the resulting challenges was impacting on the family, and in particular the most vulnerable individuals within it; efforts were made to understand the psychological (cognition, emotion, behaviour) and physical (i.e. economic) impact of disappearance. Social ecology was understood largely through the impact within the family and the community and any changes that the disappearance had precipitated. The responses to these questions were formulated within a cultural environment that assumed the local values of the persons being questioned, and often gave information about the cultural specificities of that impact. It is also key to understand that families and communities have resources, "resilience", to address some of their needs, and an effort was made to identify these, notably positive coping mechanisms that offered emotional support.

Methodologically, asking such questions was not straightforward. Some of the issues discussed, particularly those around mental illness, are highly stigmatised in all Nepali cultures, and were difficult to probe deeply. It was understood that women were most likely to be affected emotionally, particularly those least well established in the family, and that they would be reluctant to talk in the presence of families and communities that were creating stress. As such, wherever younger wives of the Missing were met efforts were made to interview them in private, if possible in a group with other wives of the Missing; similarly, families were encouraged to ensure sufficient privacy that they would be comfortable to discuss problems within their community. An additional tactic used was to ask relatives (often men) about the impact on absent woman; they were much more likely to discuss such problems in their wives and mothers than their own issues. It is however clear that despite these efforts and the significant barriers to gaining trust to talk meant that frank discussion of such issues was not everywhere possible. This study can conclude however that psychological and psychosocial factors are the most important for a minority of women and that families of the Missing require specific interventions to be developed to address many of their needs in these areas.

One concept that has been found to be useful in understanding psychosocial impact generally has been that of the “intervention pyramid” (IASC, 2007). At the top of the pyramid will be a small fraction of the population who will be deeply affected and will require specialised services; at the bottom of the pyramid will be those for whom re-establishing security and access to basic needs is
sufficient to retain wellbeing; the majority lie in between and may need support, from their community or others, to ensure they are not adversely affected. The experience of this research confirmed the validity of this approach.

6.1 Emotional and psychological issues

“[...] ambiguous loss is the most stressful kind of loss. It defies resolution and creates long-term confusion about who is in or out of a particular couple or family. With death, there is official certification of loss, and mourning rituals allow one to say goodbye. With ambiguous loss, none of these markers exists. The persisting ambiguity blocks cognition, coping, and meaning-making and freezes the grief process.” (Boss, 2006: xvii).

Contributions to psychological impact will thus derive both from the trauma of the war and the event of disappearance, as well as the long-term effects of the ambiguity of loss. The aim of this study is to identify clinical indicators of ill-health and their scale, but not to draw conclusions about the presence of psychopathology, which is beyond its scope.

The period of the conflict was in itself terrifying and potentially damaging. In particular, many families talked of how the fear of having a family member taken gave rise to the greatest anxieties:

We wept and were so afraid that if our son had opened his mouth, the whole family might be taken away. This is how we spent about two months, weeping and terrified that the security forces might come and kill the rest of the family. (Father of missing man, Bardiya.)

This fear, rather than the specific events that led to the person being missing appears to have had the greatest effect on families around the time of disappearance. At this time it could be dangerous to even talk about the fact that your relative had been taken, depriving families of one of the most important potential coping mechanisms in their communities. In addition to their fears, family members have summarised the sadness and continued preoccupation with the Missing that disappearance has caused:

They are not coming back whether we cry or not. Inside the heart is always the same even if we talk in a light way. It’s not possible to forget your own child, it is still fresh for us. We cry together whenever we meet and talk about our children. It helps us to remember them more when we meet others in the same position. We think and cry more when we see other’s sons, daughters in law and their children. [...] We know how we feel. It is not possible to forget our own children. Outside we seem ok, but inside it is getting worse because you hope and worry more as time is passing and your son or daughter is not back. We don’t want to forget them. [...] We miss them all the time, wishing that if he was here today the day would be totally different. I would be playing with his babies and he would be working in the field and my daughter in law would be working in the house etc. The more you work the more you think about them. We will be missing our kids until we die. [...] We play with other grandsons, visit relatives and neighbours. It makes us feel light while you visit them but not for long. We go into the past when we are alone. [...] We keep food and sweets for our missing children at every festival. (Mother of missing man, Bardiya.)

We had to undergo mental torture throughout these ten years. As I mentioned earlier the pain of disappearance is more intense than that of death. We waited and waited hoping that he would come back. We have always been lingering between hope and doubt as to whether he would return or not. My mother has not been able to sleep properly even one night from the time the incident happened. (Brother of missing man, Gorkha.)
6.1.1 Nepali conceptions of mind and mental illness

During the pilot studies for this research it became clear that most family members reflected common Nepali thinking, discriminating between the man (heart-mind) and dimaag (brain-mind). Dimaag is associated with thought, while man is associated with emotional response. A dysfunction of the man is not stigmatised, whereas a problem with dimaag indicates that someone is irrational or crazy (Kohrt and Harper, 2008). In this study subjects were asked how their man had been impacted (see Appendix I) by the disappearance, since it was not appropriate to suggest that someone might have a dysfunctional dimaag. As such, many family members discussed the emotional impact (i.e. the affect on their man), but rather few were prepared to discuss an impact on their dimaag.

In three cases (3.5% of families) a family member was identified as having an explicit problem with their dimaag, apparently precipitated by the disappearance. In all cases the description of the behaviour of the concerned individual suggested they were suffering from a pathology that was wholly or largely incapacitating, perhaps consistent with clinical depression. None was met during the research. One such victim was described by her son:

My mother became mentally ill since he [her husband] was taken. She is scared to meet or talk to people and talks alone to herself. […] She mumbles that they will come to take you after killing your father. […] My mother was the VDC ward president before my father went missing. Now she doesn’t even want to see people. […] She doesn’t talk to anybody in the house and becomes aggressive when people come near. Only her very old friends can talk to her when she goes to the field with the goats. (Man from Bardiya whose father is missing, discussing his mother.)

Statistically, this suggests that over 3% of families of the Missing will have one family member suffering from debilitating mental illness, apparently as a result of disappearance. In the three cases above only one (a boy living near Kathmandu who has been treated at Bir hospital) has been able to access any treatment.

6.1.2 Symptoms

In many family members the disappearance gave rise to repeated thoughts about the missing person, disturbed sleep, repeated dreams of the Missing and sudden feelings of anxiety. 55% of those met described such symptoms resulting from the disappearance.

Sometimes I have a shock of fear. I think this is a problem that all families of the disappeared have experienced. I suddenly wake up and don’t feel myself, I have a very strange feeling. At night when I think he may be no more, I have a different feeling. It’s like this because sometimes we are hopeful. In the daytime and at night the feelings are different. Sometimes it is so hard to sleep thinking about him. (Wife of missing student leader, Kathmandu.)

The “shock of fear” described here has been seen in other contexts where relatives are Missing and has been described as being a “state of alert” or hypervigilance that has also been reported as a general consequence of trauma. (e.g. Schein et al., 2006: 64).

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. (Brother of missing man, Kathmandu.)

Since general prevalence of mental illness in a population is highly likely to exceed this, without the specific stressors of systematic human rights violations, this can be considered evidence of under-reporting.
This generalised anxiety disorder was the most common symptom encountered, together with expression of extreme pain. This anxiety, and its prevalence, appears to allow the problems facing most families to be discriminated from Post Traumatic Stress Disorder (PTSD). Whereas PTSD is linked to a specific event of trauma, the anxiety expressed by families was about the missing person, rather than the event of his disappearance: ambiguous loss is an ongoing situation that has no closure (Boss, 2006: 35).

I used to see my brother in my dreams and feel that he was with me. On many occasions I thought this was reality, but then it turned out be a dream. In my dreams I saw the army bringing my brother home and sometimes I saw him shot dead by the army. Our parents were always weeping and I was always lost in his memory. [...] This was the daily environment in my home. (Brother of missing man, Kathmandu.)

Repeated dreams of the Missing are also interpreted as evidence that the missing person is still alive, and even that his spirit is communicating (see Section 5.1). Many women describe dreams where they see their missing relative, often in a position of suffering: this appears to be an unconscious expression of guilt at no longer being able to fulfil their traditional role as a mother or wife and provide for their missing man:

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. (Wife of missing man, Bardiya).

36% of those met, largely women, talked of how their mental capacity has been impaired as a result of their Missing relative:

Yes, it has affected my daily life a lot. When I try to do something I forget what I have to do; I forget so many things I have to do on daily basis. If I am working and talking with people then I forget about the pain but the rest of the time it's the same. (Wife of missing man, Dhading.)

Due to this pain, three quarters of our brain has become non-functional. [...] I forget my destination and get to other places. (Focus group participant, Kathmandu.)

All of these cases appear to be discussing an impact on what Nepalis would call the dimaag (brain-mind, see above), although this wasn't necessarily the language that was used. There were also reports of women drinking excessively as a response to disappearance, another reaction that is associated with a problem with the dimaag (Kohrt and Harper, 2008), and also stigmatised. This would appear to be evidence that what would be seen as mental illness by Nepalis can be induced by the trauma of disappearance; this would not be surprising. It is evidence of disability in terms of impact on ability to function ascribed to the disappearance itself. However, beyond those three cases mentioned as incapacitated by mental illness, none showed a significant degree of disability in terms of a reduction in function. 94% of those who responded said that the emotional and mental problems were not improving with time.

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

---

12 A separate analysis is underway of the nature of psychosocial impact on function among families of the Missing in Nepal and will be presented elsewhere.
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.)

It is unsurprising that such somatic problems arise in a population subject to such stress. It is not however possible to draw firm conclusions about this in a population that is anyway in poor health, without a control.

6.2 Family

We, the women of Nepal, are living bearing this type of pain. We don’t have to cry in front of the children; we have to try to console them. (Focus group participant, Gorkha,)

6.2.1 Problems facing wives of the Missing

The joint family that is the building block of Nepali society can offer great support, 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, dominated by older men and with the younger wives 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 on 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 as a result within the family the wife of a son who is missing will often be perceived as seeking an opportunity to leave the family, typically through elopement with another man. This often leads to the stigmatisation of wives of the Missing:

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, Katarniya, Bardiya.)

Thus, she may be trapped within a family that resents her presence, but does not want her to leave due to the social stigma that would result. The family may perceive the wife as seeking to betray the family by running off with another man, and seek to constrain her movements to prevent this, or expel her from the home:

The family also sees the wife whose husband has been disappeared in a different way. In many cases, the family members suspect her in many ways. Even when she is busy searching for her husband she is accused of having gone for something else. [...] There are even some mothers-in-law who suspect that the daughter-in-law has other boyfriends. The mothers-in-law don’t allow these daughters-in-law to enter the house. See the case of S.M., she has been denied food and expelled from her house. (Focus group participant, Kathmandu.)

Economically a woman may be perceived as bringing nothing to the family, but being another mouth to feed, who must earn her living:

They treat me like the servant of the house. They give me food only if I work in their house from morning to evening. Everybody discriminates against the woman who doesn’t have a
husband. I asked for my part of the property but they refused. [...] I am beaten by my in-laws whenever I fight for my rights. (Focus group participant, Katarniya, Bardiya.)

A woman’s economic dependence is sometimes ensured to keep her in the family:

My family members refuse to give me any share in the family property, they worry that if they give me land or property I will elope with someone. (Focus group participant, Susanpur, Bardiya.)

In some cases the wife is blamed for the disappearance:

The mothers in law in such households think that the son disappeared because the daughter in law was alachin ko [thought to bring ill-fate to the family]. (Focus group participant, Kathmandu.)

The net result of this web of obligation and resentment can often be an environment of extreme difficulty for such women. Leaving the house is an option, but this would usually require a woman either to remarry or return to her maternal home, otherwise she would be without economic support. Often she would be expected to leave her children behind:

The relationship with my relatives and in-laws has been ruined. They see me as someone else’s daughter, so I am an outsider and relations continue to get worse. They see the other sons [of the family] bringing money home and they see my children and me as just a financial drain: money is important to them. [...] Sometimes I feel like leaving the house, but because of the love I have for my children, I cannot go. (Wife of missing man, Dhading.)

My in-laws also call me bad things and sometimes they chase me with sharp weapons. Most of the time this when he is drunk, my kids are always scared of their grandfather nowadays. I left them finally last year because my children were scared every night. Just because of my babies I decided to separate. (Focus group participant, Katarniya, Bardiya.)

Sometimes I come back from work or from eating outside, they lock me outside and go to sleep. I have had to spend several nights outside the house hungry. Nobody supports me. They say work if you stay in the house or go away forever. They want to send me away very soon next year. [...] My family don’t want to give me any of my husband’s property. They have decided to separate me soon from the house. I will have to fight for my son because he is also their blood and part of rights. (Wife of missing man, Bardiya.)

One woman reported that her father-in-law sought to abuse her sexually:

My father in law used to come every night and try to get me. He wanted to keep me as second wife. I was scared to tell anybody but it was difficult to fight with him. Finally I spoke to my mother in law but she was also in favour of it. (Focus group participant, Katarniya, Bardiya.)

Where in-laws are no longer living with the wife of their missing relative, and thus no longer economically linked, families may seek to regain the property of the son of the family:

When he was alive, we were cultivating some five kathas of land. I thought that land was mine but after my husband’s disappearance, but a person named M.Y. of S village captured the land saying that it was in his name and showing documents which prevented me taking action against him. He then sold the land which was bought by my husband’s brothers and so now that land is in their possession. (Wife of missing man, believed dead, Siraha.)

In-laws may try to encourage wives to leave to take property from them:
They want me to give this land back to them now. They wish that I would run away with someone or leave this house, so they can take back the land. (Wife of missing man, Bardiya – reduced to begging to survive.)

Of the interviews made that were primarily with wives, 32% reported that they had problems in the family and 12.5% of these had extreme problems. However, in some cases it was not possible to meet wives privately, and so the frankness of their views may be compromised. Many of the quotations used here came from focus groups made only with wives of the Missing, where women felt very free to talk, and are likely to reflect the reality for many wives of the Missing in Nepal.

Not all families maintain the traditions in the same way and notably among the urban or those influenced by Maoist ideology different views are expressed:

[Discussing a sister-in-law] To talk about remarriage, if she wants to remarry then she can and if she wants to come here and stay with us then she is welcome. It’s totally up to her. [...] Yes, we do understand her problem, because she is young and it was a love marriage and it has definitely became more difficult for her as we go around and try to find out what happened so we are digesting these things with time but for her maybe it’s more difficult. (Brother of missing man in Kathmandu family of CPN-M supporters.)

Addressing the problems of wives
Whilst some women have taken the decision to leave their husband’s home, for many this is impossible, because they are economically dependent upon their in-laws:

It’s a money issue. I could have left that house if I had money or work somewhere. If they would give me my part of the property, I would have left them a very long time back. (Focus group participant, Katarniya, Bardiya.)

However, many women are not prepared to take the drastic step of leaving the family home: what women most need is an opportunity to increase their status within the family, such that they can satisfy the social obligation of living with their in-laws, but be respected as an equal family member.

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, Katarniya, Bardiya.)

With economic independence comes the opportunity to make a free decision to stay or leave; it would also increase wives’ status within the family. This has dramatic implications for the type of compensation or reparation scheme that should be adopted for such families. This is explored further in Section 10.2.

6.2.2 Changes in family responsibilities
One benefit of the joint family is that it can allow great flexibility in rearranging family responsibilities in the absence of any particular individuals. Where a son is Missing, there will usually be other sons who can continue to provide both economic and social support to the children of the Missing man. However, there are many situations where a disappearance has dramatic implications for the responsibilities that must be taken on in the family. Where the head of the household goes Missing, responsibility will often fall on a younger son, or the wife of the Missing. In some households the parents may be too old to work or they may find themselves alone and have to return to working the fields despite their old age:

2 - 4 days per week I cultivate the land and 2 - 4 days I go to school. I am studying in class 10. I also do labour in other’s fields to earn money for our livelihood and sometimes do
labour in construction and sometimes in chopping trees for domestic fuel. I am the eldest son of my father, one sister is older than me. (Student in grade 10, son of missing man, Siraha.)

…she is his youngest daughter. She was not able to walk when the father went to work. The mother remarried and I am taking care of the small child. [...] The children lost their father and the mother abandoned them. [We], the grandfather and the granddaughter are raising them. (Focus group participant, Dhading.)

His father was passing his life resting when he was here. Now the old man has to plough the fields and he can’t work in the same way as his son. He has to have a painkiller injection because of his knee problem. (Mother of missing man, Bardiya.)

In all these cases the role these individuals expected to have in the family (student, retiree) has been dramatically reconfigured by the fact that a relative is missing.

6.2.3 Children
It was decided not to attempt to interview children since there was a risk to them in discussing the trauma of disappearance. Nevertheless other interviewees did discuss issues relating to children of the Missing. Many family members have sought to prevent children learning the truth, telling children that the missing parent was abroad, or still with the PLA, to answer for their absence:

My grandson sometimes says, ‘My father will bring money and you will be happy’. Then I tell him that he has not gone anywhere to earn money. I tell him that he is a PLA person and is still fighting. (Focus group participant, Kathmandu.)

I tell the grandson that we don’t have to speak much about his father since he is somewhere abroad [...] The child points out the college where his father had studied. Indeed, they really wonder why the father does not contact them even by phone. (Focus group participant, Kathmandu.)

This seems an inappropriate way to deal with the issue, delaying knowledge of disappearance and potentially increasing problems for the child. Other children are aware of the status of their missing parent (usually a father), and have the same problems of dealing with the ambiguity of his 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.)

More extreme problems have been reported in children apparently as a direct result of disappearance, often dating back to the time a parent was taken. The most extreme case encountered has resulted in the child being largely disables by mental illness:

Right from the time he heard of the death of his father it had a mental and physical impact. He used to get angry and scared with strangers. He preferred living alone and used to cry. [...] From the treatment in the hospital it was ascertained that he had mental illness. Now he is under long-term medication. (Brother of missing man, Kathmandu.)

The most common problems mentioned however were those within the family as a result of the absence of a father:
My worry is that on one hand the husband has been disappeared and on the other hand the child has become static. At the time when he has to be active to carve his future I see him doing nothing and lost in his own world. The child bearing all this tension in his mind really worries me. [...] It is so hard for them to create the new strategies for living. (Focus group participant, Kathmandu.)

The grandsons always ask us to show the photos of their uncles and urge me to tell them whether they are alive or dead. They ask me to buy two guns for them so that they can kill those who have taken their uncles. They even show me how they will shoot those who took their uncles and imitate firing. (Focus group participant, Kathmandu.)

The children easily get angry, I think this is related to their father’s disappearance because the rest of time they are laughing and playing but whenever somebody says something then they start crying and shouting for their father. (Wife of missing man, Dhading.)

Sometimes I go to work and don’t have time for the kids. So they go to school wearing dirty clothes and the teachers beat them and don’t allow them to enter the class. Several times my kids come back crying from school. Other school kids tease them saying “son without a father” and slash my children’s bag, books, school dress and slippers with blade. (Wife of missing man, Bardiya.)

In this sense the families of the Missing share many of the problems of other families in Nepal where a father is absent, notably as a result of the many men who work overseas for extended periods. As for many other poor families in the country, some women have been forced to send their children away to be looked after by others, and in some cases have not seen them for many years.

6.3 Community

Most of the families of the Missing live in rural areas, in villages where families are part of a dense network of social relations. Having a relative go missing can challenge those relations, and result in the community changing their attitude towards a family or an individual. As within the family, it is women who are most vulnerable to the stigmatisation that can result from having a missing husband.

6.3.1 Problems in the community

The conflict period was extremely difficult for the families of the Missing. If a relative had been taken away, in most cases by the security forces, since at the time it was dangerous simply to be seen associating with someone from a family suspected of being close to the Maoists this resulted in social ostracism. Beyond this, there was a lot of anti-Maoist sentiment in some communities, and this was then vented on the families of the Missing:

The neighbours used to talk a lot about our brother and our link with the Maoists. They hated us because there were some people who were tortured by the Maoists; they used to threaten us. (Brother of missing man, Kathmandu.)

In the beginning people in the community did not help or support us. [...] I used to walk alone to Nepalgunj: if I asked for a ride on their bicycle, they would turn their head the other way and say that it was broken. (Father of missing man, Banke.)

In a way, you can say that the people in the village give us much more torture than the army and the police. We feel more pressure from the village. (Focus group participant, Gorkha.)
This in turn led to families hiding the fact that their relative was missing:

    We had to lie so many times to the rent person that our husband is abroad and had to tell
them lies even though it’s not true, because we were bound to hide our identity so we lived
a very pitiful life. (Wife of missing man, Kathmandu.)

Some of this exclusion has ceased with the end of the conflict and notably the success of the CPN-
M in the Constituent Assembly elections in April 2008. However the divisions of the conflict persist,
with families being stigmatised because of their perceived association with the Maoists. One thread
in the discussion was the lack of understanding in the community of the issue of the Missing. The
community was often unsympathetic to the special nature of the suffering of the families, and in
particular assumed that they had been guilty of Maoist activity:

    My daughter was called “daughter of the Maoist”, while going to school. She also knows we
are hated by the community. This is all just because of the government. They didn’t make
public the missing people. The community believes that they were all Maoists, so they were
arrested and killed. (Focus group participant, Gulariya, Bardiya.)

People don’t let us drink or bring water from their hand pump. Other kids and people beat
my children when I am not in the house. We beg for food or clothes and pay later on. Water
is a big problem. My kids come from school and wait for me to give water. They can’t go to
the other house even though they are thirsty. (Wife of missing man, Bardiya.)

50% of families met reported no problems with their community, while 26% reported that there had
been problems in the past, notably during the conflict, but that there were none now. Of those
families that were involved politically with the CPN-M, 72% had suffered problems with the
community at some point. 12% of all families met reported that there were still significant or
extreme problems with their community: these included cases where families were receiving
threats, or were displaced from their homes due to such threats.

    In our case, our enemies have not let us live. The police come to the village every day and
night and some persons in the village threaten my life; some of them come to [attack] me
with a kukri. Therefore, it’s not possible to live alone in the village. I am so scared. […] We
should not live in the village with grown up sons/daughters since they could kill them.
(Focus group participant, Gorkha.)

The authorities should take legal action against the killers. Our second priority is the
security of our family members. 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 killed by people
linked to the CPN-M, allegedly due to a land dispute.)

For a large fraction of those with relatives made missing by the Maoists, the greatest impact is their
continued displacement from their home village: half of those met with a relative made Missing by
the Maoists remain displaced.

The problems of the families of the Missing are linked to the broader divisions that remain between
those associated with different sides in the conflict. Many families of those made missing by the
state are aware that informers in their community played a role, and this continues to perpetuate
division:

    …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, Nawranga, Bardiya.)

This study indicates the need for a process of reconciliation, as well as truth and justice, to address such divisions within communities so affected.

### 6.3.2 Problems of wives of the Missing in the community

The issues that lead to women being stigmatised in the family can also lead to problems in the community. Notably, the ambiguity over a women’s marital status, her persistence in wearing the symbols of marriage and the impression that the wives of the Missing 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.)

They [the community] are so interested to see what we wear, who we talk to, where we go or who we visit. They say we are becoming actresses; our wings are open since our husbands are not with us (Wife of missing man, Bardiya.)

They ask me why I still wear the symbols of marriage when he is no longer alive, but I still have some hope because I haven’t seen his body, and neither have they. (Wife of missing man, Bardiya.)

The vulnerability of being a single woman, combined with the perceived reputation of the wives of the Missing led to extreme problems in some cases:

Previously, drunks used to come at night and tried to scare, beat and rape me. Many times I had to run away with my crying babies. Many times I went to sleep in other’s houses. They were from other villages. After some days, our villagers came to know what was happening with me. They organised a meeting about this issue and made them pay, anyone who comes to harm me in this house. Since then I could sleep in my house. (Wife of missing man, Bardiya.)

So, in this case the community ultimately came to her aid. 18% of all women interviewed, and 28% of all wives of the Missing said that they had problems in their community. One woman sees the solution to these problems as being a resolution of the ambiguity of their status, by the authorities giving a proper answer regarding their husbands:

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, Gulariya, Bardiya.)

### 6.4 Resilience and coping mechanisms

The impact of disappearance will be the sum of the emotional, psychological, cultural and social effects discussed here, subject to the resources of individuals and communities to cope. The ability of individuals to withstand the impact of traumatic events has been called resilience: “good outcomes in spite of serious threats to adaptation or development” (Masten, 2001: 2). It is the “ordinary magic” (ibid.) of resilience that allows survivors to survive. In this study there is evidence that in most cases individuals show sufficient resilience to not suffer from significant disability as a result of their psychosocial problems, i.e. they continue to function relatively well
despite their suffering. This indicates the need for psychosocial interventions to also be preventive in nature, i.e. they should aim to work to support and promote such resilience.

Coping mechanisms have been seen to be both positive and negative. The most common negative coping mechanism was repeated thoughts about the Missing, often becoming an obsession with continuing to search for the missing person. Whilst peers, especially other families of the Missing, are identified as a potentially valuable support, they can also contribute to negative coping through reinforcement of behaviour that traps families in a cycle of obsession. However, in this study peer interaction appeared largely positive. The most discussed positive coping mechanism was to share problems with someone. The value of such support was emphasised 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.)

In the very beginning every one of us was alone. [...] Before meeting friends who were facing the same sort of problem, I was in despair and nobody would listen to my problem. Other people did not like to talk about our problems since they were scared that they could also be arrested if we talked with them. But it was only when we met other families of those disappeared, we felt that we had common problems; we knew that we had the same pain. For this reason, we could share our sorrows. We wept and cried together and that helped us ventilate our sorrows. Then we formed this association. It helped us to meet friends having similar problems. Then we organized the sit-ins. As many friends gathered we felt greatly relieved. From that time onward, we felt courageous to fight for our cause. (Focus group participant, Kathmandu.)

These comments confirm that one of the problems for families is the search for meaning in the disappearance (why me?); where many people disappear together in a natural disaster ambiguity of loss is less of a problem since an entire community shares the experience of the event and death can be accepted more easily. Meaning can be found in the sharing of experience with those suffering from the same problem and potentially allows families to reach some understanding of their loss.

However, 47% 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 families of the Missing, wives wish to talk with other wives to share problems. Only 45% of those met said that they had contact with a family association.

There is some evidence that having contact with a family association can reduce the levels of problems women see. For family problems the rate of “serious” or “extreme” problems is 14% among those without contact with an association, and 6% for those who have contact. For community problems the figures are 14% and 9% respectively. Whilst this may be merely an artefact of the fact that less isolated families will have greater contact with the Family Associations, it is an indication that contact with a Family Association is a genuine coping mechanism that promotes resilience.

Since many families, and women in particular, continue to believe their loved one is alive, visits to spiritualists who can give information about the missing person (see Section 5.1) can be considered a support. However, whilst many families reported having visited such traditional
healers in the time after the disappearance, it appears that these were given less credence and visited less often as time passed.

One common and effective coping mechanism for those whose loved ones were made missing by the state was political engagement. Many relatives of the Missing had not been politically active until their relative was taken, at which point they found political commitment as a way to both justify the sacrifice that had been made and to continue the struggle:

After he was disappeared I automatically had to be active in politics as part of the search for him. (Brother of disappeared man, Kathmandu.)

More than this political activity brings family members into contact with others who share the beliefs of their loved ones and who appreciate the family’s sacrifice, but see this as positive:

…it [the Party] helps us a lot and to fulfil the dreams of our husbands we are more involved in the Party. We work together and we talk about each other; that definitely helps a lot. (Wife of CPN-M activist, Kathmandu.)

Similarly the success of the CPN-M in the Constituent Assembly elections was perceived by some families as a vindication of the sacrifice the family had made:

As the path they [the Missing] chose has been successful, if they had not been involved we might not have reached this point. We also have a kind of satisfaction. Similarly, we think how it would be nice in this time if they were alive. (Mother of missing CPN-M activist, Banke.)

This attitude of Maoist activists can be contrasted with that of an association of victims of the Maoists in Liwang, Rolpa. Most had been active in anti-Maoist parties, notably the RPP, and remain displaced from their villages as a result of the conflict. They had seen the side they supported lose political power, and felt themselves abandoned by their party in a district that is a Maoist stronghold. For them the conflict had not only led to their relatives being missing and their property lost but their political ideals defeated.

Perhaps most obviously families see the truth about the fate of the Missing 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.)

The villagers advise her not to feel so much pain; otherwise her health will deteriorate and ultimately it will be hard for her to do her work. […] She really wants to perform the religious ritual of the daughter. If this could be done, it would be a bit lighter for her. (Father of missing girl, Gorkha.)

In that sense there is no division for the families between action on the psychosocial issues and that on the fundamental issues of truth and justice: progress on these issues will also be part of addressing the emotional and psychological needs. The solution to many of the threats to the wellbeing of families of the Missing is often given as “closure”, i.e. giving families the proof they need regarding the fate of their loved one. However, for most of the families it is unlikely that the truth as they feel they need it, and the body of their loved one, will be found. Boss has suggested that a better approach is to acknowledge the great difficulty of resolution and instead address living with ambiguity:
“The goal is to find meaning in the situation despite the absence of information and persisting ambiguity. Here, resiliency means being able to live with unanswered questions. Instead of the usual epistemological question about truth, we ask, ‘How do people manage to live well despite not knowing?’ “ (Boss, 2007: 106).

6.4.1 Therapeutic approaches

Considering these problems at several levels (individual, family, community) a broad psychosocial approach is indicated to assist families of the disappeared; psychosocial peer support groups could help assist women to deal with individual emotional symptoms and could assist in sharing effective coping mechanisms for family problems common to support group members. In families with more specific problems, e.g. violence directed towards women, mediation techniques could be of use. In addition, interventions at the community-level could entail sensitisation and mobilisation of community members to support families of the Missing, and address the continued cleavages along political lines. Psychosocial services should ideally be multi-sectoral, i.e. integrated with legal, economic and education sectors, and contain a strong gender perspective (e.g. empowerment). The prerequisite for any detailed psychosocial intervention is an expert assessment of the problems.

One approach to addressing the issues in communities and families has been taken by the Conflict Victims’ Committee (CVC), Bardiya. With modest funding from the British Embassy CVC has begun a programme of "social harmony discussions" in affected communities in the district with the aim of reconciling communities and restoring harmony. Such an approach in the community can begin to address the treatment of the families of the Missing within the community, as well as the treatment of wives of the Missing within families. Unfortunately, the support to this effort has recently ceased.

Families said rather little about how they would seek to address these problems, other than through a more effective access to treatment, by which many meant explicitly drug treatment. Some families mentioned that seeing justice done, in terms of prosecutions and punishment of perpetrators (see Section 8.1) would “reduce mental anguish”, consistent with literature that reports that judicial process and punishment of perpetrators is ‘healing’ for victims (e.g. Edelman, 1996; Rauchfuss, 2008; Gurr and Quiroga, 2001). 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 (see Section 6.4), but all suffer from the paucity of psychiatric and psychosocial facilities.

Drug treatment is unlikely to be able to help many families, beyond addressing sleep disturbance. In this case it may be most appropriate to seek traditional medicines from the ethnic tradition of the victim, to avoid issues of dependence and expense.

To address the issues arising from the ambiguity of loss, families must pass through the problems of ambiguous loss to either an acceptance of death, or being able to live with ambiguity with a minimum of symptoms, i.e. an acceptance of the absence of a loved one. This will also demand an addressing of the pressures on some women from family and community and an understanding of any feelings of guilt. Sustaining the memory of the Missing through display of photos, or construction of memorials can help this, but can also become pathological itself and part of a negative coping mechanism.

Any counselling approach is likely to be highly local, mobilising the affected community through support to the Family Associations. This can initially be by families of the Missing to target the community, i.e. to raise ‘public awareness’ of the position of the wives of the Missing and to reduce stigmatisation in family and community. Beyond this, the Family Associations can explicitly target the isolation of many families, and women within them, and conduct activities that focus not only on the issue of the Missing but allow victims to build solidarity without reinforcing potentially negative
coping strategies. To do this the Family Association will have to be supported to be mobile, to be able to visit families throughout a district. Such activities can also serve to allow the Associations themselves to understand problems, not least through asking families what support they need. The minority of cases where psychopathology is seen need professional treatment and for those in more remote areas this will require significant financial support for travel to appropriate facilities.

6.4.2 Summary
A large majority of persons report symptoms of what have been termed common mental disorders; depression, anxiety, and somatoform complaints. These include sadness, fears, sleep disturbances, repeated nightmares, panic attacks, and physical complaints. These symptoms indicate that even many years after the events leading to the person going missing the wellbeing of families, in particular wives and mothers, is impacted. We have already discussed that for the majority of persons this has not resulted in actual psychiatric disorders – to diagnose a psychiatric disorder significant impairment in functioning is always necessary. A small minority does appear to suffer from debilitating mental illness, but our methodology was not designed to confirm this. Chronic physical symptoms that are attributed to the long-term effect of the disappearance are also widely reported, presumably somatic. Experiences with torture survivors in Nepal have shown that many of these physical symptoms do not have specific medical explanations and are related to psychological suffering (Tol et al., 2005).

A number of wives of the Missing suffer quite extreme problems in the home as a result of stigmatisation arising from the loss of their husband that impacts significantly on their wellbeing. They are abused by in-laws, treated as servants, suspected of pursuing other men and even blamed for the disappearance of their husbands. Women are unable to leave abusive families due to a lack of economic independence, and are often denied their husband’s property. In the community, wives of the Missing are discriminated against for not behaving as widows are expected to, and as single women remain vulnerable. On occasion they and their children are stigmatised due to their perceived association with the Maoists. In extreme cases there are security issues, such as those that displace many victims of the Maoists from their homes.

The most common and valuable coping mechanism reported is to share problems, but almost half of respondents reported that they had no-one to talk with. This arose from a perception that most people do not understand the problems of the families of the Missing, and that other families in the same situation offer the greatest support: wives of the Missing wish to talk with other wives of the Missing since they feel their problems are so particular. Family associations provide the greatest source of such support, but less than half of those met had access to such an association. For those whose relatives were victims of the state, the political solidarity of Maoist political activity is seen as great comfort since it both justifies the loss of their relative and continues their struggle.

The psychosocial needs of families were rarely articulated as such. However, it is clear that interventions that can address discrimination against wives of the Missing in the home and families of the Missing in the community would bring the greatest benefit. These are likely to involve sensitising the community to the needs and problems of wives and families of the Missing in a culturally appropriate way, and further work with the community is required to plan such interventions. Additionally, action to address the continuing divisions in communities that permit stigmatisation, threats and displacement is urgently required.

7 Economic needs

7.1 Livelihood needs

I still can’t control myself when I remember those times, when I had 2 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 2 earning sons. (Mother of two missing sons, Bardiya.)

A large majority (93%) 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 (see Figure 1). 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.

Data from the 209 families with a missing relative in Bardiya (Table 7) shows that income derives almost exclusively from agriculture and labour, a pattern repeated in families of the Missing from other rural areas.

<table>
<thead>
<tr>
<th>Income source</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture</td>
<td>141</td>
</tr>
<tr>
<td>Labour</td>
<td>22</td>
</tr>
<tr>
<td>Agriculture &amp; labour</td>
<td>20</td>
</tr>
<tr>
<td>Business</td>
<td>4</td>
</tr>
<tr>
<td>Agriculture and services</td>
<td>7</td>
</tr>
<tr>
<td>Other</td>
<td>4</td>
</tr>
</tbody>
</table>

Table 7 Sources of livelihood of families of the Missing in Bardiya.
(Data courtesy CVC Bardiya, 2008)

Where land or labour is the principal source of income, loss of the people who provide the labour for both reduces livelihood. Many victims, particularly in Bardiya, came from the sukumbashi and kamaiya communities, and either have no land or are squatting land illegally. Where families have land they eat what they can grow and work wherever they can to bridge the gap:

We don’t have enough to eat since we don’t have fertile land that produces paddy. We grow some millet and maize that supports us just six months. After six months, we have to work for others to earn living. (Focus group participant, Dhading.)

For a rural Nepali family with no land the only source of livelihood is precarious and highly seasonal daily labour.

We really lack household necessities since my husband is not here. I can buy rice or school things if I earn 50 rupees from labour. I have great difficulty to manage everything for the house and the children. I borrow money from others to pay my children's school fees and for uniforms and books, but lots of time we go without. My husband was fulfilling our every need. I don’t have a capacity like he had. I am alone to take care of everything now. I have some 1/2 katha of land but it doesn’t give good food because there is no fertilizer. I can’t buy with what I earn. If my husband was here, this land wouldn’t be dry. I go to work in other’s houses to get food. (Wife of missing man, Bardiya, begging to survive.)

We don’t earn in cash. We only earn in crops: eight kilograms paddy [per month] when I and my daughter go to work of which we trade four kilograms for other things like salt, oil, spices, fuel etc and we use the remaining four kilograms for our meals. (Wife of missing man, Siraha.)
For the families of the Missing, the various means of livelihood are very often insufficient. The families met were evaluated as to the extent of their economic insecurity (Table 8). Here “necessities” indicates food, medical treatment and the education of children.

<table>
<thead>
<tr>
<th>Economic security status</th>
<th>Fraction</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not mentioned</td>
<td>0.22</td>
</tr>
<tr>
<td>Moderate</td>
<td></td>
</tr>
<tr>
<td>- unable to afford some necessities</td>
<td>0.59</td>
</tr>
<tr>
<td>Serious</td>
<td></td>
</tr>
<tr>
<td>- unable to afford many necessities</td>
<td>0.19</td>
</tr>
<tr>
<td>Extreme</td>
<td></td>
</tr>
<tr>
<td>- reducing to begging for food</td>
<td>0.04</td>
</tr>
</tbody>
</table>

**Table 8 Summary of the economic status of families of the Missing met in interviews.**

The most extreme cases are where families are left with no economically active individual to provide support, notably older people who have no children 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.)

We have 1/2 katha\(^{13}\) of land. This is the only way to support ourselves. I also do labour if there is the opportunity in the village. But that doesn’t support us except for food. I can’t manage to buy clothes or other things. I beg in the other houses sometimes because I can’t manage everyday and I can’t find work every day. (Wife of missing man, Bardiya.)

Many victims of the Maoists have been displaced as a result of the loss of their relative and continuing threats to their security. 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.

Many families have spent significant sums of money that they can ill afford 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)

Most families take on debt in order to support their families; 69% confirmed that they were in debt:

We have debts to be paid to the moneylenders. Even at the time when the sons went out to earn money, the moneylenders would come to the house and tell us to pay the money

\(^{13}\) In Nepal, 1 katha = 130.2 m\(^2\); (land is also measured in bigha, 1 bigha = 20 katha = 2,603.7 m\(^2\)).
Even the small amount of money that I earn by selling the kid goats and the buffaloes goes to pay the loan of the sahoo. (Focus group participant, Dhading.)

The spectrum of needs of families covers all aspects of livelihood. The minority of poorest families have problems feeding themselves: 24% of those met reported difficulties in finding sufficient food for the family:

Lots of time I sleep without food. I just drink water and sleep. I can’t go to beg at night so I have no choice. (Mother of two missing sons, Bardiya.)

We can’t meet our basic needs with what we earn and sometime we really go without. We sleep without dinner sometimes. (Mother of missing student, Bardiya.)

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 (see Section 6.1), and yet this is accompanied by a financial inability to be able to afford health care. Health care can be cheap if local traditional healers are approached (but not always), whilst Western medicine will always be expensive. The result is that families must reduce their capital by selling land or see the sick go untreated:

After our son was arrested, my wife became sick. For her treatment I sold my land and hospitalised her in Kathmandu Medical College and paid forty-five thousand rupees in thirty six days. […] There was an organization affiliated with the [Maoist] Party that provided me with eight thousand five hundred rupees. For the rest of the money, I collected some by taking loans and also by mortgaging my land. I have still not paid the debt. (Brother of missing man, Gorkha.)

I don’t know exactly how much money is needed. Some say that it may require 3 or 4 lakhs for a kidney operation. Whereas some others say 20 – 30,000 may be sufficient as one kidney may work if the other is damaged. But I myself don’t have any idea. […] It has been one year since she started complaining about her stomach ache. And now recently it is getting worse. The diagnosis was done last year. The doctor advised for operation and admitted her for one day in the hospital but since I could not pay, I took her from the hospital saying that I would bring her when I would have money for the operation. (Father of missing man, Banke.)

Education can be free in principle, but often has hidden costs. Primary schooling at a Government school is free in principle, but parents have to fund uniforms, books and usually “fees” that are demanded by teachers to ensure that a child is permitted to attend. At the secondary level there are rarely schools close to rural communities and very often a child will have to live away from home to attend. Even where a school is not boarding, this will require a child to stay with friends or relatives who will likely need payment: this often prices secondary education beyond the poorest. One woman in Siraha decided it was better for her children to help with the animals than to send them to the Government school:

I have no money to send my children to boarding school since it may cost some five hundred rupees only for school fees besides uniform, stationery and other things, and as the teachers in the Government school don’t come to school every day and don’t teach the students well, so nobody wishes to send their children to Government schools. […] Therefore, I think it’s better to send the children to pasture for grazing the buffalo and goats than to send them to study in the Government school. None of the children is studying in school. […] As I have nothing to educate them, everyone is working to maintain our livelihood. (Wife of missing man, Siraha, mother of four, aged 5 to 16)
The teachers didn’t allow her to take the 7th grade exam because we couldn’t pay the fees on time. (Mother of missing man, Bardiya.)

The very poorest, such as the displaced families in Liwang, send their children to the school for orphans (Bal mandir).

7.2 Supporting families

7.2.1 Support received by families

A small number of families (3 were met in this study) has received compensation of Rs.100,000 as a result of the judgement of the Supreme Court regarding 79 missing cases (see Section 2.4). Additionally one family was met who as victims of the Maoists had received compensation at district level.

Beyond this, 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. This totals goods to the value of Rs. 10,000 to create a business and most often consisted of livestock. In some cases, this had made a concrete difference to families’ livelihood with a number now keeping a dozen or so goats from the 3 or 4 initially received. It should be noted however that old people with little capacity are often unable even to keep livestock, and this should be considered when planning a reparations scheme for victims (see Section 10). Other assistance programmes affected rather few families with a single donation of goods such as non-food items or school equipment. One woman complained that those offering assistance to the family did not understand her inability to act independent of her family:

The in laws are bad all the time, but when an NGO came to give me cattle to give me some income, my family members pushed me to put them into the joint family. If I let them give them to the joint family then I will get nothing because the family members will never give me a chance to have the income. So I refused and my family called me bad. Another side the NGOs don’t try to understand is what is going on in the family because of the issue of giving cattle. (Focus group participant, Katarniya, Bardiya.)

Assistance has also been given by the CPN-M to families of those made missing by the state. A significant number of rural families had received payments as apparent compensation for their loss, as well as payments to cover certain expenses such as medical treatment. This was administered on a local basis, through the district Party structure.

Altogether we have obtained Rs. 15-16,000 from the Party to date. (Focus group participant, Gorkha.)

Several tens 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, as well as in private businesses in Kathmandu, as a result of the intervention of Sofad. This has allowed family members to earn a livelihood for their extended family. All of the assistance facilitated in this way however excluded victims of the CPN-M.

7.2.2 Support envisaged by families

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

Many conflict victims don’t want money or compensation but guarantees for the future of their children. (Brother of missing man, Banke.)
In some instances it was explicitly articulated that they expected that the families of the Missing should be given jobs by the authorities, so as to guarantee livelihoods.

As we have no source of income, the Government should give us employment. How long can we manage with daily labour that is always uncertain? We have to stay idle and face problems feeding ourselves when we cannot find any work. So, the Government should manage our food and shelter. (Daughter-in-law of missing man, Bardiya.)

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.)

7.2.3 Summary
Having a missing relative makes a family poorer and so the problems faced by the families of the Missing are the same as those faced by other poor families in Nepal. Most families make their living from the land, either by working their own land or doing labour on others’ land. A minority 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. Most are in debt. Families articulate their economic needs in terms of what they cannot afford, and for most this prioritises education and health care, which are considered indispensable. For the families of the Missing their children will leave school earlier, or perhaps never enrol, due to the economic challenges of affording education. When sick the families of the Missing are less likely to be treated because of the cost of treatment.

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 that will permit them economic security for the future. Whilst families did not mention the concept of a pension, this would also appear to satisfy their needs (see Section 10.2).

8 Justice and accountability
More has been said and written about justice for the families of the Missing than any other need. Accountability is not the first priority of most families, but nevertheless 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 9.

<table>
<thead>
<tr>
<th>Meaning of justice</th>
<th>Fraction</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prosecution</td>
<td>0.54</td>
</tr>
<tr>
<td>Compensation</td>
<td>0.45</td>
</tr>
<tr>
<td>Truth / Answer regarding fate</td>
<td>0.31</td>
</tr>
<tr>
<td>Acknowledgement</td>
<td>0.07</td>
</tr>
</tbody>
</table>

Table 9 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 families’ concept of justice.

8.1 Revenge and retribution
A significant minority explicitly express the need for revenge:
The spy is still in B who said ‘this person should be killed’. We cannot remain in peace without drinking his blood. He has to be given torture like our relative had to undergo and we have to drink his blood; otherwise, we won’t be at peace. […] The guilty ones should be punished subjecting the same type of torture that our husbands were subjected to after arrest. The families of the guilty ones must also undergo the same type of suffering that we are undergoing, no? (Wife of missing man, Gorkha.)

We have to drag the guilty persons into the street and kill them as they killed our dear ones. We don’t need any compensation. (Focus group participant, Kathmandu.)

In some cases families feel they have already seen revenge taken:

The informer told the police when my daughter was in the rice mill. She would be at home now if he had not called them. The Indian informer who called them to arrest her, this guy was killed by the Maoists later. Maoists caught him in B.S. and killed him in the jungle. They took revenge for the arrests of their people. I am satisfied that he was killed by the Maoists to take revenge, otherwise we don’t know how many people would be arrested and killed by his information - so it’s good he died. (Father of missing teenaged girl, Bardiya.)

A greater number articulate 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.)

In my case, those who took away my wife are still alive. If you like, I can tell you their names. […] These culprits took my wife away at night at nine o’clock assuring me that they would return back her at six o’clock, the following morning. It has been already six years but they have not returned her back till date. These culprits are walking freely under the open sky. Our demand is that they must be punished. (Focus group participant, Kathmandu.)

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.)

8.1.1 Legal action taken
Most families have no idea about the legal process that must be followed to file a case concerning their missing relative, but a considerable number have been assisted by various agencies to file cases. These have largely involved filing FIRs (First Information Reports) with the police (though in the past some have been refused by District Police Offices) and with Chief District Officers.
The following statement (by the wife of a missing policeman) summarises the typical attitude to such process:

I have filed two petitions, one in CDO office and another in the police office, but what happened and what papers were prepared, about that I don't know because I am an illiterate woman. I had filed those petitions for search and some paperwork was also done about the incident but what happened after that I don't know. (Wife of missing policeman, Siraha.)

No family was met where any formal action against a perpetrator had been taken.

8.2 Amnesty

The interim Government’s draft TRC Bill included a broad amnesty for perpetrators. This has been criticised and revised somewhat, but to date no broad consultation process with victims regarding their attitude to amnesty has been undertaken. This study included a discussion with families about the meaning of amnesty and attitudes of families of the Missing to it. The question was posed in the spirit with which amnesty was included in the draft TRC Bill, and in the sense that amnesty was used in the well known South African TRC as a tool to encourage the revealing of the truth.

Families were asked “Would the family accept amnesty for perpetrators if that gave access to the truth?” This question implies that truth will follow from amnesty, which is not clear, but it also suggests that the alternative to amnesty is a broad prosecutorial process which is also unlikely to occur. Despite the simplifications inherent in this type of approach (which are probably necessary), it does yield data on families’ attitude to amnesty.

Of those asked, 69% rejected amnesty, most 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 the Missing, 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.)

I don’t think I will be able to give amnesty to them. I am the one who has lost her son and daughter. […] I don’t understand that much, tell me which mother can give their children to someone and ask them to do whatever they want? I don’t think I could do it. (Mother of missing man, Kathmandu.)

Again, some (victims of the Maoists in this case) linked this to the need to end cycles of impunity:

If everyone gets amnesty after killing then maybe we have to also resort to killing since there will be no punishment. (Focus group participant, Kathmandu.)

31% could envisage amnesty, but 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.)

In this latter case this appears to be a statement that the truth is more important than seeing prosecution. Similarly another family prioritise economic support to the point where if this is guaranteed, they would sacrifice prosecution:

Amnesty may be given to the perpetrators but it is important for this that the government should do proper arrangements for lifelong maintenance of P’s family and children as for their education, food, medical care and all other needs. (Brother of missing man, Siraha.)

One pro-Maoist family said that they want to see justice, but will understand that a broader interest might demand amnesty:

We cannot decide on an individual basis. [...] In course of the war, there have been such incidents by the rebels as well. If the entire nation is involved in the process of forgetting what happened in the past with an offer of compensation to victims’ families, we would not be the only family to oppose this type of proposal. We would not be an obstacle to the process of carving a New Nepal, forgetting the wounds of the past. As an individual family, we think that the perpetrators should be punished and we must get justice. [...] If the State recognises the contribution made by our family by declaring our dear ones as ‘martyrs in course of building a New Nepal’, we are ready to give amnesty. We would take the loss of our family as an investment in the New Nepal. (Brother of missing man, Gorkha.)

Remarkably, some families even used the language of forgiveness to describe their attitude towards the amnesty of perpetrators:

It is possible to give amnesty [...] but asking for forgiveness is also a big thing. The truth must come out. If someone promises to tell the truth, we should give forgiveness as it is humanitarian. [...] Yes, we can forgive. Our son is the most important thing, but if he is dead and they give appropriate compensation, the person can be forgiven. (Parents of missing man, Banke.)

Amnesty was far more favoured among victims of the Maoists than victims of the state, perhaps reflecting the low expectations of prosecution among the former.

Families also commented on how a process of amnesty should look:

More than public forgiveness they should ask the family whose members have been disappeared and the Government should let the family decide whether the guilty should be forgiven or not. (Son of missing man, Kathmandu.)

8.3 Prosecution and trials

8.3.1 Who should be prosecuted?
Families were asked whom they thought should be punished for making their relatives missing:

<table>
<thead>
<tr>
<th></th>
<th>fraction</th>
</tr>
</thead>
<tbody>
<tr>
<td>Direct perpetrator</td>
<td>0.65</td>
</tr>
<tr>
<td>Informers</td>
<td>0.29</td>
</tr>
<tr>
<td>Those who gave orders</td>
<td>0.19</td>
</tr>
<tr>
<td>Politicians</td>
<td>0.13</td>
</tr>
</tbody>
</table>

Table 10 Whom 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 most favoured to be prosecuted. One can speculate 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:

There should be made a new law retrospectively to punish [to those who gave the] those who gave wrong information because the wrong information is the root cause of disappearances. [...] It is because they [the informers] are also the helping hands of the perpetrators. Therefore, the helping hands also should be punished. (Father of missing man, Dhanusa.)

This reveals the problem with prosecuting informers – it is not clear that they broke any law. It seems likely that, rather than a formal judicial process to target informers, community based processes must be used.

Many victims of both sides made the point that prosecuting lower level actors would not satisfy them:

Those who gave the orders should be punished. [...] If someone in the lower ranks was punished and they told us that they had punished the guilty one, it would not be acceptable to us. Punishing the lower ranked personnel will not satisfy us. (Wife of missing man, Kathmandu.)

If the local level [Maoist] cadres have done these activities [disappearance] without obtaining orders from the central level, the local level cadres should be held responsible and the central level don’t have to try to cover the wrongdoings of their cadres. But if the local level cadres have acted following the orders from the top, the persons who gave orders should be punished. (Focus group participant, Kathmandu.)

In many contexts the names of those person considered responsible, whether Government or security officials (CDOs, police and RNA officers) or Maoist military and political leaders, are known to victims. Some emphasised that responsibility was political, and went to the very top, on both sides:

All this was done through decision making at the political level. The army did not disappear people because it wanted to. The army or the police is mobilised by the state and what they do is in accordance with the ordered of the concerned ministries such as the Home Ministry. (Wife of missing man, Kathmandu.)

Sher Bahadur Deuba is 95% responsible for what happened [the disappearances] in ten years of Peoples War. (Focus group participant, Gorkha)

8.3.2 Judicial process

Efforts were made to talk with families about the type of judicial process they sought, but this was difficult since the legal system and even the concept of a trial is alien to many met. The most common opinion expressed was that any process should ideally be local, since that would give the victim families the greatest access to it. There was no interest in an international process, and a concern that a trial in Kathmandu would not be accessible.

Deuba was Prime Minister from July 2001 – October 2002, at the time the state of emergency was first introduced and the RNA entered the conflict, widely presumed to be the worst time for disappearances.
[If the trial is broadcast on the radio] There is no guarantee 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.)

[The trial should be] in our village, in front of our eyes. [...] This is the sad thing that if they make the trial in another place, we are not able to go without money. That is why I said it. [...] We trust [a trial in Kathmandu] but it would be better and easier for us to see it nearby like Kohalpur, Banke. We would not have a problem to pay for transportation. (Wife of missing man, Banke.)

This emphasises the extent to which it is necessary for policymakers to ensure that all processes relevant to families of victims, whether trials, TRC hearings or otherwise should be made accessible to the victims. Justice sufficiently remote from the victims will not be perceived as justice at all.

The extent to which the judicial process and role of various actors is not understood was made clear by one respondent who made her needs of a process clear, if failing to understand who exactly would be responsible for a trial:

It’s good even the trial would be held in Nepalgunj in Human Rights or at the ICRC. (Mother of two missing brothers, Bardiya.)

There is consensus among families that the old Nepali legal system was not capable of trying the perpetrators of disappearances, but a large agreement that with “new laws” an appropriate domestic judicial process was possible. Whilst this was based on little understanding of the legal system, it does represent some faith on the part of the victims that justice is possible for them in a “new Nepal”.

8.4 Summary

Families overwhelmingly seek to see prosecutions of those responsible for their relatives being missing. 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 concerning their receiving truth and compensation. There is a general confidence that with new laws it is possible to prosecute perpetrators and receive justice in Nepal: any trials should be accessible to victims, and ideally held in their local area.

9 Legal and administrative issues

Many of the families of the Missing, like most rural Nepalis, have little contact with the formal state: whilst the issue of land is one where ownership documentation has become very important, for other issues, such as marriage, most do not engage with formal registration processes. Nevertheless, 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 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.)

I have not transferred that property into my name up till now. [...] I have not faced any problem because I have not tried to transfer the land in my name but the problem may arise in future while I would like to transfer the land because at that time it will be necessary to produce the certificate of death as evidence. (Wife of missing man, Siraha.)

The Missing have no legal status, they are not legally dead so no transfer of land or property can be made until twelve years have passed and the law will declare them to be presumed dead.

There are other administrative issues arising, notably that of pensions, which cannot be taken other than by the 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.)

The expansion of citizenship that occurred following the end of the conflict has passed some people by, since they cannot prove their status due to the absence of a missing father’s citizenship:

We haven’t made our citizenship certificate because the citizenship card of my father-in-law was lost with him. (Daughter-in-law of missing man, Bardiya.)

7% of those met mentioned that they had problems with debts; these included cases where people claimed that they were owed money by the Missing person and then demanded it from the relatives, who had no record of such loans.

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 (see Section 5.1). However, an alternative is to follow a practice that has occurred in other countries (e.g. Argentina, Bosnia), where an official status of “disappeared” can be given, in which the missing person is not declared dead, but absent for legal purposes, such that property, pensions etc can be passed on to heirs. The prospect of such a “declaration of disappearance” was discussed with families who had such administrative issues:

My father had property and bank deposits that we could have used, but we weren’t able to. I have seen so many families of the missing whose conditions are even worse. So I think this law [concerning official status as disappeared] should be put into practice in Nepal as well as giving justice. (Son of missing man, Kathmandu.)

Yes, it [certificate of disappearance] should be done here in Nepal also for solution of this problem. It should be done by the government. (Wife of missing man, Siraha.)

However, 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 on the authorities to truly resolve their fate. A majority of those with administrative problems nevertheless supported such a declaration of disappearance.

In one case, in Dhading, a woman has been told by local VDC Chairmen that she can obtain what amounts to a declaration of disappearance from her district authorities, by having five persons aware of the disappearance testify to that effect with the support of the VDC:
The VDC has to write a letter mentioning that 'since this man was disappeared in this way, the property could be sold' and the witnesses have to put their signature in this paper. These five persons, with their citizenship certificate have to go to the CDO office and tell the fact. Then I can sell it. Otherwise I cannot sell it. (Wife of missing man, Dhading.)

The legal status of this procedure appears unclear however.

10 Reparation, relief and compensation

10.1 Reparation

Reparation refers to the obligation of the wrongdoing party to redress the damage caused to the injured party. Under international law, "reparation must, as far as possible, wipe out all the consequences of the illegal act and re-establish the situation which would, in all probability, have existed if that act had not been committed." (Permanent Court of International Justice, 1928) Reparation encompasses three main types of remedy: restitution, compensation and satisfaction. Restitution aims to restore the conditions that existed prior to a violation, something impossible of course where a missing person does not return, but where efforts can be made to address some of the impacts on a family. Compensation involves monetary payment for material or moral injury, while satisfaction addresses non-material injuries and may involve official apologies; assurances of non-repetition of the offence; judicial proceedings; and truth and reconciliation commissions. (Bradley, 2006) The nature of the post-conflict peace implies that it is the Nepali state that is responsible for reparations to victims of both parties to the conflict.

Reparation, whilst potentially providing material compensation to victims, is primarily about acknowledgment of what has happened and the responsibility for it. The financial component is a way of demonstrating this, and not an end in itself. Indeed reparation can be symbolic, rather than material. Here an effort has been made to confront the obligations of international law with the needs and daily realities of the families of the Missing in Nepal.

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 well understood the concept of reparation:

Compensation is only the monetary amount and after that closed. But reparation may mean things like 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 was not known families showed that the concept was underlying 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.)

However, some considered that compensation was an alternative to what they really wanted, which was their loved one:

We are not in favour of compensation. [...] We would add an equal amount of money to that they are proposing to offer us and give it back to them. We have not been trying to obtain compensation. We need our dear ones. (Focus group participant, Kathmandu.)

In this sense, families were expressing the view that the most reparative act of the authorities responsible is to address the issue of the Missing person, something the Inter-American Court has discussed:

“The continuing suppression of the truth about the fate of a disappeared person is a form of cruel, inhuman and degrading treatment for the closest relatives. [...] In this sense, the Court is of the view that delivery (to the families) of the mortal remains of the disappeared detainees is an act of justice and reparation in and of itself.” (IACHR, 2002)

A majority of families face severe economic challenges as a result of the loss of their relative and articulate their demands primarily in terms of economic support. Here, the needs articulated by families will be discussed in the broad context of potential reparative schemes.

10.1.1 Reparations after truth

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

The essential element for compensation or reparation is the truth. (Father of missing man, Dhanusa.)

The first thing is that the state has to acknowledge that it has disappeared the people, compensation is the second step. But the situation here is that the state has not spoken on the issue though we have been fighting for this for five years. If the state wants to divert our attention from our key demand by giving us compensation or something like this, it is not acceptable to us. (Wife of missing man, Kathmandu.)

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.)

This last mother is one of those whose economic situation is truly desperate; she is dependent upon begging from neighbours to survive, So whilst she wants the truth she urgently needs support to maintain her life and dignity. A potential solution to this dilemma is suggested by families below (Section 10.2: Interim relief).

10.1.2 Community reparations

A number of communities, notably the Tharu in Bardiya and those from Jogimara VDC, Dhading, were visited where, due to its scale, the Missing issue goes beyond single families and affects the community as a whole. In these communities family members were asked about the concept of community reparations, and what that would mean for them. This concept was universally
received negatively. They claimed that it was families who had suffered, and thus families who should be compensated. Many seem to believe that this was a trick of the Government to spend less money on a compensation policy, by providing schools or other infrastructure to the community.

The leader of the Bardiya family association, 80% of whose members are Tharu, was asked about reparations to the Tharu community:

The families of those disappeared and those who were killed should be respected. Schools, gates, temples, museums etc could be built in the names of the victims so that all the people of Bardiya would benefit; this is reparation from which all the people could benefit. Thus, the state should make a special provision [of reparation] for Bardiya district. (Leader of Bardiya family association.)

Beyond this he articulated political demands arising from the victimisation of the Tharu people:

Special rights should be given to the Tharu people for the suppression they were subjected to. The state can preserve and promote their ethnic identity; it can also introduce special policies in order to make the provisions to allow the Tharu people enter into the positions of various government and other organizations. The state can build a museum in order to preserve our culture. [...] We want a Tharu State. (Leader of Bardiya family association.)

This type of demand coincides with the agenda of ethnic inclusion that has characterised Nepal’s transition since the end of the conflict. It also represents what many Tharu people perceive as one of the few ways to ensure non-repetition of the victimisation to which they were subject during the conflict.

10.2 Compensation and relief

As indicated by the priorities of families (Section 4), economic support is one of the greatest and most urgent needs. However for all families there is a dilemma between the need to feed themselves now, the need to know the truth before any compensation or reparations can be accepted and the very idea of putting a value on the life of the Missing by accepting money from the authorities. Many families very clearly articulated the conflict they feel between these various objectives:

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 husband’s whereabouts made public. It makes us very angry when NGOs come and talk about compensation. (Mother of missing man, Bardiya.)

Others made clear their distaste at the idea of putting a price on their loved ones, or even consider it a distraction from the primary need:

I don’t want to compare a person with money - people are not like sheep or goats. (Brother of missing man, Banke.)

I already told you we don’t want any money or any facilities, we only want my brother. [...] Our family is searching for our brother not for money; money is not everything to us - I don’t think we can compare money with a human being. (Sister of missing man, Kathmandu.)

And some made the point that you cannot compensate for a missing loved one with money:
Compensation is the thing when you destroy someone's property and give some money to cover the loss; but how can you cover the loss of our husbands, a person? It's not possible at all. (Wife of missing man, Kathmandu.)

He was taken without reason; a crime was committed. So the compensation is not giving us back my husband but it is the only way to help to take revenge on them. Or give my husband alive, and I will forget the compensation. We are not greedy for the compensation. (Wife of missing man, Banke.)

But for most families it remains a fact that they have suffered economically because of their loss and need support simply to live their lives:

I understand and wish the compensation should be provided so as to pay the loans, to get my daughters married and to educate my children. [...] Yes, it is in our culture that anyone cannot get married without giving dowries to the bride; I think it is impossible to get my daughters married if I could not get compensation. (Wife of missing man, Siraha.)

The support should enable us to maintain our life. As the son who would support us disappeared, we should get as much as it requires to maintain our life; we don't fix any amount. We should get medical treatment when we need, food to eat. (Parents of missing man, Banke.)

10.2.1 Interim relief
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 through the concept of relief (rahat):

This is the money planned to be given to the families as relief. We, who are economically weak, will not be in a position to say 'We don't accept your money'. In my case, I even work as a porter to sustain my family. On the other hand, there are families of those missing and the families of those who have obtained martyrdom who don't have any means of sustaining themselves. Therefore, this is not the money for compensation; it is for relief. (Brother of missing man, Gorkha.)

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.)

In this way families can address their immediate needs, without sending a message to the authorities that they are satisfied with what they have got. This sense appears to have been considered in both the Supreme Court judgement (Supreme Court, 2007b) of June 2007 and the recent draft Disappearance Bill (2008), where the word “relief” is indeed used to describe these short term payments to families.

10.2.2 Form of compensation
Rather few families conceive of compensation or reparation as a single payment, after which the matter will be closed. The individual who is missing would often have worked to support the family, notably their 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.)
As such, families often articulate their demands in terms of jobs for their family members, or land - the traditional 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.)

I want land as compensation in her [the Missing daughter’s] name. That will remind others whenever they see her land. We’ll keep that land like our daughter as long as we’ll be alive. She has her brothers and sisters, they would take care of that after us. (Mother of missing man, Bardiya.)

Alternatively, they request sustained support in those areas where they need it most, notably education and health care:

We want our children back and if not, they should give us support until we die. They should pay us the compensation if they can’t return our kids. (Focus group participant, Nawranga, Bardiya.)

10.2.3 The value of compensation
Some families have become aware (or were told during this research) of the plans of the Government to give interim relief to families of the Missing. Some were also aware of the fact that plans suggested that families of the dead would receive Rs. 1 lakh while families of the Missing would receive Rs. 25,000. One point often raised was to compare the sums being discussed with those given to families of security force personnel who died during the conflict and those declared martyrs of the Jana Andolan whose families were compensated:

I want the compensation of Rs. 1,00,000. I can only accept the relief amount of Rs. 25,000 if they say my husband is still alive and return him back to us. (Wife of missing man, Siraha.)

The police and the army who died in the war obtained around seven lakh rupees as compensation. We should also obtain that much in compensation. We won’t agree with a small amount of compensation e.g. five thousands, ten thousands, twenty thousands etc. We have undergone tremendous mental and economic loss in this ten-year period. (Brother of missing man, Gorkha.)

Those who were killed by the state must be offered an equal amount of money to those killed by the rebels. Moreover, the state has to take the responsibility for the education of the children. If the government proposes one lakh rupees and say that it will go on paying us money on an instalment basis, we would accept it, provided that the rest of the families also agreed with it. But we won’t accept one lakh rupees as the total amount of money paid for the loss of family member. (Brother of missing man, Gorkha.)

No-one can return our son. Therefore, we have to accept whatever amount we are offered as compensation although nothing, no amount of money can really compensate for our missing relative. (Father of missing man, Gorkha.)

66% of families asked said they would refuse a payment of Rs. 1 lakh, although they may find this difficult if and when the payments are made simply due to their poverty. Expectations among some have been raised by the success of the CPN-M in the CA elections:
The new government has been formed. The Maoists assured us that they would give us seven lakh rupees per missing person if they came into government. Now they have come to government. We are waiting whether they will provide us seven lakh rupees per missing person or not. (Focus group participant, Dhading.)

10.2.4 Wives of the Missing and compensation

It has been seen that wives of the Missing have very particular problems with the family (Section 6.2) and this has profound implications for how compensation is paid to such families. The draft Disappearance Bill suggests that a larger sum will be given to the head of the household and a smaller sum to the wife of the Missing. It is interesting to speculate on the overall impact this will have on families where wives of the Missing remain stigmatised:

It is really unfair if they are paying [compensation] to the family because the family never looks after us. They always give me trouble and problems instead of helping me in this situation. I am also part of the family but they treat me like no one. I strongly disagree if the decision of the government can also give them Rs.25,000. (Wife of missing man, Bardiya)

I think the compensation should come to us [wives of the Missing] or they can give it to our children if they want, but not to our in-laws who push us towards hell instead of helping. If they receive it, it will never reach us. This should be clear to the Government. (Focus group participant, Katarniya, Bardiya.)

Where women are discriminated against and stigmatised even the money that is given to them is likely to be taken into the joint family. As a result such payments are likely to do very little for those most marginalised as a result of disappearance.

The aim of support to such families should be to provide an incentive for the woman to resume a role as a full and equal member of the family, which requires that her status be raised in the eyes of her in-laws. One way to do this using compensation is through the payment of a pension. Whilst the family may well take the money, the fact that the woman brings the pension into the home on a regular basis will ensure that she is treated appropriately and valued as a contributor to the family income:

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)

10.3 Truth-telling, acknowledgement and memorialisation

Studies made with victims also indicate the importance of acknowledgment from those responsible, notably the state, of what happened. As Thomas Nagel has said: “[Acknowledgement is] what happens […] to knowledge when it is officially sanctioned, when it is made part of the public cognitive scene.” (quoted in Govier, 2003: 67). This public sanctioning of victims’ suffering is crucial to victims:

“The victims … need to know that their society as a whole acknowledges what has happened to them… Truth means the end of denial and silence… Truth will be achieved only when literally everyone knows and acknowledges what happened during the military regime. … Social reparation is thus… simultaneously a sociopolitical and a psychological process. It aims to establish the truth of political repression and demands justice for the victims...” (The Latin American Institute of Mental Health and Human Rights, quoted in Becker et. al, 1990: 147-8).
10.3.1 Truth-telling and acknowledgement

Whilst the particular truth of what happened to a family’s missing loved one is considered crucial to families (Section 5.3), the general truth of what happened to the families and communities impacted by the missing issue is much less so. Truth-telling forms a rather small part of the demands of families, perhaps surprisingly. When asked if they thought the people of Nepal knew about the scale and manner of disappearances during the conflict almost all said that they must know. It seems impossible to the families and communities devastated by the issue of missing persons that the country could not know. The fact that most families have rather little contact with Kathmandu, the media and with the rest of the country permits the reinforcement of this idea.

Families are very much aware of the propaganda of the conflict and the extent to which this steered the thinking of their neighbours. During the conflict ordinary people were constantly exposed to the idea that the Nepali state was operating a just and professional war against terrorism and that as a result those people taken by the forces of the state were necessarily guilty. More than that, as people who had been highly stigmatised, those associated with the Maoists received little sympathy. The net result of this was that those missing at the hands of the state were perceived firstly as all guilty of Maoist activity, and secondly deserving of their fate as a result. There was a culture of dividing victims into the “innocent”, i.e. victims of the CPN-M, and the “guilty”, those who were victims of the state. Since the end of the conflict the emergence of the CPN-M as a constitutional party and as the largest party in the Constituent Assembly has begun to rehabilitate the victims of the state in the popular consciousness. However, for mainstream thinking to coincide with the understanding of the families, to allow the public sanctioning of victims’ suffering, the following has to happen:

- The scale of the Missing issue must be acknowledged by the authorities and widely disseminated.
- The fact that many of those made Missing by the state were not involved with the Maoist insurgency must be admitted.
- Those who are ultimately determined to be dead must be declared martyrs and honoured as contributors to the progress of the country.

Thus, for the families of the Missing the aim of truth-telling in its general sense is not for them to know what happened, they know that well enough, but for their understanding to be officially sanctioned.

For the families of those made missing by the Maoists, the problem is almost reversed. During the conflict they were seen as the innocent victims and now perceive to have been forgotten, as those responsible for their victimisation have assumed political power. Families of victims of the Maoists are concerned that the political power of the CPN-M will challenge a full account emerging of the extent to which they and others suffered, particularly in rural areas under de facto Maoist control during the conflict.

Families, particularly those that are political, have a burning desire to see the sacrifice of their loved ones acknowledged, even while maintaining that they may still be alive:

As I said earlier 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 of the Government recognising 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 arises from the experience of having seen previous martyrs, notably of the *Jana Andolan* of April 2006, acknowledged and their families financially compensated:

> I think that justice for R.K. and for the family is if R.K. has been killed, the government should declare him a national martyr and a certificate of death as well as adequate compensation should be given to the family. The government should do something for the good of the family. (Brother of missing man, Siraha.)

Almost no families have seen any formal acknowledgement from the Government: 7% said that they felt the Missing had been acknowledged, through payment of compensation or a judgement of the Supreme Court. However, 42% of relatives of victims of the state said that they had received acknowledgement from the CPN-M:

> None has acknowledged our pain and victimhood. It is only the [Maoist] Party that has recognized our pain. (Focus group participant, Gorkha.)

In Bardiya a large number of the victims of the state have received mounted photographs of their Missing loved ones from the district CPN-M, and in many homes these are mounted prominently. It does not imply that all these families are Maoist supporters (although many are, at least since the disappearance) but that they appreciate the only recognition of what has happened to their family that they have received. Additionally a number of families received payments from the CPN-M, either as compensation or as needed when the family had specific urgent needs. The CPN-M has also published books of “martyrs” that often include the names and photos of the Missing, and given certificates of martyrdom to many families. Some family associations, notably Sofad in Kathmandu, have assembled collections of photographs of the Missing, and a visit to their office is akin to visiting a shrine to the Missing: this is only appropriate since it is a place where families come to share their experiences and remember their loved ones. This is also a significant form of acknowledgement for families.

Several agencies, including ICRC, have published lists of the names of the Missing, and these are much appreciated by families: 16% said that they considered they had been acknowledged by such agencies. These lists are often folded and kept carefully with photos and other memorabilia of the Missing. Such lists are also perceived as being part of the action to address the needs of the families:

> [The ICRC list] gives world wide publicity to the cases of disappearance that have happened and it also helps to pressurize the government. Therefore, it was most valuable. It might not be the evidence but it is an inference. (Father of missing man, Dhanusa.)

A greater number consider that such a list serves as proof that their loved one is missing, and that it may be used at some point to claim entitlements:

> As it [the ICRC list] is a record of the disappeared people published by an international NGO, it may be useful to produce in any office at any time or to have contact with other organizations and with you because all things about the disappeared have been stated in this book. (Wife of missing man, Siraha.)

> It [the ICRC list] is good because the publication may be useful in future as evidence on the basis of which something may be done for the family. (Wife of missing man, Siraha.)

The lists of the Missing that have been made show a way for the authorities to begin giving the acknowledgement that families crave. The Government should compile and publish a list of the Missing and ensure that families are aware of the existence of the list and are invited to check that
their loved one is mentioned. This list would then form the basis for future compensation and reparation arrangements, as well as permitting agencies to provide other support to victims. It is understood that such a data collection has already been made at the district level, through CDO offices, and that provisional data exist in the Ministry of Peace and Reconstruction. Full acknowledgement and truth-telling will require some formal mechanism to confirm what actually happened and the scale of the Missing issue, and is likely to require an official Commission or similar.

10.3.2 Memorialisation

Yes, it [a memorial] is essential for recognition to make a history. (Son of missing man, Siraha.)

Acknowledgment can also take the form of families seeking memorials to the Missing. Such a memorial provides a focus for families and communities to remember the Missing and, when built by the state responsible for disappearances, demonstrates acknowledgement of the offences committed. Indeed, many of the survivors of the Srebenica massacre believe that such a memorial, located at a mass burial site on a site where killings occurred, takes precedence over individual identifications (Pollack, 2003).

Spending time in the districts worst affected by the missing issue allows one to see that efforts to remember the Missing in a formal way are under way, demonstrating the enthusiasm of communities to see such acknowledgement. In Janakpur, a statue is being constructed of five local students who were arrested by the security forces during the conflict and remain missing: the junction it sits in has been renamed Martyr’s Chowk, and the construction is financially supported by the District authorities. In Gorkha a gate over a road has been built bearing the names of some of the Missing from the district. During the research for this study, a small signboard was found erected by the CPN-M in a VDC in Rolpa district some hours from the headquarters bearing the names of local martyrs, including some of the Missing; there are many others around the country.

The families met during this study mentioned their need for memorials to the Missing. 68% of those who mentioned memorials sought something that would be local:

We want to build [the memorial] near the High School in the village where there are four to five thousand students studying. Either we can make a small building for the school or a type of chautari where people can rest in excessive heat. We could also renovate the chautari that is in front of the school and put his photo and name on the signboard. […] This would give us solace in our heart [marî] and soul [atma]. People would remember him in the days to come. Future generations will know that this was built in memory of that person. […] He was disappeared while working with the intention to contribute something to society, therefore, we want to build something in his name that commemorates his social nature. (Brother of missing man, Gorkha.)

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.)

There are other opinions on the issue of memorials, and in particular some reluctance to building memorials as long as the fate of the Missing is not known. Others see acknowledgement as being
symbolic and value an official declaration of the Missing as martyrs rather than an unofficial memorial. One family member suggested a symbolic memorial:

[A memorial] is also good, and we could also establish a prize for those who are good political leaders, and we can give it in the name of the people who are missing and of the families also. (Sister of missing man, Kathmandu.)

Whilst the local initiatives satisfy local expectations, for the public sanctioning of the status of the victims it is necessary that the Government should publicly commit itself to commemorating the Missing, and other victims of the conflict. This is less to satisfy a need of the families than to ensure that society acknowledges the bitter truths of the conflict.

10.4 Institutions of the state

An essential component of reparation is satisfaction, notably giving families assurances of non-repetition of the offence. A major component of this is prosecutions of those responsible (see Section 8), but an additional way that victims can be assured is through the gaining of confidence in the institutions of the state that were responsible for violations. Many families feel that the history of conflict has left them with no trust in the state and its institutions. Since the CPN-M assumed leadership of the Government the victims of both sides are distrustful of the state and its institutions. Table 11 shows the attitudes to the perpetrators (the Nepal Army and Police for victims of the state, and the CPN-M for victims of the Maoists) of families of the Missing:

<table>
<thead>
<tr>
<th>Attitude to perpetrators</th>
<th>Victims of the state</th>
<th>Victims of the CPN-M</th>
</tr>
</thead>
<tbody>
<tr>
<td>No problem</td>
<td>0.16</td>
<td>-</td>
</tr>
<tr>
<td>Do not trust now, but can build confidence</td>
<td>0.38</td>
<td>0.43</td>
</tr>
<tr>
<td>Cannot trust</td>
<td>0.44</td>
<td>0.57</td>
</tr>
</tbody>
</table>

Table 11 Attitude to perpetrators of families of the Missing.

One can see that there is still a great deal of suspicion of perpetrators by both sides. Some victims of the state believe that it is possible for the Nepal Police and Army to regain their confidence:

In the process of forming new Nepal, Nepal Police is still Nepal Police. Though they say verbally that they are changed their behaviour is still same. And the main thing to show the change is "behaviour": anything can be said. Even when we see the structure of Nepal Army, their perspective and attitude is same as before. It is only the name that is changed from Royal Nepal Army to Nepal Army. There should be a change in their behaviour, the name alone means nothing. (Sister of missing man, Rolpa.)

I don't think that everyone in the Nepal army is a bad guy. There are so many good people in the Nepal army. In the course of fulfilling their duty and obeying orders from above some of them might have made mistakes. I am angry with those who gave the orders rather than those who followed the orders and acted accordingly. Regarding having confidence in the army, I hope that slowly and gradually it will develop understanding and will be democratised. I am confident that the army will be transformed once it comes under the leadership of the Prime Minister. (Brother of missing man, Gorkha.)

Others appear to believe that it is never possible to again trust those responsible for law and order:

The police are criminals and cheaters, tigers and bastards. They arrested simple and innocent people. Many Tharu people were arrested and killed in D village: arrested from home and killed. (Father of missing teenage girl, Bardiya.)
A minority implied that there was a need for reform, or at least the exclusion of certain elements for them to again have confidence in the army and police:

In my opinion, the institution [the police] itself is not bad; the persons are bad. Individuals caused these incidents: the incidents took place because individuals gave the orders. There are also good persons in the institution. (Brother of Missing man, Gorkha.)

There should be change in army's character and the armies who had committed crimes should be punished. There should be a reform in the military. (Brother of missing man, Siraha.)

Such attitudes suggest that reform of the police and army, including the exclusion of individuals responsible for past abuses, through a process of vetting or lustration, is necessary. Many families also insisted on the prosecution of wrongdoers as key to regaining trust.

For the victims of the Maoists, with the CPN-M now holding significant political power they see their rulers as being the same people as those responsible for making their loved ones missing. For them, as for victims of the state, they seek to see the authorities demonstrate a commitment to give victims redress, and in particular to punish those responsible.

If the state could do these things for us [truth about fate, return body and punish the guilty], our faith might be restored in the Maoist party. But the culprits must be punished; otherwise, our faith cannot be restored. (Focus group participant, victim of the CPN-M, Kathmandu.)

11 The response of the state

11.1 Attitudes to the state’s response

At the time of the research with families the Government had published a draft Truth and Reconciliation Commission (TRC) Bill. Here families were asked about their knowledge and opinion of this bill, as well as their opinion of the Government’s commitment to addressing the Missing issue, and the families’ response if the issue was not addressed.

23% of families met had heard something about the proposed TRC, but very few were able to provide any details about it. 53% who had heard of the TRC expressed a negative opinion about it, 6% were positive, and the rest had no opinion. Thus, the dominant attitude of families is one of ignorance: most know very little about the Government's plans for a TRC. The principle understanding of those who knew something of 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.)

The problem can’t be solved the way they are planning, to forgive through the formation of a Truth and Reconciliation Commission. The situation can be improved by punishing the guilty. Otherwise, there might be another rebellion because 13,000 died in the conflict and the child who was newly born 13 years ago, is 13 years old and the same child can raise a weapon if he doesn’t get justice. The guilty people must be punished. (Mother of missing man, Banke.)
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 so 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. This reflects the Government’s failure to disseminate the Bill’s contents to victims as well as the inevitable lack of enthusiasm of victims for an amnesty driven process. Given the similar lack of dissemination of the Disappearance Bill it is likely that attitudes to this are similarly characterised by general ignorance.

Table 12 shows the expectations of families that the Government will address the issue of the Missing. Whilst a substantial majority of victims of the state believe the Government will act, rather few of the victims of the CPN-M share this confidence. It can be seen that the nature of the current Government inspires no confidence in victims of the CPN-M.

<table>
<thead>
<tr>
<th>Will Government address Missing issue?</th>
<th>Victims of the state</th>
<th>Victims of the CPN-M</th>
<th>All victims</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>0.71</td>
<td>0.22</td>
<td>0.62</td>
</tr>
<tr>
<td>No</td>
<td>0.27</td>
<td>0.78</td>
<td>0.36</td>
</tr>
</tbody>
</table>

Table 12 Expectation of families that the Government will address the Missing issue.

One family member commented:

I am not hundred percent 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, 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 peoples’ confidence. (Father of missing man, victim of the state, Dhanusa.)

Families were also asked what they would do if the Government did fail to address the issue (Table 13).

<table>
<thead>
<tr>
<th>Action if Govt. fails to act</th>
<th>Victims of the state</th>
<th>Victims of the CPN-M</th>
<th>All victims</th>
</tr>
</thead>
<tbody>
<tr>
<td>None</td>
<td>0.37</td>
<td>0.63</td>
<td>0.41</td>
</tr>
<tr>
<td>Political movement</td>
<td>0.49</td>
<td>0.38</td>
<td>0.47</td>
</tr>
<tr>
<td>Rebellion</td>
<td>0.15</td>
<td>-</td>
<td>0.12</td>
</tr>
</tbody>
</table>

Table 13 Action planned by families if Government fails to address Missing issue.

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 issue, a majority of the victims of the state say they would react. Around half would take part in a political movement, while a significant minority (15%) say they would be prepared to launch a rebellion with the use of arms. It shows the strength of feeling on the issue that the victims of the state, many of whom are or have been close to the CPN-M, say they are prepared to launch such campaigns against their Party if their needs are not met. It is also clearly potentially problematic when a group of people that has internalised armed rebellion as a legitimate tactic threatens to use it in this context:

The Government has to understand our grievances and it has to respect our dignity. If the government of this twenty first century does not understand our problem, the counter-revolution will take place. (Brother of missing man, Gorkha.)
Although there are many problems to be solved the Government should first of all solve the problems of the family members of martyrs as they have sacrificed their lives for this change and if the Government will not address these problems at the proper time, the country may go back towards the previous stage of civil war. (Son of missing man, Siraha.)

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 the missing, Kathmandu.)

This disturbing threat, as much as any moral or legal obligations, should stir the Government to take action to ensure that the needs of families are met.

11.2 The Disappearance Bill

The Disappearance Bill was published by the Ministry of Peace and Reconstruction in November 2008, and passed by ordinance some months later. There appears to have been no consultation with victims over the content of the Bill. Here an effort has been made to compare the bill’s contents with the needs expressed by the families in the study. The bill criminalises disappearance retrospectively and creates a Disappearance Commission tasked with the job of investigating disappearances and determining guilt; cases will be referred by the Commission to the Attorney General. The bill and the Commission refer only to those persons arrested or deprived of freedom, and not those missing.

11.2.1 The Commission

The Commission will consist of five persons, including the Chairman of the Constituent Assembly Human Rights Committee and two ministers. The remaining two members will be appointed from among “human rights activists, psychologists, lawyers, jurists, experts in conflicts and sociology” (Disappearance Bill, 2008: Chapter 3: 10(4)), but there is no victims’ representation on the Commission. Whilst the mandate of the Commission is to investigate disappearances, no statement is made about the resources that will be made available: such a body can be crippled through insufficient funding.

One of the greatest inconsistencies with the needs of families of the Missing is the lack of any mention of how the Commission will attempt to determine the “truth and facts” of disappearance. There is no mention as to if the Commission will be responsible for exhumation and identification of human remains. Given the assumption that most of the Missing are dead, the Commission will require a significant capacity in exhumation and forensic expertise, or require access to such capacity: this is not discussed in the bill, but could presumably be made available through Commission staff.

There is a limitation on complaints (Ibid. Chapter 5; 26(2)), other than those where someone has been murdered, being lodged with six months of the disappearance or of the person’s return. Many families in remote areas will be completely unaware of this Bill unless the authorities dramatically change their approach to contact with victims; as such it is inappropriate to include such a timescale which is likely to exclude many cases.

The Commission will inform the family of the deceased if information is learnt that the missing person is dead (Ibid. Chapter 5; 38): this is inconsistent with families need to know as many details as possible concerning the disappearance. There is no scope for the Commission, or any other legal mechanism, to grant a missing person a legal status such that property can be transferred in their absence.
There is no scope for action concerning informers and others within communities divided by the conflict where legal action is likely to be impossible. The Commission has no defined presence outside Kathmandu, and it is it unclear how victims would make contact with the Commission.

11.2.2 Prosecution
- Disappearance is criminalised, and subject to a maximum punishment of 5 years and a fine of Rs. 100,000, which is not consistent with the expectations of victims.
- Sentences can be reduced or immunity bestowed upon those found guilty, but who are not "principal offenders", subject to their cooperation with the Commission. This appears to be an effort to introduce an amnesty procedure which is rejected by most families, but could also encompass conditional immunity with which some families agree.

11.2.3 Reparation
Reparation can be awarded by the Commission in the following categories: “Free education and medical check-up; Skill development training; Interest-free loan or loan at subsidized interest rates; Provision of the settlement; Employment facility; Others facilities or concessions.”
- Whilst free education will be welcomed, this appears to contain no provision for support in health care beyond a “check-up”: this is one of the strongest reparative demands of families.
- "Provision of settlement" presumably refers to cash compensation, however the value of this is not mentioned.
- For those who are not economically active (the old and infirm) these provisions offer little hope for an escape from penury.
- There is no mention of the payment of pensions

These provisions thus resemble more a compensation procedure that a reparative one. There is no scope for acknowledgement or formal apology (although the report of the Commission could cover this); no mention of memorialisation; no mention of psychosocial support for victims.

12 Summary of needs of families of the Missing
This study aims to present a qualitative and representative survey of the needs of families of the Missing. Here we summarise the findings of this study.

12.1.1 Knowledge of the fate of the Missing
The most important issue to most families is knowing the whereabouts of their missing loved one. The majority are not prepared to accept that the Missing are dead, and will maintain hope for them until concrete evidence of their fate is presented. The vast majority of families either want their loved ones to return or want their body: in order to believe in the death as well as to satisfy rituals, families need the return of human remains if the Missing are dead.

12.1.2 Economic needs
Most families of the Missing are rural and poor. Having a missing relative, particularly where it was an economically active man, as in most cases, makes families poorer. Many families are unable to afford to send their children to school or afford health care when they are sick: a minority have difficulty feeding their families.

12.1.3 Justice and accountability
Whilst only a minority of families mention justice as a priority, almost all families want to see prosecutions of those responsible for making family members missing. A majority reject any attempt to give amnesty to perpetrators, but around one third would accept amnesty under certain conditions. There is overwhelming support for local judicial process, as accessible as possible to victims.
12.1.4 Psychosocial well-being

The impact of missing relatives has led to emotional, psychological and physical impact, particularly on the wives and mothers of the Missing. Many suffer from obsessive thoughts, repeated dreams and anxiety as a result, while others show physical symptoms that are attributed to stress. A small minority are completely disabled by mental illness.

In families, a significant fraction of the wives of the Missing are subject to stigmatisation and discrimination that makes their lives miserable. Within communities, families of the Missing are very often excluded socially and the impact of having a missing relative not well understood.

The coping mechanism most often mentioned by family members was contact with others with the same problems, and half of all families have access to a family association or other support. However, many remain isolated and vulnerable.

12.1.5 Legal and administrative issues

A minority of families face legal issues related to the uncertain status of their Missing relative: families are unable to sell or transfer land and other property or claim pensions. A majority of those so affected would welcome a formal status of disappearance that would address these issues.

12.1.6 Reparation, relief and compensation

Families understand that the authorities need to provide them with redress, and largely articulate that need in terms of compensation. The most reparative act of the authorities would be to give families an answer concerning the Missing and return the bodies of those who are dead. Families also seek desperately restitution in terms of compensation or support, particularly for education and health care. Families are reluctant to accept reparations without first hearing the truth about their loved ones.

Many families seek acknowledgment from the state both of their loved ones' sacrifice, and that they died as martyrs for the new Nepal. Most families seek to see memorials to the Missing constructed in their areas.

Families who are victims of both sides remain distrusting of the institutions responsible for people being missing, both of the state (Nepal Police, Nepal Army) and the CPN-M: almost half do not believe that trust can be rebuilt.

12.1.7 The response of the state

Whilst a large majority of victims of the state believe that the authorities will now address the Missing issue, a similar majority of victims of the CPN-M believe the contrary. Around half of all families are prepared to launch a movement against the Government if the issue is not addressed, and 15% of victims of the state are prepared to return to armed rebellion over the issue.

The Disappearance Bill (2008) recently published by the Ministry of Peace and Reconstruction substantially fails to consider many of the needs of families. The Disappearance Commission will not contain representatives of victims, immunity for perpetrators is foreseen and the reparations scheme is narrow and limited.

12.1.8 Existing support for families of the Missing

Families have received rather little support to date. Compensation has been received by only a handful of the families met for this study. The ICRC Micro Economic Initiatives programme has provided assistance to a large fraction of families of the Missing in targeted districts and in some cases this has improved livelihoods. A number of local NGOs have provided modest assistance, and the CPN-M has provided significant support, both financially and through the employment of some victims of the state in Government jobs.
There are no ongoing psychosocial interventions that impact on families of the Missing. However, where family associations exist and families have access to them, these have been seen to provide valuable solidarity and emotional support, in particular to wives of the Missing. Such associations have also been able to articulate the needs of families and represent families to the authorities and others.

13 Recommendations to the Government of Nepal

These recommendations are derived from the findings of the survey and represent an attempt to address the needs of the families of the Missing within the current strategy of the Government around a Disappearance Commission and, at some future time, a Truth and Reconciliation Commission (TRC).

13.1.1 General recommendations regarding the transitional process

- The Government to consult as broadly as possible among victims, beyond easily accessed urban activists, to ensure that needs of typical victims, who are overwhelmingly poor and rural, are understood.
- Victims’ organisations, including associations of families of the Missing, to be involved in the creation of any mechanism to address victim needs; victims’ representatives to be included as commissioners of the Disappearance Commission and TRC.

13.1.2 Clarifying the fate of the missing: the Disappearance Commission

- The Commission’s mandate to include all those missing as a result of the conflict and not only those taken into custody by the parties.
- The Commission to have a presence in every region of the country and to embark upon a programme of dissemination of its role such that victims in remote areas are informed.
- The Disappearance Commission to not only inform the family of the death of the Missing person but to be obliged to inform the family of all information about the missing person found during the investigations, including place, time and manner of death.
- The Disappearance Commission to be explicitly given the role of clarifying the fate of the Missing; this demands that:
  - The Commission receives access to the required capacity in terms of investigation, exhumation and identification of human remains, either within the Commission itself, or through a specialised agency for that purpose;
  - the Commission is funded and staffed at a level where it is able to administrate a broad programme of exhumations nationwide;
  - the duration of the Commission is open ended to ensure that work can continue for the many years likely to be required to complete this task beyond the lifetime of the Constituent assemble that is implicit in current legislation;
- Those missing persons determined by the Commission to be dead to be given the status of martyrs and their names published.

13.1.3 A legal status for the Missing

- The Government to create a legal category of “Missing” that can be declared by an appropriate competent authority (such as the Disappearance Commission) such that on receipt of a well founded claim of a person being Missing, a certificate is issued declaring such a person officially missing, granting a well defined legal status to that person and permitting property to be transferred to heirs.

13.1.4 An end to impunity for those who committed offences that led to person going missing

- Individuals, political parties and state institutions leading Nepal’s transition to make a commitment to prosecute all persons suspected to have been involved in criminal offences
that led to persons going missing during the conflict, whether they are members of security forces, political parties or otherwise.

- Trials of persons suspected of crimes that led to persons going missing to be held wherever possible in a way that is accessible to the victims of those offences, whether this be through broadcast of proceedings or through direct access for the families of those missing.
- The pattern of disappearances at the most intense times of conflict and in the worst affected areas to be considered by the authorities to determine if these constitute crimes against humanity in light of their systematic and widespread nature.

13.1.5 Relief and reparations policy

- The Government to urgently embark upon a programme of economic support to victims of the conflict, through the provision of interim relief, independent of any other transitional justice mechanisms; such a programme should not discriminate between relief to families of the dead and families of the Missing.
- A reparations policy to be prepared, drawing on the needs of victims and international experience, and including:
  - compensation policy to families of the Missing to be drawn up with reference to compensation received by families of members of the security forces killed during the conflict; compensation and reparation payments to be made once the truth concerning the fate of the Missing is known; compensation to consider long-term educational support for children and health care support for the family of the Missing;
  - a dedicated programme of reparations to be developed to target the wives of the Missing who may have special needs; this to be done in conjunction with the Ministry for Women, Children and Social Welfare, relevant bodies at district level and victims’ representatives;
  - reparations policy to include explicit public acknowledgement of the fate of the Missing once it is known, and an admission by the authorities that the security forces and the CPN-M were responsible for violations leading to persons going Missing; a programme of memorialisation of the Missing to be funded at both the local (District, VDC) and central levels;
  - an additional programme of community reparations to be drawn up for the most affected communities, e.g. Tharu communities in Bardiya, in conjunction with local authorities and victim representatives.

13.1.6 Psychosocial support to families and communities

- The Government to engage with affected communities, district authorities and agencies having appropriate capacities in a programme of psychosocial assessment and intervention with families of the Missing. These should build on the capacities of families and communities to address their own needs.

13.1.7 Reconciliation process in communities

- The Government to engage with conflict affected communities, district authorities, victims’ groups and agencies having appropriate capacities in a programme of community reconciliation, potentially as part of the TRC process, such that communities divided by the conflict can address such issues where judicial action is impossible. Such process will notably have to address the issue of informants presumed to have provided information that led to persons going missing, even where those informants have committed no criminal offence.

13.1.8 Transformation of institutions

- A policy of vetting to be introduced for the army, police and Government service: where a member of the Nepal Army or Nepal Police is found to have been responsible for persons becoming missing, in addition to any prosecutorial action, that person to be dismissed
forthwith from the security forces; any member of a political party found to be responsible for persons becoming missing to be excluded from Government office or employment.
Appendix I  The semi-structured interview script

1 Introduction

- Wish to talk about the impact of Missing relative - have no news.
- Researcher: seeking to work with families, understand what they want and try to ensure process considers them – a report will be passed to authorities
- All information will be confidential: would like to record and quote, but without naming or identifying
- If you don’t want to talk about some issues that is fine; you can choose to stop whenever you like – don’t want to upset.

2 General Information

2.1 The Interviewee

- Name
- Ethnicity / caste
- Responsibilities within the family / employment
- Who else is present?

- Relation to the missing person
- Nature & size of family
- Educational level

2.2 The Missing person

- Name
- Married?
- Responsibilities within the family / employment
  (income generation?)
  civilian / political activist/ PLA / security forces
  (what reason could there be for the disappearance?)

- Age:
- Children? (number of):
- Educational level

- Date / Circumstances of disappearance (if known)
- emphasis on place of arrest (more trauma when the arrest took place at home?); violence committed during arrest against person arrested and other family members; which members of the family witnessed the arrest;

3 General Priorities

Aim to understand what families articulate as their needs, without prompting of possibilities.

- What are the greatest problems that they face as a result of the Missing?
- What action would the family like to see?

4 Attitude to the fate of the missing person

4.1 What do you think personally has happened to your relative (since the disappearance)?
- seek articulation of general beliefs: hopes and fears

IF believe still alive
- What leads you to this conclusion?
- Did you, or does someone in the family, think about other possibilities regarding the fate of your loved one? Could he be dead? If yes: explain. (Go to 4.7)

**IF believe dead.**
- What made you believe that your missing relative might be / is dead?
- Do you, or does someone from the family, believe that he could still be alive? (Go to 4.2)

**IF clearly ambiguous,**
- The interviewee / the family still has doubt about the fate of their missing relative (going **clearly** from hope he/she is alive to acceptance of death) Where on the spectrum are they?
- Have you, or others in the family, considered that he could be dead? Could be alive?

**4.2** Have any rituals been made concerning the missing person? If yes, what led family to do this? If not, why not?
- What rituals would the family seek to make?

**4.3** Does the wife consider herself a widow?

**4.4** Would it be important to know where his/her body is? Is knowing the gravesite sufficient?

**4.5** to get his/her body back?
- Why? (religious reasons, confirmation of death, need for gravesite etc)
- What do you expect from the body? Recognise? Bones?

**4.6** If it is not possible to retrieve the bodies of missing persons, what do you think could help you to deal with such situation?

**4.7** What would constitute a satisfactory answer concerning the fate?

**4.8** Would you trust officials who returned remains to you claiming they were of your relative? Why (not)?

**5 Psychological and Psychosocial issues**

*Observe body language of the interviewee. Note if others are present that may inhibit discussion of emotional and psychological issues.*

**5.1** From a general point of view, how does the disappearance change something in your life? What would be different if he/she were still here?
- “Your” life here can be that of the individual, the family or the community, as the subject chooses

**5.2** What effect did the disappearance have on your heart (man)?

**5.3** How do you feel now compared to at the time of the disappearance?

**5.4** What specific problems do you have related to your heart (man)? Ask probing questions
- Is the missing person constantly on your mind? [Flashbacks] (obsession, this is NOT just remember the missing)
- Nightmare / recurrent dreams: did the Missing appear in your dreams?
- Sleeping problems
- Depressed mood/ sadness: dukha
- Anxiety/ fear / worry: cintaa
- Isolation, withdrawal, suicidal tendencies
- Uncertainty, irritation, frustration

- If yes: Detail content of thoughts:

5.5 Do these problems affect you in your daily life and activities?
- understand level of disability, if any, and impact on functioning
- how does it affect you:
  - behaviour
  - emotional
  - social
  - physical

5.6 How do you cope with these problems? (Resilience, coping strategies)
- Where do you go? What do you do?
- With whom do you share problems?
- Does this allow you to manage?

5.7 Have you any physical problems since your relative went missing? What? Where?
- Have you consulted any medical person or healer concerning these problems? Was any problem identified?

5.8 (If thought to be dead) Have you been troubled by spirits?

5.9 Do other members of the family seem affected?
- If other family members are present during the interview, it is best to ask them directly.
  Emphasis on the impact on children. If yes: who and how?

**Psychosocial Elements: Family and Community**

Social ecology / Human capacity / Material environment / Culture and values

5.10 Has the disappearance of your relative affected your situation within your family?
- Emphasis on the daughters-in-law: Dilemma between staying with the in-law family (who might treat her as a ‘slave’ and without the necessary link to the in-law family which was the missing husband) and going back to live with her family without her children and in most cases without any skills for earning a living. *(Note, this question may be worthwhile only where in-laws are not present.)*

5.11 Who now fulfils the role of the Missing person in the family? How has the absence of a family member affected the family structure and the family responsibilities?

5.12 Did the fact that your relative went missing change something in your relations with others: friends, peers, neighbours, community, etc? If yes, how?

5.13 Is the community divided in any way due to the conflict? Does this affect you / your family?

5.14 Does your community have needs arising from people Missing? What?

5.15 What is / are the most difficult thing(s) to overcome / to deal with?

5.16 What helps you to feel better? (Prioritise)
- To talk and share with a friend or
- Having work and income
family
- My religious beliefs
- My belief in the future - hope
- Meeting with the Government bodies
- Being member of a family association

- Meeting and discussing with other families of missing - knowing others have the same difficulties
- Receiving support from different organisations
- Local leaders

5.17 Did you participate in:
- Rituals (religious, traditional, political)
- Collective / commemorative ceremonies
  o Did these help? If so, why or if not, why not?
- Are there rituals you want to make but cannot?

5.18 Did you contact a traditional healer (dhami / jhakri)?

5.19 Do you talk about your missing relative and/or your difficulties?
- If yes: With whom? Does it help?
- If no: why not?

5.20 Would you like to discuss your missing relative or your situation with someone (else) in particular?
- If yes: With whom?

5.21 Did you contact a family association / NGO / other victims (for psychological or other support) ?
- If yes: Which one? Why?
- What kind of help/support do you get there?
- If no: Why not?
- Do you think it could be important for you? Why?

5.22 How do you feel about the future?

5.23 Did your political activity increase as a result of the disappearance? Does this help you in any way?

6 Economic Situation of the Family

6.1 Describe the members of the household: number of persons, status, sex, including children, elderly or handicapped people

6.2 What are the family's dwellings (private house / apartment, property/rent, village/city) ?

6.3 What are the main sources of income (e.g. agriculture, salary, etc.) ?
- If rural how much land owned.
- Other sources of income?
- Any debt?
6.4 Do/did you encounter economic problems because of the absence of your relative?
6.5 Did/Do you receive economic support from:
   - Extended family, neighbours, friends and/or other community members
   - Non Governmental Organizations
   - Compensation?
6.6 Do these sources of income cover your basic needs (including access to education and health care)?
   - What does the family go without as a result of financial hardship?
   - If no: how do you make ends meet?

7 Legal / Administrative Issues

7.1 How did you learn of the disappearance of your relative?
   - Witnessed (by whom?), formal notification from authorities?
7.2 Did you yourself (or someone from your family) report / register the disappearance of the missing person?
   - If yes: Who? When?
   - If not: why not?
7.3 Did you (or someone from your family) make personal investigations to know the fate of your missing relative?
   - If yes: when? Do such efforts continue?
   - Result of the investigations/search?
   - Did you receive particular information?
   - If Yes, what, and from whom?
     o Have you transmitted this unofficial information (or other)?
7.4 Do/did you encounter legal / administrative difficulties because of the absence of your relative?
   (inheritance, bank loans etc.)
   - Would a “declaration of disappearance” help?

8 Justice, acknowledgement, reconciliation and rights
Start with an open question and then ask details, depending upon what emerges…

8.1 What does the family expect from the authorities responsible for the disappearance?
8.2 What does the family understand as their human rights?
8.3 What does the family understand by justice?
   - acknowledgement, compensation, prosecutions?
8.4 Do they believe that someone should be punished for what has happened?
8.5 Who should be punished? (informers, perpetrators, politicians?)
   - Where should judicial process be? (local, Kathmandu, international?)
- Is the Nepali justice system capable of such process?

8.6 Would the family accept amnesty for perpetrators if that gave access to the truth? Even if there wasn’t guarantee that truth or justice would emerge otherwise?
- Could the family forgive the perpetrators?

8.7 Has their situation has been recognized / acknowledged by the authorities?
- Has there been any acknowledgement from authorities (e.g. CPN-M, Government, compensation etc) ?
- What about acknowledgement from others (agencies, lists etc.)? Is this important?

8.8 What do they understand by compensation?
- Why is compensation important?
- Compensation/ reparations – do they mention need for truth and/or admission of responsibility?
- Would they accept compensation with no truth or admission of responsibility?
- What is their opinion of the Rs. 1 lakh that has been offered to families of the dead?

8.9 How should compensation be given? To individual families, to communities?

8.10 Does the family consider some sort of memorial appropriate? What? Where?

8.11 How should Nepal try to record and remember what happened to the Missing?
- Is there a need for reconciliation between people in Nepal?
- Between whom?
- How could this be done?

9 Institutions and response of the state

9.1 What is the family’s opinion of the army/ police/ CPN-M now? What could be done that would give you confidence in these institutions?
- should people who have committed violations be permitted to hold public office or political positions?

9.2 What confidence do you have the new Government will address the issue of the Missing?

9.3 What will you do if it does not?

9.4 Have you heard anything about the TRC or the Disappearance Commission?
- What do you think of this?

10 Feedback

10.1 Are there any issues that have not been discussed that are important to you?

10.2 Does the family have any questions or comments?
Bibliography


Blaauw, Margriet and Lahteenmaki, Virpi (2002), “Denial and silence’ or ‘acknowledgement and disclosure”‘, Int. Rev. of the Red Cross, December 2002 Vol. 84 No 848


Hamber, Brandon, personal communication, 1996.


Supreme Court of Nepal (2007b), Decision of the Supreme Court on Disappearance Case; Writ no 3775 registration date 2055/10/7/5 B.S. (Jan 21, 1999 A.D.), 7 June 2007.


