

**INTERIM REPORT
ON THE FIRST MANDATE OF THE
PRESIDENTIAL COMMISSION OF INQUIRY
INTO COMPLAINTS OF ABDUCTIONS AND
DISAPPEARANCES**

AUGUST 2015

ACKNOWLEDGEMENTS

In presenting this report, the Commission of Inquiry into Abductions and Disappearances (**referred as the Missing Persons Commission**) wishes to thank all those who extended their support to the work of the Commission.

The Commission conducted twelve public sittings in the North and East. Each public sitting was spread over a period of four days. The Commission appreciates and thanks all those who sent written submissions and to all persons who appeared before the Commission during public sittings and aired their individual grievance by giving oral evidence before the Commission on matters relevant to the implementation of the Mandate.

The Commission was pleased to note the enthusiasm shown by a large number of the members of the public who travelled long distances to attend the public sittings.

In fulfilling the Mandate of the Commission, it was necessary for the Commission to visit several parts of the North and East and had to seek the assistance of The Sri Lanka Air Force who provided free air passage for members of the Commission to travel to the North and East, government officials, such as the District Secretary/Government Agent, Divisional Secretaries, Development Officers, Administrative Officers etc. of the various District Secretariats and Divisional Secretariats in which public sittings were conducted, Legal Aid Commission, Grama Niladharis. The support and assistance rendered by these officials facilitated the work of the Commission.

In conclusion, the Commission expresses its sincere thanks to the Secretary of the Commission and all staff members, interpreters and translators who provided a dedicated service with responsibility beyond their call of duty.

Maxwell Paranagama
Chairman

TABLE OF CONTENTS

Preamble	04
Chapter I – Introduction and Methodology	05
▪ Establishment of the Commission	05
▪ The Mandate	06
▪ Methodology	06-09
Chapter II- Human Rights	09
▪ Introduction	9-10
▪ Allegations concerning Missing Persons, Disappearances and Abductions	10
Chapter III – Data collected by Commission	11-12
Chapter IV – Person surrendering to security forces	12-13
Chapter V – Legal mechanisms in place to prevent, resolve and process disappearances.	14-15
Chapter VI – Observation of the Commission	16
Chapter VII – Counseling and Psycho Social Related Services	17
Chapter VIII – Appointment of investigation team	18
Chapter IX – Action taken to expedite inquiries	19
Chapter X – Reparation	19
Chapter XI- Analysis of Public Sittings	20-22
Chapter XII – Background to allegations to disappearances	23
Chapter XIII –Recommendations	24
Annexure	25

Interim Report of the Presidential Commission to Investigate Into Complaints Regarding Abductions and Disappearances

PREAMBLE

The Presidential Commission to Investigate into Complaints of Abductions and Disappearances (referred to as the PCICMP) was appointed by Presidential Proclamation dated 15th August 2013. The PCICMP was promulgated by the said Presidential Proclamation based on the recommendation by the Lessons Learnt and Reconciliation Commission (LLRC) who were of the view that matters relating to violation of Human Rights, disappearances and abductions of persons should be further investigated.

The Commission's Mandate is to investigate and report on among other conditions, persons reported abducted and disappeared between 10th January 1983 and 19th May 2009 and recommend measures to ensure reliefs and that there will be no recurrence of such acts in the future.

Since the ending of the conflict on 19th May 2009, Sri Lanka has the unprecedented opportunity of formulating measures of meaningful efforts towards reconciliation at the end of a protracted conflict. Time, space and mechanisms have been created by the governments in power at the end of the conflict to usher in and create a process of healing and building sustainable peace and security so that the fruits of democracy and equitable citizenship could be enjoyed by all Sri Lankans. To this end, the Commission is working towards fulfillment of the Mandate of the Commission, the main issue being the question of missing persons resulting from abductions and disappearances and the circumstances in which such persons went missing, determining the fate and whereabouts of the persons who are alleged to have been abducted and reported missing.

Having listened to the views of families of missing persons who aired their complaints during oral submissions before the Commission during public sittings, the Commission is inclined to consider and agree with the families of missing persons regarding the uncertainties that loom.

Addressing the issue of persons alleged to have been abducted and since disappeared is the main focus of the attention of the Commission. Families are left without news of their loved ones and face a harsh reality and undergo continued mental agony. Of primary concern is, knowing whether such persons are alive or dead. Based on what it heard from the people, the Commission is of the view that the families of abducted and disappeared missing persons are ready and willing to support consensual approaches advancing national interest, national reconciliation, justice and equality for all citizens. However, they want whereabouts, accountability and responsibility for the missing persons. The required decision in this respect and other issues will be the subject matter of this Interim Report and the final Report.

1.3 The Commission's Secretariat was established at No: 9/8, Suranimala Place, Colombo 6.

1.4 Mandate:

In the First Mandate, the Commissioners were to inquire and report on the following matters that may have taken place during the period between 10th June 1990 and 19th May 2009. Subsequently, at the request of various sources, H.E. President Mahinda Rajapaksha backdated the period for conducting inquiries from January 1983 to 19th May 2009, namely;

- a) Whether any persons resident in the Northern and Eastern Provinces during the period June 10, 1990 to 19 May 2009 (backdated from January 1983 to 19th May 2009) have been abducted or have disappeared from their places of residence
- b) Evidence in proof of the fact that such persons have disappeared;
- c) Who are those so abducted or have disappeared and their present whereabouts;
- d) Cogent factors or evidence that would help form an idea about the person or persons responsible for the said abduction or disappearances;
- e) Legal action that could be instituted against the person or persons who are found to be responsible;
- f) Measures that should be taken to ensure that there will be no recurrence of such acts in the future;
- g) If there is any reasonable relief to be granted as an obligation on the part of the Government to the parents, spouses and dependents of those alleged to have been so abducted or have disappeared.

1.5 The work of the Commission proceeded in implementing the conditions of the Mandate acknowledging the clear need to be independent, transparent and make recommendations to prevent recurrence of such conflicts, recognizing all victims, providing redress to them in order to ensure national unity, peace, justice and harmony.

Methodology

1.6 The Commission invited representations from the public through notices in the print and electronic media. Notices were also disseminated in the affected areas well in advance of the hearing of the Commission in such areas. The first Notice to the public was issued on 1st October 2013 which was intended to end 31st October 2013. However, the Commission received a large number of complaints from families of missing persons. Consequently, the Commission extended the period for receiving complaints on two occasions ending 31st December 2013. Despite the period for receiving complaints expiring on 31st December 2013, the Commission receives complaints on a regular basis which are acknowledged by the Commission. It is testimony to the effectiveness of the publicity campaign conducted by the Commission that a considerable number of persons who had not submitted their complaints on time from the Northern and Eastern

provinces. Although, the deadline for submission of complaints had lapsed on 31st December 2013, the Commission on accommodative grounds had decided not to consider to the adherence to the deadline as a mandatory requirement and under took to register all such complainants as “new registrations”. These complainants too are to be heard by the Commission and they will be notified as to the date they would be summoned for the inquiry.

- 1.7 The notices published by the Commission in the newspapers provided details on how to submit a compliant. Procedures with regard to the preparation and submission of complaints have also been comprehensively explained by the Commission to staff of District Secretariats, Divisional Secretariats to be conveyed to the public. Dates and venues of Public Sittings are informed well in advanced to the public through notices displayed in public places in the relevant Grama Niladharis, Divisional Secretariats, District Secretariats and the media.
- 1.8 The primary source of information for the Commission’s work was the general public of Sri Lanka, particularly the families of missing persons and those affected in the conflict area.
- 1.9 In response to the notices, the Commission received a large number of representations from the public. Many of them requested for an opportunity to express their views before the Commission on matters referred to in the first Mandate.
- 1.10 The Commission commenced public sittings on 17th January 2014. The first public sitting was held in Kilinochchi from 17th to 21st January 2014. The hearings were held in public and open to the print, electronic media, civil society organizations, representatives of the diplomatic community, and any person or organizations interested in following the work of the Commission. The person making oral submission was informed that he or she could be heard in public or camera as he or she desired. The members of the Commission sought clarification from the complainant by way of questions to clarify any matters that arose consequent to the presentations made or which the Commissioners felt were relevant to the terms of the Mandate.
- 1.11 The Commission provided every opportunity to persons to make representations in a language of their choice, while providing for simultaneous translation to English. The Commission recognized this important aspect, particularly on affected persons, of being able to relate their stories in a language of their choice.
- 1.12 To ensure independency and transparency the Commission took steps such as the hearings were open to the public, the media and representatives of the diplomatic community, except when a person making representations requested confidentiality. The

Commission facilitated the media to video and audio tape the public proceedings. Additionally, the Commission maintained a web site, since 20th May 2014 where the schedule of the Commission's visit and other information regarding the Commission were published.

- 1.13 Among those who made representations before the Commission were the families of persons abducted and disappeared, the Bishop of Mannar, civil society organizations, members of the armed forces, Center for Policy Alternatives. Journalist and Academics which suggestions have been noted and accommodated to a measureable extent as possible.
- 1.14 The Commission was of the view that in order to ascertain firsthand information regarding the ground realities during the conflict period, it was imperative to have public sittings in order to reach out to the people in the affected areas to enable them to air their grievances. The Commission recognized the suffering of the families of missing persons in the North and East and the considerable difficulties they would face in travelling to Colombo to make representations.
- 1.15 On occasions where the families of missing persons who appeared before the Commission intimated their grievance or complaint requesting the Commission to provide relief and where the Commission felt such expeditious action would help redress such grievances and provide relief to the party concerned, the Commission took immediate action to refer the matter particularly matters concerning, livelihood assistance, housing, land and persons requesting death certificates and payment of compensation in terms of the government circulars, to the District Secretary/Government Agent, Divisional Secretaries, Government officials, Attorney General and the Inspector General of Police.
- 1.16 The hearings held in the North and East of the country and the public attention it generated particularly through Tamil media organizations, resulted in a substantial increase in public awareness and interest in the work of the Commission. It was clear to the Commission that given the continuous flow of complaints from families of missing persons particularly the new registration of complaints during public sittings it would not be feasible to conclude the Commission's work within the time period specified. Accordingly, the Warrant of the Commission by request has been extended for a further period of 6 months.
- 1.17 The Commission had to undertake a process of analyzing and categorizing a large volume of complaints. The representations made by the families of missing persons covered a broad range of complex issues, resulting in a need for the Commission to identify the

issues which the Commission deemed necessary to deal with in terms of the Mandate and the Commission's objectives.

Chapter II - Human Rights Issues - Circumstances that led to abduction and Disappearances – Human rights relating to Missing Persons

Introduction

The primary responsibility for preventing disappearances and ascertaining what has happened to people reported missing lies with the State. On matters concerning missing persons during internal conflicts, Sri Lanka needs to adopt comprehensive national policies encompassing all the measures to forestall disappearances, elucidate the fate of missing persons, meet the need of the families of missing persons, acknowledge the facts and determine responsibility for events that have led to the disappearances in situations of armed conflict and internal violence and in the case of enforced disappearances.

Fundamental rules of international humanitarian law and human rights are designed to prevent disappearances in the event of armed conflict or internal violence. To respect international law and the integrity and dignity of all human beings is to erect a barrier against disappearances. It is incumbent primarily on the government to comply with international humanitarian law and to act with determination to prevent disappearances. This means not perpetrating abductions or other enforced disappearances.

Disappearances are a tragedy not just for the individual but also for the families, who are left in the dark, not knowing what has become of a husband or wife, child, father, mother, brother or sister is a source of terrible anguish for countless families affected by armed conflict or internal violence. Families and entire communities are left wondering whether individual members are alive or dead are unable to move on because they cannot forget the violent events that tore through their lives. The problems they face are at once psychological, legal, administrative, social and economic.

A great many families of missing people face economic difficulties linked directly with the disappearance, and are unable to meet their needs in terms of food, health, housing, or education of children. Most of those who disappear are adult men; so many families have lost their main breadwinner. Often, women then become heads of a household and face limited options of earning a living.

It is essential for the perpetrators of disappearances be brought to justice, that the loss of human life be officially recognized and that the families should be able to honor the memory of their loved ones with dignity.

Alleged Disappearances

The Commission as at 15th August 2015 has received 17329 complaints from families of missing persons. During the conducting of public sittings in the North and East based on the oral evidence (of approximately 2700 persons) that was given by the families of missing persons various allegations related to alleged disappearances were adduced by the families before the Commission.

It was apparent to the Commission hearing the evidence of the families that left without any knowledge of their whereabouts or fate, thousands of families face the agony of uncertainty for years at the end of the conflict. In practice, the families will desperately search for information until they know for sure whether their relatives are alive or dead. Furthermore, the painful effects of their loved ones' absence are often accentuated by the psychological, economic, social and legal problems with which they have to contend which are frequently disregarded.

Based on the evidence of complainants during public sittings, the alleged abduction and disappearances caused by alleged parties are as follows:

Places of occurrence and instances of alleged abductions and disappearances

1. From residence.
2. During roundups by Security Forces.
3. From place of work or on the way to work.
4. Whilst at the Market and/or working at the agriculture field.
5. On the way or returning from school.
6. By entering schools and forcibly taking away children from their classrooms who were under the custody of the school teachers.
7. Whilst crossing over to army controlled area particularly during the last stages of the war.
8. Whilst travelling in public transport.
9. At check points.
10. From Hospitals.
11. From Refugee Camps.
12. By White Vans.
13. While taking cattle for grazing.
14. While going for collection of fire woods.
15. While on the way to visiting relations and friends.
16. While going for bathing to tanks.

Persons Surrendering to Security Forces

1. After surrendering at security forces check points at Vadduvahal and Omanthai and other security forces check points during the last stages of the war.
2. Persons surrendering who were sent to refugee camps but subsequently taken from the refugee camp for questioning since disappeared.
3. During the course of being transported from check points, hospitals.
4. While moving north through the army controlled areas.

Alleged parties responsible for alleged abductions/disappearances

1. LTTE
2. Security Forces
3. Armed Paramilitary Groups
 - (i) Karuna Group
 - (ii) EPDP
 - (iii) PLOTTE
 - (iv) Indian Peace Keeping Force

Chapter III - Data collected by Commission to trace the whereabouts of the persons abducted/disappeared.

1. Register of casualties entered to the hospitals of Kurunegala/ Anuradhapura/ Vavuniya/ Manar/ Padaviya from October 2008 to end May 2009.
2. With the assistance of Ministry of Justice the Commission has obtained Registers maintained by the Prison Authorities (war related Prisoners) in all jails in Sri Lanka, Detention and Rehabilitation Centers, Criminal Investigation Department (CID) and the Terrorist Investigation Division (TID) regarding the complaints received and the action taken by the CID and TID relating to complaints by families of missing persons.
3. The Commission intends obtaining details of persons who were sent to all refugee camps.

The Commission observed that there is a possibility that some of the persons reported missing have left the country and taken refuge in various other countries.

The Commission made an effort through the Ministry of Foreign Affairs in Sri Lanka to obtain the names of Sri Lankan Tamils who sought refugee status in foreign countries.

Nevertheless, the Commission will continue with its efforts to obtain such details are considered to be of paramount interest in the search and ascertaining the fate and whereabouts of missing persons.

The Commission strongly believes that persons reported missing alleged to be abducted and disappeared may be in any of these countries. The Commission's belief was compounded by the fact that investigations conducted by the Commission have revealed that three persons reported missing have been traced to a jail outside Sri Lanka.

A software and data based has been established by the Commission in which all names of missing persons have been entered. The names of the casualties who were treated at the hospitals in terms of the registers obtained from the hospitals have also being computerized for the purpose of matching. However, the Commission observed that the names of the casualties in the medical registers provided by the hospitals was difficult to match with the names of persons reported missing due to the entry of only part of the name or other short names to ascertain the correct names and identification of individuals are entrusted to the special Investigation Team appointed.

Chapter IV- Persons surrendered to Security Forces

During the last days of the conflict in May 2009 it was reported that a large number of LTTE combatants and Civilians surrendered to the Sri Lankan Security Forces and a considerable number of civilians crossed over to the army controlled areas. In order to ascertain the process that was adopted by the Security Forces, the Commission invited Senior Military Commanders, General Jagath Dias, General Kamal Gunaratne and General Nandana Udawatta who were the Commanding Officers at the time to make representations before the Commission.

1. Material was placed before the Commission by the Commanders on the method which the security forces facilitated the surrender of combatants.
2. According to the evidence of the Military Commanders, front line troops had been instructed to receive all surrendeers without discrimination and to send them to rear areas for military police to take charge of them. It was stated that troops had complied with these instructions and that female soldiers had been employed to help female internally displaced persons (IDPs) and surrendeers. **Source: General Kamal Guneratne-Evidence before the Commission on 26th May 2015)**
3. During the last days of the conflict viz. 17th, 18th and 19th May 2009, there were no NGOs's in the theatre of operations; it was only the military and persons surrendering to the military. Military Intelligence Officers and certain elements who were dedicated to the particular task of handling surrendeers were on hand to handle the process. Persons entrusted to handle the surrender process were instructed not to keep captives or

surrendeers for days and days. No sooner a surrendeer or a civilian who crossed over to the army controlled area as quickly as possible they were sent to rear areas for safety. **(Source: General Kamal Guneratne-Evidence before the Commission on 26th May 2015)**

4. It was stated that in the initial stages the military had maintained detailed registers but in the final stages as there was a huge exodus of IDPs and surrendeers, for security reasons, they were received by the front line troops and were treated with medications, food and other immediate needs and immediately transported to Omanthai, Vavuniya where a proper registration was done.
5. It was further stated that during the last two weeks of the operations, representatives from the Sri Lanka Corps Military Police were tasked with the preliminary registration at the reception centers at Puthukudirippu West, Puthukudiyiruppu South and Iranapalai respectively. Forward line troops had not been able to screen IDPs who were entering through forward defense lines (FDLs) to identify whether there were any LTTE cadres among them who had not volunteered to surrender, due to the threat of suicide bombers; hence instructions had been to take them by buses to Omanthai without screening.

Registration of Surrendeers

6. Material before the Commission by the Commanders revealed that due to the large exodus of civilians and surrendeers, the number of registration desks had been increased at Omanthai. Head Counts which had been taken at the initial receiving points was counter checked at the Omanthai registration point. The following information had been lodged at Omanthai registration point. Name, identity card number (if available), address, family details, places resided during the recent past, district, Grama Niladhari Division, age, sex and marital status. Details were recorded by hand and then, on a daily basis transferred to computers maintained by the Army at Vavuniya. This information was then transmitted through computer discs to Army Headquarters in Colombo where a data base had been maintained. **(Source: General Kamal Guneratne at briefing on 27th May 2015)- Similar information was given by Brig. Wanniaratchchi to the LLRC on 20th April 2011).**
7. The difficulties experienced due to the mingling of LTTE with the civilians. He emphasized the fact that one could not be complacent just because someone surrendered with his hands raised, because a “terrorist is a terrorist” and they were not sure whether the combatant would actually surrender or would give the security forces a blow. He stated that even a suicide bomber could come just by raising hands as a surrendeer. **(Source: General Kamal Guneratne on 27th May 2015)**

However, the evidence of the senior military officers would be considered in the light of the evidence that was given before the Commission during public sittings by the families of missing persons and reports of the special investigation team.

Chapter V - Legal mechanisms or process for clarifying the fate of Abducted and Disappeared persons

To deal with the issue of missing persons, effective mechanisms must be established at various levels. Different contexts might require different solutions and no approach that fits every situation has yet been identified. Coordinating mechanisms and national mechanisms should always liaise with the families and communities concerned about their work, its limitations, the chances of success and the probability of finding the missing person alive or of finding the remains through exhumation and forensic identification. In addition, families should be informed about whether, and how they might obtain assistance and reparation, and about the possibilities for punishing those responsible for the disappearance of their loved ones.

Several complainants stated that their family members who were abducted or caused enforced disappearances were from their place of residence, while some stated that their members were abducted from places other than their homes, which information were transmitted to the members of the family by a third party.

The complainants were questioned on the language that was spoken by the persons who came to their residence and caused the abduction and enforced disappearance. They stated that some spoke in Tamil and came in civilian clothing or military type uniforms. Some stated that they spoke in Sinhala and at times in Sinhala and Tamil languages.

The Commission also questioned them whether the area they were living in from which the abductions occurred were under the control of the LTTE, any armed group, or security forces. In response some stated that certain areas were under the control of militant groups while some stated that certain areas were under the control of security forces. It was also revealed that some of the abducted persons were seen in a LTTE camp or army camp. Evidence was recorded from the complainants that they had identified the officer responsible for the abduction and enforced disappearance in their area.

The above information was gathered by the Commission during the conducting of preliminary investigations. The information gathered has been handed over to the investigative team to conduct an in-depth investigation regarding such cases in order to obtain more information with regard to the abduction and enforced disappearance and to trace the fate and whereabouts of the missing persons.

For instance where complainants have named the person responsible for the abduction and enforced disappearance, the Commission will recommend in the report to the Attorney General to consider legal action or if in the Commission's view it is necessary to obtain further investigation, the investigation team will be instructed accordingly.

The investigation team has been instructed to determine whether the missing person is alive or dead. If such information is available, particularly if the missing person is reported dead, identify the place of burial and action could be taken for the exhumation of the body for the purpose of conducting forensic and DNA test invoking the legal procedure.

The Legal Framework suggested for dealing with perpetrators responsible for Abductions and Disappearances

The legal framework

In considering the Constitution of Sri Lanka Chapter 3 – Fundamental Rights Section 6, the State is under obligation to deal with perpetrators who have committed crimes against the community of nations.

Therefore if the offences committed are within the scope of the first Mandate of the Commission and the domestic law is not exhaustive, the state is obliged to legislate new laws to international standards which could deal with such offences. As the first mechanism, such new laws legislated must establish a special High Court to try those offences. A perpetrator must be given a chance to prove his innocence through the process of laws. As a second mechanism, a truth Commission must be appointed where the perpetrator could appear before and admit crime. Plea for amnesty by confessing the crimes committed and expressing remorse for what they committed. Both processes must be made available to perpetrators. Such mechanism will be in consistent with constitution of Sri Lanka Chapter 3 – Fundamental Rights Section 6. Details of such mechanics are more fully set out in the Report of the Commission relating to the Second Mandate.

The above suggested proposals are with a view of working out able mechanisms. It is the view of the Commission that if mechanisms as suggested herein and in the Report of the Second Mandate are given consideration and are worked out it would usher a process of bringing about peace and reconciliation. Such a mechanism will also ensure a certain measure of closure of matters in dispute.

Chapter VI - Observations of the Commission during public sittings

Lack of income of families

Many families with relatives who have gone missing face financial hardships as a direct result of the loss of the breadwinner. The overwhelming majority of missing persons are men, most of them between the ages of 15 and 30; most of these men are important sources of their family's income; it might also happen that the missing relative is a youth, a future breadwinner on whom the family had rested its hopes. The conflict in Sri Lanka has principally affected women who have lost their husbands (and the fathers of their children) elderly parents who have no children to support them and families who have to cope with the loss of more than one member of the family.

The material problems faced by these families are manifold: financial hardship, economic dependence, poor housing conditions, difficulties in bringing up children, difficulties in running their households, difficulties for the elderly without children to take care of them etc.

Families with female breadwinners and numerous children, and families consisting entirely of elderly persons living by themselves are the most vulnerable number of widows complained been harassed and requested that more security be provided for them.

Psychological Reactions

The impact of the disappearance of a loved one bears resemblances to that of a traumatic event. However, there are different experiences each generating specific psychological reactions. A traumatic event is characterized by violation and limitedness of durations, the duration in which relatives of the missing find themselves has no fixed time limit and the pain they endure is continuous.

Persons who have experienced a traumatic event have to struggle sometimes in vain, to prevent himself/herself from thinking about it and running the event in her/his mind repeatedly. The relatives of a missing person will, in contrast, do all they can not to forget.

The Commission had several discussions with the International Committee of Red Cross (ICRC) in view of the experience the ICRC has had in similar situation during post conflict period in other countries. The ICRC was of the view and agreed upon by the Commission that, instead of the issue of a Death Certificate to families of missing persons who have been traumatized by the loss of their family members, a "**Certificate of Absence**" be issued with the same legal authority to attend to their legal rights.

In this connection, the Commission previously recommended in the reports submitted by the Commission that consideration should be given by the government to the issue of a Certificate of Absence in place of a Certificate of Death.

Chapter VII – Counseling and Psycho Social Related Services

The Commission recognized the traumatic conditions of the families of missing persons and drew up a comprehensive proposal for the provision of psychological and related services and necessary support for livelihood development activities in order to raise the revenue of families of missing persons.

The conflict which prolonged for 3 decades caused immense damage and losses to human lives and properties. People had been subjected to severe difficulties and mental stress during the period of the conflict and post conflict period as a result of the loss of their relatives and properties. The threats and depreciations that made up their war experience appear to have brought about a very large amount of psychological disturbance. The price paid by civilians even though they survived cannot be counted and it may be especially heavy for women and children especially widows. The psychological cost of war stress seems to be considerably heavier than which attends the stress of impoverished social and economic circumstances in a country not torn by war. The psychological damage does not appear to have been short lived and transient.

The ending of the war and prevalence of a peaceful situation in the North and East has enabled the government and other stakeholders to implement development projects taking into consideration the above facts. It has to be mentioned that a massive infrastructure development program has been implemented by the government in the North and East with financial assistance of donor countries as well as lead funds. The development carried out by the government has to an extent changed the lives of affected families considerably in the North and East of Sri Lanka. However, apart from all the development that has taken place in the North and East, the mental and psychosomatic implications, lack of income, unemployment, social problems, family breakup, addiction to drugs, alcohol, violence, incidents of rape etc. are a rising trend at the end of the conflict. Failure to address these issues will aggravate the situation further.

The proposed project while taking effort to ascertain the fate of missing persons, will address the main issues relating to the survivors in a comprehensive manner. As implementation of professional counseling, psychosocial activities and provision of related services and support of livelihood development is crucial to bring emotional and material relief to the war affected families and due priority has been given to those important aspects in the proposed project. Although the intended benefits of this project are tangible and the costs are very high, it will immensely contribute to bring the lives of the war affected families to normalcy and heal their wounds.

The total cost of the project has been submitted to the Department of External Resources through the Presidential Secretariat for obtaining necessary funds from the National Budget or from Foreign Aid. The project is suggested to be implemented through the Divisional Secretaries of the Northern and Eastern Provinces of Sri Lanka.

Chapter VIII - Appointment of an Investigation Team

Taking into consideration the LLRC Report and the Commission's observations at public sittings came to the conclusion and a decision was taken to obtain assistance of an investigation team comprised of senior experienced investigators. The Commission by letter dated 21st August 2014 to H.E. the President to appoint an investigation team. As directed by H.E. the President, the Inspector General of Police (IGP) appointed a team of investigators comprising senior officers in active service in the Police. However, the Commission took the view that it would not be prudent to appoint officers in active service who had been involved in inquiries and investigations. Hence, the Commission decided not to proceed to make use of the officers that were appointed as they may be seen as non-independent, biased and a question of credibility could arise.

The Commission whilst presenting its Interim Report to H.E. the President on 10th April 2015 brought to the notice of H.E. the President to appoint an investigation team comprising of retired senior officers from the Police who have served the Police Department with distinction.

The Commission was requested to suggest a team of investigators. After careful evaluation of persons, the Commission suggested the names of five senior experienced retired officers who have now been appointed. The Investigative team will also include a lady investigative officer.

The investigative team would be headed by a retired judicial Service Officer who will supervise the overall process of investigations.

Since the appointment of the investigation team, the Commission has held several discussions with the team to discuss their plans and strategy and have laid down a methodology for carrying out investigations by developing an investigation place to determine the fate and whereabouts of the missing persons.

The team has already commenced work initially by visiting the Magazine Prison at Welikada where approximately 75-80 persons suspected of LTTRE activities are being held. Discussions have been held with the inmates which have assisted the Commission in gathering vital information regarding missing persons.

The Commission has referred the following reported incidents to the Investigation Team with a view of ascertaining the circumstances and the fate and whereabouts of the persons abducted or disappeared and, the persons responsible for such Acts of Crime.

1. Village of Sathurukondan Massacre in Trincomalee District June 1990
2. Eastern University Trincomalee 1990
3. Massacre of Muslim civilians at Kurukkal Madam 1990
4. White van abductions
5. Kidnapping and abductions for money whose names have been provided by the Commission during Public Sittings
6. Channel 4 videos

The Commission looks forward to working with the investigation team in order to ascertain the fate and whereabouts of the persons alleged to have been abducted and disappeared.

The investigation team will undertake visits to the North and East to conduct investigations into cases identified by the Commission.

Chapter IX– Action taken to expedite inquiries

Initially the Commission comprised of three Commissioners who sat together to hear complaints at public sittings. In order to further expedite the process of inquiry, a request was made to increase the number of Commissioners to five. Accordingly, H.E. the President approved the appointment of two additional Commissioners. The enlarged Commission has made it possible for the five Commissioners to sit separately and hear complaints as a result the process of hearing complaints has been expedited.

Chapter X – Reparations

Assistance given by the Commission to relatives of missing persons to obtain relief

1. Recommendation of payment of compensation and expedite the payment of compensation by those who have made applications to REPPIA through their Divisional Secretariats in terms of Cabinet Memorandum No:06/1722/1260/020 dated 6th September 2006 issued by way of a circular by the Ministry of Disaster and Relief Services in February 2008.
2. Assisting persons requesting for death certificates in terms of Registration of Death (Special Provisions) Act No: 19 of 2010.
3. Identifying relatives of missing persons who have not been provided with livelihood assistance (Samurdhi/Social Service Grants/Elderly People’s Grant/Self-employment assistance).
4. Identifying relatives of missing persons who had not been provided with housing (widows and single persons have not being considered for housing projects).
5. Attending to pensions for elderly relatives of missing persons.
6. Assisting certain persons who failed to get employment permanently due to the period of service affected by the conflict (LLRC recommendation).
7. Able to resolve land dispute with discussions held with the District and Divisional Secretaries.

8. Complainants who have obtained Death Certificate in respect of their missing person have informed the Commission that they do not want or is not interested in investigations and have requested that they be paid compensation in terms of Cabinet Memorandum 06/1722/260/026 dated 11th September 2006 issued by way of circular by the Ministry of Resettlement and Disaster Relief Services dated 6th August 2008.
9. With regard to persons who have voluntarily requested the Commission to assist them in receiving a Death Certificate so that they can obtain compensation in terms of Cabinet Memorandum in 8 above, the Commission has taken steps to assist such persons who voluntarily requested for Death Certificates to the relevant Divisional Secretariats to act in terms of Registration of Deaths (Special Provisions) Act No 19 of 2010.
10. Notwithstanding the request of the relatives of missing persons the Commission while acceding to their request to assist them in obtaining death certificate and compensation the Commission will take steps to investigate their complaints in order to ascertain the fate and whereabouts of such missing persons.

Chapter XI - Analysis of Public Sitings

The Commission has conducted twelve public sitings since January 2014. Public sitings were conducted in the following districts.

The following are details of Public Sitings conducted by the Commission from 18th January 2014 to 17th December 2014.

1. Kilinochchi (twice)
2. Jaffna
3. Mullativu (twice)
4. Batticaloa (twice)
5. Vavuniya
6. Mannar

The Commission has noted during the conducting of Public Sitings that the alleged allegations of abductions and disappearances vary from District to District. The Commission has heard oral evidences from 2808 complaints from families of missing persons during the 12 Public Sitings conducted thus far.

In 2015 the Commission has held four Public Sitings as follows,

1. Trincomalee District (twice)
2. Ampara District
3. Batticaloa District

Analysis of the complaints of these Districts and future Public Sitings in other Districts will be provided in subsequent Reports.

Kilinochchi First Sitting (18th January to 21st January 2014)

Number of persons invited	- 154
Number of complaints heard	- 150
New Registrations	- 150
Abducted by the LTTE	- 80%
Security forces and others	- 20%

Kilinochchi Second Sitting (22nd September to 30th September 2014)

Number of persons invited	- 192
Number of complaints heard	- 150
New Registrations	- 100
Abducted by the LTTE	- 70%
Security forces and others	- 20%
Unknown persons	- 10%

Jaffna District (14th February to 17th February 2014)

Number of persons invited	- 244
Number of complainants heard	- 180
New Registrations	- 804
Abducted by the LTTE	- 10%
Security forces	- 49%
Unknown persons	- 36%
Others	- 5%

Mullativu First Sitting (5th July to 8th July 2014)

Number of persons invited	- 230
Number of complainants heard	- 129
New Registrations	- 398
Abducted by the LTTE	- 90%
Unknown persons	- 8%
By Security Forces	- 2%

Mullativu Second Sitting (2nd November to 5th November 2014)

Number of persons invited	- 231
Number of complainants heard	- 169
New Registrations	- 331
Abducted by the LTTE	- 75%
Unknown persons	- 10%
By Security Forces	- 15%

Batticaloa First Sitting (20th March to 22nd March 2014)

Number of persons invited	- 161
Number of complainants heard	- 132
New Registrations	- 1287
Abducted by the LTTE	- 70%
Unknown persons	- 5%
By Security Forces	- 20%
Armed groups	- 5%

Batticaloa Second Sitting (6th June to 9th June 2014)

Number of persons invited	- 196
Number of complaints heard	- 200
New Registrations	- 213
Abducted by the LTTE	- 70%
Unknown persons	- 5%
By Security Forces	- 20%
Armed groups	- 5%

Vavuniya (14th December to 17th December 2014)

Number of persons invited	- 225
Number of complaints heard	- 169
New Registrations	- 331
Abducted by the LTTE	- 60%
Unknown persons	- 10%
By Security Forces	- 30%

Mannar (8th August to 11th August 2014)

Number of persons invited	- 230
Number of complaints heard	- 129
New Registrations	- 398
Abducted by the LTTE	- 80%
Unknown persons	- 10%
By Security Forces	- 10%

Since December 2014, the Commission has held Public Sittings in the following Districts; Trincomalee, Ampara and Batticaloa.

Details of these complaints are been analyzed and would be submitted in a subsequent report.

Based on the oral evidence by the families of missing persons during the course of conducting the Public Sittings have indicated that 70 – 80 % of the persons who are alleged to have gone missing as a result of abductions and disappearances are allegations attributed to the LTTE

particularly in the District of Mullaitivu and Kilinochchi, while 49% of such allegations were against security forces in the District of Jaffna.

Chapter XIII - Background to allegations of disappearances

Abductions by LTTE

A large percentage of the disappearances are attributed to the forced recruitment, abductions by the LTTE. The highest percentage of abductions by the LTTE is from the Kilinochchi and Mullaitivu Districts. Evidence by relatives of missing persons stated that the LTTE had made it a rule that one person, male or female from every family should join the LTTE.

Arrest and Detention by Security Forces

It has been revealed during public sittings that the security forces had taken into custody a considerable number of LTTE suspects. Whilst the security forces had taken steps to place the majority of the suspects in detention centers and refugee and rehabilitation centers, allegations were made by the families of missing persons that the security forces had taken LTTE suspects who had surrendered at check points and from refugee for questioning. These persons taken into custody by the security forces have since gone missing and their whereabouts are unknown.

Abducted by Unknown Persons

During the public sittings in the North and East based on the oral evidence that was given to the Commission by the relatives of missing persons and on the analysis of all complaints received thus far by the Commission it is relevant to note that a large number of families have stated that they are not aware of the persons responsible for the abduction/disappearance of their relatives. Nevertheless, these complaints would be referred to the investigative team to conduct investigation.

Abductions by armed groups

Complaints were lodged with the Commission by persons being abducted by armed groups. In the eastern Province particular mention was made with regard to the responsibility of the “**Karuna Faction**” being responsible for a number of abductions and disappearances.

Allegations of abductions, extortion of money and other violations were leveled against the EPDP during the public sittings in the Northern Province.

Chapter XIV – Recommendations

1. The Commission recommends that a mechanism be established in line with the recommendations made in Chapter V of this Report.
2. Provide the necessary funds to REPPIA for payment of compensation to the families of missing persons who have made application to REPPIA through the Divisional Secretaries in terms of Cabinet Memorandum No: 06/1722/1260/020 dated 11th September 2006 issued by way of a Circular in February 2008 by the Ministry of Resettlement and Relief Services.
3. Livelihood assistance should be provided to families of missing persons by providing assistance so that they can sustain a continued livelihood for a period of time until such time they are able to sustain themselves independently. It has been observed by the Commission that livelihood is being drawn back due to the traumatic conditions of the missing persons family as a result of the war. Steps should be taken immediately to engage the families of missing persons in counseling and psycho social related services so that they can restore their lives to normalcy. In this regard, this Report has suggested a process of counseling and psycho social related services.
4. Expedite the legal process against the inmates held in Prisons related to LTTE activities.
5. Address the needs of the Sinhala communities in the border villages who suffered at the hands of the LTTE. The needs such as, electricity, drinking water, proper roads, schools and other infrastructure facilities.
6. Take appropriate legal action against any person/persons/organizations found to have violated the human rights of any persons based on inquiries and reports of the investigation team.
7. Persons still in refugee centers to be resettled by providing them with housing and other facilities.
8. To resolve complaints of private land is not released.
9. Provision of funds and/or obtain foreign funding for the implementation of the counseling program in the North and East which was a recommendation of the LLRC.
10. Set up Information Bureaus in all District Secretariats to enable persons to report cases of missing persons.
11. Promote interactions through sports, cultural visits (school children) and trade between North and East for building of trust, peace and harmony.

Annexure

1. Number of written complaints of missing persons – according to Districts/year 1983 – 2015 **marked “A”**
2. Number of written complaints of missing persons – according to year 1983 – 2015 **marked “B”**
3. Number of written complaints of missing persons – according to year/responsible groups 1983 – 2015 **marked “C”**
4. Number of written complaints of missing persons – according to District/Ethnicity 1983 – 2015 **marked “D”**
5. Number of written complaints of missing persons – according to District/Gender 1983 – 2015 **marked “E”**
6. Number of written complaints of missing persons – according to Responsible group/ Gender/Ethnicity 1983 – 2015 **marked “F”**
7. Number of written complaints who said to have Voluntarily obtained or Requested Death Certificates of Missing Persons 1983 – 2015 **marked “G”**
8. Number of cases conducted and given evidences at Public Sitings 1983 – 2015 **marked “H”**