

# HUMANITARIAN CONSEQUENCES OF FAMILY SEPARATION AND PEOPLE GOING MISSING





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and People Going Missing.

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# Foreword

Family separation and people going missing causes untold pain and suffering for thousands of families each year. The humanitarian consequences of separation and people going missing mean a long wait for family reunion or anguish and uncertainty for news about a loved one's fate and whereabouts.

For every missing person, there is a family living in uncertainty – not knowing if their relative is dead or alive. Many families spare no effort, or expense, in trying to find information about their missing relative. The search of a missing person itself can also cause significant suffering, especially if families are actively pursuing a variety of leads simultaneously. Alongside the emotional turmoil linked to people going missing and to the search, families of the missing can face numerous practical challenges that are directly related to the absence of their relative, regardless if the absence is due to conflict, migration, natural disaster, etc. They often struggle to access social benefits, sell or manage property or inheritance, remarry, or exercise parental rights. This impacts on any effort families may make to resume their lives and find their place again in the community, all the while seeking

answers about the fate of their missing relative.

All people go through tremendous anxiety and suffering when they are separated from family members and do not know when and where they would be able to reunite. Family reunion is an aspiration that many families live with for years as they endure periods of extended separation and uncertainty. For a parent, a child, a sibling, a wife or a husband, to be able to reunite with their loved one is often more important than water, food and shelter. Family members of separated persons will not stop trying to reunite with their loved ones and they use their resources and may furthermore put themselves and other family members at risk to achieve this.

This publication aims to increase awareness on the humanitarian consequences of family separation and people going missing due to war, conflict and perilous migratory trails. It further attempts to shed light on the work of the International Red Cross and Red Crescent Movement (the Movement) in this field, explains how the Movement provides this service and why it is so important to so many people. This publication is based on the experien-

ces shared by the British Red Cross, the International Committee of the Red Cross (ICRC), the Red Cross EU Office, the Swedish Red Cross and the Swiss Red Cross as part of different initiatives aimed at sharing and developing their engagement and role in protecting, preserving and restoring family links and facilitating family life and family unity.

The experience of the ICRC and National Red Cross and Red Crescent Societies shows that the suffering and humanitarian consequences caused

by family separation and people going missing can be significantly reduced. Hence, we call upon the Movement and States to support the implementation of the humanitarian priorities set out in the new RFL Strategy for the Movement 2020-2025. Preventing families from being separated and going missing in the first place and broadening the support to the families concerned are practicable actions that can be implemented with the requisite political will, investment and international cooperation between States and relevant organizations.



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# I. Introduction

## **The humanitarian consequences of family separation and people going missing due to war, conflict, and perilous migratory trails**

Every year, armed conflicts, natural disasters, displacement and migration split up countless families, increasingly affecting all continents and leading to family separations and people going missing from countries of origin, through countries of transit to countries of destination. People suffer terribly from not having contact with, or any news from, their loved ones. It leaves families waiting and searching in anguish and uncertainty and adversely affects the community at large.

The causes of separation are many. People go missing when they are not able to establish contact with their families, even though they may be alive. When fleeing a conflict or a natural disaster, children can lose their way in the chaos. Elderly or sick people may not have the will or ability to leave. Injured people are taken to hospital without being able to let their loved ones know what has happened to them. Migrants can also go missing in a variety of circumstances.<sup>1</sup> They can go missing when they are detained without access to means of communication, or when they or their families choose not to seek assistance to stay in touch, for fear it may lead to deportation. Migrants also go missing when they perish during dangerous journeys over land or sea, or even in their country of destination. Their remains may never be found, or properly documented or identified if they are found.<sup>2</sup>

## **The role of the RCRC Movement in supporting separated families and families of missing persons**

Against this background, it is scarcely surprising that families' well-being and ability to cope with crisis depends to a large extent on their ability to stay in touch with their family members. People need to be able to restore contact with family members who have gone missing and to receive information about them.

Under International Humanitarian Law and International Human Rights Law, people have the right to know the fate of a missing relative. In situations of armed conflicts, family reunification is a right under international law. The main responsibility for ensuring respect for the rights of dispersed family members lies with the State. In the event of armed conflict, it is also up to any non-State organized armed groups to respect those rights. When the authorities (or organized armed groups) are not in a position to fulfil their responsibilities, the International Committee of the Red Cross (ICRC) and the National Societies may, based on their respective roles and responsibilities, offer their services, which may range from supporting the authorities to filling in for them.

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1 The International Red Cross and Crescent Movement uses a deliberately broad description of "migrants" to include all people who leave or flee their home to seek safety or better prospects, and who may be in distress and need protection, or humanitarian assistance. Migrants may be workers, students and/or foreigners deemed irregular by public authorities. They can also be refugees, asylum seekers and/or stateless persons. The Movement seeks to ensure that all migrants, including refugees and asylum seekers, receive the protection to which they are entitled under international and domestic laws, but an inclusive description has been adopted to reflect operational practice and emphasize that all migrants are protected under several bodies of law.

2 See ICRC (2018) "Missing Migrants and their Families – The ICRC's Recommendations to Policy Makers", p4. <https://shop.icrc.org/missing-migrants-and-their-families-the-icrc-s-recommendations-to-policy-makers.html?store=default>

” All persons... shall be enabled to give news of a strictly personal nature to members of their families, wherever they may be, and to receive news from them.”  
(Fourth Geneva Convention of 1949, Article 25)

The role of the Movement in searching for missing persons and putting families back in contact is underpinned by commitments in International Humanitarian Law and other relevant international obligations<sup>3</sup>, as well as the Movement’s Statutes, resolutions of the Council of Delegates and the International Conference of the Red Cross and Red Crescent.<sup>4</sup>

The Movement has considerable experience and expertise in restoring family links. It has a worldwide Family Links Network comprising the ICRC’s Central Tracing Agency, its delegations and National Societies’ Restoring Family Links (RFL) services. Through the Family Links Network, the Movement is able to assist people who are separated from their loved ones, wherever they may be. Staff and volunteers strive to ensure that they are treated with dignity, respect and compassion. Their work can continue for years after the end of a war or other emergency.

**Restoring Family Links (RFL) involves a range of activities that aim to**

- prevent separation and disappearance
- clarify the fate and whereabouts of people reported missing
- restore and maintain contact between family members
- facilitate family reunification whenever possible

The International Committee of the Red Cross (ICRC) helps reunite family members mainly in situations related to armed conflict and other situations of violence. National Societies determine its possible involvement in family reunification and a number of National Societies provide a variety of family reunification services. These include the provision of information, legal and practical support and policy and advocacy work. In some contexts, the National Society cannot directly facilitate family reunification but can refer people to the relevant government authorities and other organizations providing help.

3 This includes the obligation stemming from the Geneva Conventions of 1949 – and developed in Additional Protocol I of 1977 – to facilitate enquiries made by relatives of persons dispersed in connection with an armed conflict, with the aim of restoring family links and facilitating the reunion of dispersed families in every possible way. It also includes the obligation of States parties to the Geneva Conventions to enable all persons in their territory to give news of a strictly personal nature to members of their families, wherever they may be, and to receive news from them. Furthermore, according to Additional Protocol II, children shall be provided with the care and aid they require, in particular, all appropriate steps shall be taken to facilitate the reunion of families temporarily separated. See also, the Universal Declaration of Human Rights (1948) (Article 16); the International Covenant on Economic, Social and Cultural Rights (1966) (Article 10); the International Covenant on Civil and Political Rights (1966) (Article 23); the Convention on the Rights of the Child (1989) (Articles 9, 10, 20 and 22); and the International Convention for the Protection of All Persons from Enforced Disappearance (2006) (Articles 17, 24 and 25).

4 See for example Statutes of the Movement Art 2, 3, 5, 6. See also International Conference of the Red Cross and Red Crescent the 24th International Conference, Manila 1981, Resolution I and XXI; 25th International Conference, Geneva 1986, Resolution IXV and XV; 26th International Conference, Geneva 1995, Resolution II and V; 28th International Conference, Geneva 2003, Resolution I; 30th International Conference, Geneva 2007, Resolution I. See also Council of Delegates, Resolution 5, Geneva 1995, Resolution 4, Geneva 2001, Resolution 4 and 5, Geneva 2001.

## **Towards a comprehensive approach to family separation and people going missing – a publication**

This publication aims to increase awareness about the humanitarian consequences of family separation and people going missing due to war, conflict and perilous migratory trails. It further attempts to shed light on the Movement's work in this field and why it is so important to so many people. By doing so, it brings together contributions from a broad field of expertise within the Movement, based on the experiences shared by the British Red Cross, the International Committee of the Red Cross (ICRC), the Red Cross EU Office, the Swedish Red Cross and the Swiss Red Cross. These experiences stem from an attempt to thoroughly understand the circumstances of the people concerned, the factors affecting their safety and well-being, as well as to appreciate the deep physical and psychological scars left on people by family separations and people going missing.

The first part of the publication includes two chapters that attempt to shed light on the humanitarian consequences of family separation due to war, conflict and migratory trails, and the needs of family members of missing and separated persons as well as reunited refugee families in Switzerland and Great Britain. The second part of the publication explores the Movement's experience in addressing the humanitarian cost of family separation and people going missing. The three chapters included in this part examine the role the ICRC and National Red Cross Societies play in addressing the needs of separated and missing persons and their families in various contexts, ranging from Sweden to Ukraine, Senegal and Sri Lanka. Finally, the key findings and suggestions of this publication are summarized as recommendations.





Photo: Tommy Trenchard/Panos Pictures (IFRC)

## II. Humanitarian consequences of family separation and people going missing due to war, conflict and perilous migratory trails

### Chapter I

#### **Between hope and despair: Stress factors and psychosocial needs of family members of missing and separated persons, Swiss Red Cross**

The Tracing Service and the Humanitarian Visa Advisory Service of the Swiss Red Cross have long-standing experience and expertise of working with family members of missing persons, as well as with separated family members. The Tracing Service of the Swiss Red Cross was created more than 70 years ago, and since then its staff and volunteers have often observed how their beneficiaries experience contradictory feelings of hope and despair while the search for their loved ones is ongoing. Since its establishment, the Humanitarian Visa Advisory Service has borne witness to how much of a priority family reunification remains for persons separated from their family members due to armed conflicts, other situations of violence, in the context of migration, or as a result of natural or man-made disasters.

Along the years, through the services it provides, the Swiss Red Cross has gathered important and relevant expertise which gives it a special position to observe and assess the stress factors and psychological needs of affected people. The experiences of the two services mentioned above will be built upon and references will be made to the study *Between hope and despair: Stress factors and psychosocial needs of family*

*members of missing*,<sup>5</sup> published by the Swiss Red Cross' Tracing Service in 2013, as well as to the article *The Swiss Red Cross aims to engage further in the protection of family unity in the future*,<sup>6</sup> published by the Humanitarian Visa Advisory Service in 2018.

Putting these two perspectives together has enabled Swiss Red Cross to identify the stress factors and psychosocial needs of both family members of missing migrants as well as those of separated family members.

### **Stress factors**

Many different stress factors affect families with missing or separated family members whether this is on the personal, the family or societal level. For each level a specific factor is presented below.

” She has left a huge gap in our lives. The family has basically fallen apart. Nobody wanted to or was able to fill her shoes. She simply left a gap that can never be filled”.<sup>7</sup>

### **Family members of missing persons**

On a personal level, those affected are confronted with the uncertainty of the fate of their family member. As long as they do not know what has happened to their relative, there is no objective confirmation of the fate of the missing person. For example, the missing person may be in detention, deceased, or may have started a new family. The various possible scenarios lead to mental confusion, which often makes people feel that they have to make a choice on the fate of the missing person. This also leads to conflicts in families, because the ideas family members have about the situation of the missing person may vary. Therefore, it is important that families understand that they do not have to decide on the fate of the missing person. Feelings of uncertainty and confusion are common amongst families of missing persons and, therefore, support needs to be made available to help them cope with these ambiguous feelings.

At the family level, apart from the difficulty of how to deal with the situation, conflicts within the family also arise regarding shifting social roles and decision-making. Oftentimes, roles in families are strictly assigned and are an important part of the structure and communication in the family. When a person is missing, and the family awaits news regarding his/her whereabouts or return, it seems like a betrayal to re-define roles. It is for this reason that affected family members often remain in their existing roles, and thus block adaptation and further development of their family system.

At the societal level, affected families or individuals often experience isolation. This mainly results from the lack of social rituals, such as commemorative events, to deal with persons who have disappeared and their families. In the beginning, when the search is still full of hope, those affected are also supported by their environment. However, as time passes by, it is increasingly difficult to keep hope, find closure and move on. It becomes a challenge to articulate the experiences of the

5 <https://www.redcross.ch/de/file/9565/download>

6 <https://www.redcross.ch/fr/integration-sociale/migration/la-crs-souhaite-sengager-davantage>

7 A relative of a missing family member

family members when there are no means to address and channel their families' need to remember the missing relative. The lack of rituals in memory of the missing often leads to suppression of the subject, which also prevents those affected from speaking openly about their suffering.

Affected people feel powerless in the face of this situation. They are prevented from moving forward, as if in a state of paralysis, often without any chance to move on or find any closure. Moving on with life would be a betrayal of the person they are looking for. In counselling it is often observed that, because of this situation, people have great difficulty concentrating or getting involved in integrating into the "new" society, and they feel constant sadness and sorrow.

In addition to the stress factors described, there is the fact that the families affected are, unfortunately, often confronted with this difficult situation on a very long-term basis. The search and the uncertainty last for years and are a great burden for the families. This long-term, constant strain also leads to physical and psychological stress for many family members.

#### **Family members of separated persons in the context of migration**

The main concern for family members of separated persons is for their relative's safety and whereabouts. The majority of the affected people approaching the Swiss Red Cross come from Syria, Eritrea, Afghanistan and Yemen, having left their families behind in complex situations of violence and other human rights violations. In addition, family members who remain in the country are likely to suffer reprisals for the flight of those who have already left the country. Well aware of these dangers, affected people share a great concern for the fate of their family members, which affects them enormously in their daily lives in Switzerland. Their thoughts and social interactions (facilitated by current means of communication and information shared via social networks) focus on the country of origin and the concern for their loved ones, mobilizing a large part of their resources for this purpose, and thus leaving them with little resources available to invest in their lives in Switzerland. Indeed, this concern is a stress factor that can grow to such an extent that it prevents people from anchoring themselves in the reality in which they live. In addition to this individual stress factor, other stress factors related to family and social relations impact affected people. Separation, like disappearance, has an impact on the social and family roles of individuals. This is particularly evident in the case of separated persons whose family members live in conflict-affected countries, since the family member living in Switzerland is unable to protect them. Ensuring their family's safety becomes impossible as a consequence of the conflict and the distance, even though it was often the role of the person who left to do so.

According to them, it is their responsibility to ensure the safety of their family members, as well as to find a way to reunite with them in Switzerland. Without concrete means to guarantee the safety of their family members in the country of origin, or to find a legal avenue for them to come to Switzerland, they find themselves in a deadlock that affects them enormously and leads to feelings of anxiety and despair that are difficult to manage.

Finally, at the societal level, the people assisted by the Swiss Red Cross feel a great pressure to integrate into Swiss society, such as learning the language and finding a job. Not only are they expected to integrate quickly, but this is very often a legal requirement in order to be able to benefit from family reunification.<sup>8</sup>

Caught between family pressure and the pressure from the host society, affected people are influenced by several stress factors that limit their resources, making them unable to fully engage in their lives in Switzerland and, therefore, in their integration process. This turns into a vicious circle from which many of the affected persons clearly suffer and see no way out.

These stressors obviously have an impact on people's mental and physical health, often characterized by symptoms of depression, such as sleep disorders or nutritional issues.

### **Psychosocial needs**

According to the Swiss Red Cross' experience in providing support, the needs are often similar and shared by family members, whether they have been separated or are searching for missing persons. These needs include personalized contact with the Red Cross' services, the provision of information, access to affordable and reliable communication means and recognition of their plight.

One of the main needs identified is having regular contact with the Red Cross. It is important to have a space where affected persons can talk about the missing or separated family members, and the impact of this situation on their daily lives. This is especially crucial as it is taboo to talk about the missing person within society or within the family. Furthermore, affected persons also expressed the need to talk to other persons who are experiencing, or have experienced, something similar. Some also indicated the need to hear about positive examples so that they could retain hope in their own situations.

Another main need identified by the Swiss Red Cross is the need of affected people to obtain information, in order to develop their own options for action. The



Photo: ICRC/L. Sotueva/CC BY-NC-ND

<sup>8</sup> In Switzerland, persons granted subsidiary protection must wait three years before being able to apply for family reunification and are subject to financial and housing requirements.



information affected persons most need is related to search options, to find their family members, and about the existing legal framework on family reunification or other legal avenues. Being provided this information allows them to better understand their situation and also empowers them, as they are able to make informed decisions.

For families living apart, regular communication is an important constant. Although new digital means have simplified communication between separated family members, not all those affected have the knowledge about how to gain access to affordable and reliable communication means. A need for support in this area was, therefore, also identified.

A strong need for recognition is also often expressed by affected people. This entails recognition of their situation, how difficult it is and how it is a source of suffering, even if no concrete solution can be offered. For example, in 2018 the Swiss Red Cross organized a Memorial Day for persons with missing family members, the outcome of which was very positive. It highlighted the fact that the families concerned have no place to remember the missing person. In this regard, the fact that the Swiss Red Cross is committed to advocating for their rights and involving them in this process represented great support to the affected people.

### **Concluding remarks**

The Swiss Red Cross' experience shows that family members of missing and separated persons often face critical mental health and psychosocial difficulties when their loved ones are not present. This often leads to difficulties in resuming normal lives and integrating into the new country of residence. Against this background, the Swiss Red Cross has developed activities aiming to provide support to families for coping with their distressingly ambiguous experiences, and for reducing isolation within families and communities.

This experience has also allowed the Swiss Red Cross to identify several recommendations that the International Red Cross and Red Crescent Movement and pertinent authorities should consider when enhancing the well-being of family members of missing and separated persons and facilitating family reunification. The Swiss Red Cross has particularly identified that the provision of personalized and psychosocial activities is crucial in helping families to relieve the ambiguity and uncertainty of their situations as well as to reduce their isolation. Moreover, it is important to have a systemic approach in the support provided, that takes into account transnational relationships and resources in order to empower affected people. In addition, States should also address the practical, legal and administrative obstacles that prevent family unity and exacerbate the mental health and psychosocial difficulties faced by family members. This includes facilitating real communication with the separated person as well as relevant legal, administrative and practical support for family reunification to be truly effective.

Finally, as front-line professionals, the Swiss Red Cross has an important role to play in lobbying and advocacy work to improve the situation and the rights of people affected by family separation in any form. The involvement of affected people in advocacy activities should also be considered, as they should be called upon more often to participate and have a say on this topic.



Photo: British Red Cross

## **Chapter II**

### **Voices of strength and pain: Impacts of separation, loss and trauma on health and well-being of reuniting refugee families, British Red Cross**

Family reunion is an aspiration that many refugee families live with for years as they endure periods of extended separation and uncertainty. For those fleeing violence and persecution, it is common that one family member is specifically targeted and forced to leave the rest of the family behind. In other cases, families who initially flee together are later forced to separate. The journey is full of risks, as legal routes to countries of exile have reduced.

The British Red Cross supports around 3,000 family members each year to reunite through its Refugee Family Reunion Travel Assistance and Visa Support programme.

In 2017, the British Red Cross conducted research in Scotland, leading to the publication of *Voices of Strength and Pain: Impacts of separation, loss and trauma on health and well-being of reuniting refugee families*.<sup>9</sup> This contribution is based on a summary of this publication. The research explored the experiences of women, men, young people and children who were separated and how it affected their health and well-being.

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<sup>9</sup> Voices of strength and pain: impacts of separation, loss and trauma on reuniting refugee families, <https://www.redcross.org.uk/about-us/what-we-do/research-publications>

**The research was based on:**

- (i) semi-structured interviews with 14 families (45 people) about experiences of family separation and integration in the UK;
- (ii) follow-up focus group discussions on integration and sources of practical and emotional support with family members from six families (18 people);
- (iii) participant observation at five *Freedom from Torture* family group sessions involving four families (20 people); and,
- (iv) in-depth follow-up interviews on health and well-being with two of these families (12 people), as well as interviews with therapists.

**The research identified various risk factors during the separation period, including:****For remaining family members:**

- In the country of residence:
  - Exposure to violence, bombs and indiscriminate violence.
- In the transition country:
  - Protection risks;
  - Living with grief/loss;
  - Isolation and difficulties living in a third country; and
  - Delays and challenges in family reunion application process.

**For sponsors:**

- In the transition country:
  - Anxiety about safety threats of family remaining in home country;
  - Living with grief/loss; and,
  - Isolation.
- In the UK:
  - Anxiety about safety threats of family remaining in home country;
  - Living with grief/loss;
  - Guilt at not being able to support family;
  - Isolation; and,
  - Uncertainty of asylum and family reunion processes.

## **Exploring experiences of separated families**

The research drew from the experience of families who had lived through significant disruption to their lives and in some cases had endured trauma.

The published report explored factors which had both a positive and negative impact on the lives of families in this situation. Further, the report used conceptual frameworks from the international humanitarian field to explore how such families could be better supported through the separation and reunion phases. In this regard, the objective was to identify ways to minimize the impact on families' mental health and well-being and to promote resilience and capacity within such families to support one another.

The families that were interviewed for the research had often lived through harrowing experiences. Indeed, many people spoken to detailed violent disruptions to their everyday lives, including attacks on their communities and families. The forcible uprooting from one's home involves multiple kinds of loss. Families are separated from wider family and close friends, and many have relatives or close friends who have been killed. Several families shared their experiences of complex and multiple traumas. The accounts given by these families highlighted the impact that this loss, trauma, separation and changing family dynamics had on their health and well-being.

For example, in two families, parents whose (adult) siblings were killed took on the informal adoption of nieces and nephews. However, both these families had to leave these children behind when they were reunited through family reunion procedures and they continued to be deeply concerned about these children's safety. This illustrates that even when families are reunited, they often remain separated from loved ones due to the restrictive family reunion criteria applied. In turn, this can impact on the emotional well-being of such families, as they try to settle into life in a safe new country, while other close family members remain at risk in violent and unsafe environments.

For family members remaining in less safe and stable environments, stress and anxiety become very acute. These participants described how this affected their physical health, for example causing weight loss, or psychosomatic body pains. Some described how they became overwhelmed and lost their ability to function and carry out daily activities during certain periods because of intense fear or anxiety.



## Case study: Rekha's family; loss of son and isolation

After Rekha's husband fled the country, her son started going to their community's mosque. People began threatening him in the same way they had threatened his father.

One year later he was murdered. Rekha's daughter recalled: *"We never expected this incident will take place in our life. They just kept on giving threats – that was happening from 2004. But this big sudden incident changed our life."*

It had been even more difficult because not only had they been separated from her father but none of their relatives supported them: "Even at the time of the funeral there was nobody." Their wider family instead blamed them for what had happened: *"This big incident has happened because of this, because you have converted. [...] It is better you come back [to mainstream Islam], the family will be safe. Otherwise you will face more problems."*

After Rekha's son's death women from their religious community visited their home to offer condolences. At this time a cousin visiting from overseas arrived. He interrupted the gathering and threatened Rekha, beating her and speaking very badly of her in front of everyone. The community women tried to stop him and shouted, "How dare you do that when we are women here." Having no male relatives to support them was a specific difficulty and placed Rekha and her daughter at greater risk: *"Really I was so much worried when my husband came down to this country. I had a fear like, what [do] I have to do? How am I going to manage with the small children because the head of the family has gone away now? And then later on I tried to convince*

*myself, [It's] okay, your son is there, he will look after [you]'. I had that hope. But when my son was lost, I was completely shattered."*

The grief and trauma she suffered after her son's death affected her deeply:

*"Whatever you ask me I will just say 2010 because that is the thing that's stuck in my mind."*

She described the years after his death as "intolerable" and did not want to speak about them in any more detail. Her daughter explained that it was an incredibly difficult time and they became very isolated. They moved to another town, to live with members of their religious community. She described how they faced many problems:

*"We were so much scared to go out [...]. We never used to go anywhere; just to get the essential things from the market."*

Rekha took on sewing work for their neighbours to provide an income. She explained how work became a distraction to keep her mind from the grief she was suffering:

*"For 24 hours I was doing the stitching, because I just wanted to divert myself. If I am just idle for little time, I just think about my sons' incident. That was going on in my mind."*

Rekha's daughter explained that both she and her mother suffered serious effects on their health:

*"We both have lost our health. That is the major impact we have. I was very healthy, but after my brother's death I have lost so much weight. Until now I am not able to manage that."*

As well as these physical symptoms she had problems concentrating: "I used to be a very good student, but after that I

lost even the studies." She took a break from her studies for a few months, but then resolved to go back and put her efforts into completing the course. She managed but did not get the grades she had been expecting.

Rekha's husband's asylum claim was initially refused and he had to wait several years before he received refugee status and could apply for family reunion. The family deeply regretted that his asylum decision was not granted more quickly. Rekha's daughter commented:

*"If they had given the asylum status at that time itself, then the whole family would have been united, before the murder of my brother."*

Rekha's husband had been deeply affected by shock and grief. He described not being able to think about anything and then having "a rush of thoughts, debates with God" when he questioned his religious beliefs and the meaning of life. He received counselling and support from friends but found it incredibly difficult being away from his wife and daughter.

The family remained separated for more than five years. When the family reunion visas were processed, Rekha's daughter's visa was initially rejected because she had already turned 18, and was therefore not within the UK family reunion rules. It took another year until she was eventually granted a visa on compassionate grounds.

This case illustrates how delays in decisions in the asylum process and family reunion process can prolong exposure to serious danger and suffering for remaining family members, resulting in greater experiences of trauma upon arrival in the UK.

## The impact of family separation

Refugee family reunion in the UK is very complex, lengthy and restrictive. As a consequence, this often leaves families in dangerous or unstable situations for longer than is strictly necessary. On the basis of the British Red Cross' research, and the wider programme within which this research was conducted, it is evident that for many families the length of separation is a crucial factor. The research revealed that, in general, those families who had longer periods of forced separation have poorer outcomes upon reunion.

The report echoes the findings of *Not So Straightforward* (Beswick 2015), which highlighted the need to reduce the complexity of the family reunion process in order to minimize the length of time during which families are separated.<sup>10</sup>

Recognizing the impact that family separation has on an individual much earlier in the refugee journey could be one way of developing better support for individuals who are separated and worried about their loved ones. While the programme did not provide this type of support, developing a model which prioritizes early intervention and support for individuals could minimize the negative impact on mental health and well-being, as well as increase resilience and capacity within the affected communities.

From the research, it is evident that families have different levels of resilience, and as a result require different levels of support to recover, adjust and rebuild during this transitional phase. For some, assistance to access their rights and entitlements such as housing, financial support, food and other basic needs will provide enough support for them to overcome the disruption they have experienced thus far and start building their new life in a new country. Providing advocacy and casework support to sponsors and arriving family members could assist with this process and ensure that families do not experience unnecessary stress and worry during the critical immediate post-reunion period.

However, for others, the disruption to their lives may have had a greater impact on their resilience and ability to function and thrive in their new locations. Short-term advocacy and casework support to access rights and entitlements, while helpful, will not effectively support these families through this transition and potential crisis point.

Presently, there is no formal recognition that many arriving family members may have some of the same protective characteristics as those people who sought and received asylum. The level of disruption in their lives, and the likelihood of having experienced trauma, will be a factor affecting those arriving family members. Currently, there is only limited tailored support available for them. From the British Red Cross' research, it would appear that arriving family members who have experienced significant disruption to their lives, would benefit from enhanced and tailored support post-arrival to overcome the challenges they have faced; rebuild their relationships within the family unit; and increase their resilience and capacity to engage in daily life.

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<sup>10</sup> See <https://www.redcross.org.uk/about-us/what-we-do/research-publications>

### **Concluding remarks**

The main findings from the research suggest that any future model of support should consider building on the direct experiences of affected families. On the basis of the direct experiences of the families who took part in the research, it would be worth considering whether family reunion policy could be reduced in complexity, length and restrictive nature in order to minimize the period of separation and reduce the time family members are exposed to potential risks, in either their home or transition countries.

Further, better support could be provided for coping with the different stages of the family reunification process. During the asylum process, people who are separated from their families could be better supported to cope with the impact of separation on their health and well-being. Once family reunification has been granted, families who have been separated and then reunited could be offered support to help them overcome the disruption they have experienced in their lives, both upon arrival and also as they settle into life in the new country.

The type of support that could be considered to be made available includes help to access their rights and entitlements, and providing them with opportunities to build social connections with both people who have shared similar experiences and those living within their communities. Moreover, it could also involve focused interventions, such as group work and family therapy, to assist families to re-navigate roles and responsibilities and rebuild relationships. Where necessary, specialized support should be provided to assist those who experienced trauma to overcome and rebuild their lives.



Photo: Petter Johansson

### **III. Red Cross and Red Crescent Movement's experience in addressing the humanitarian consequences of family separation and people going missing**

#### **Chapter III**

#### **The humanitarian impact of family separation: A study of the Swedish Temporary Alien's Act, Swedish Red Cross**

The Swedish Red Cross has long-standing experience and expertise in restoring contact between family members and facilitating family reunification. On a daily basis it witnesses the negative impacts of family separation and strives to address the policy, legal and practical challenges that families may face.

The Swedish Government introduced in 2015 a *Temporary Aliens Act* (the Temporary Act) with the aim of reducing the number of asylum seekers coming to Sweden. According to the Temporary Act, temporary residence permits were introduced, the right to family reunification was limited and maintenance requirements were tightened. The act was planned to be in effect for three years until 19 July 2019.

Presented here is the summary of the Swedish Red Cross report *Humanitarian Consequences of the Swedish Temporary Aliens Act*.<sup>11</sup> The report highlights the numerous challenges that have emerged due to the new restrictions, as well as some recommendations based on the evidence gathered. It is based on the analysis

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11 See Swedish Red Cross (2018) *Humanitarian Consequences of the Swedish Temporary Aliens Act*. <http://www.mynewsdesk.com/se/rodakorset/documents/english-summary-humanitarian-consequences-of-the-swedish-temporary-aliens-act-82797>



of decisions and judgements from the Swedish Migration Agency and Migration Courts. In addition, a survey and interviews have been conducted with various professions, as well as with individuals personally affected by the Temporary Act.

### **The humanitarian consequences of the Temporary Act**

The Temporary Aliens Act was introduced as a reaction to the large number of asylum seekers arriving in Sweden during 2015.<sup>12</sup> Sweden went from being one of the most generous countries in Europe for asylum seekers, to having one of the most restricted laws in the family reunification area.<sup>13</sup> Before the Temporary Act was adopted, the Swedish Red Cross highlighted to authorities the potential humanitarian consequences that the legislative changes would entail.<sup>14</sup> The report shows that many of the anticipated consequences have materialized.

This report is based on an investigation of 161 decisions and judgements made by the Swedish Migration Agency and the four Swedish Migration courts. In addition, 28 interviews were conducted with people affected by the Temporary Act. The respondents are current and past asylum applicants in Sweden, professional and volunteer workers in the Swedish Red Cross, academics, health care personnel, psychologists and a representative from the Swedish Migration Agency. The results of the report are also based on a survey completed by psychologists and counselors working in the Swedish Red Cross' Treatment Centre for Persons Affected by War and Torture.

### **Increasingly vulnerable situation for unaccompanied minors**

The Temporary Act has affected many unaccompanied children seeking asylum in Sweden during the last few years. The asylum claims made by children who arrived in Sweden before 24 November 2015 and who have turned 18 during the asylum process or have been assessed as 18 years or above by the Swedish Migration Agency, are adjudicated according to the Temporary Act, even though the Act was not even in effect at the time of their arrival. This means reduced possibilities of being granted residence permits in Sweden for individuals who would otherwise be covered by the rules for those "otherwise in need of protection" or due to "particularly distressing circumstances". This has probably led to more rejections which, in combination with the changes to the Reception of Asylum Seekers Act curtailing allowance and accommodation benefits, led to increased destitution for many young people.

” Basically none of the young people I meet have anywhere to live, or they have very temporary accommodations. Maybe they can temporarily live at a friend's place for a few nights, in a church or at the central station. All of them are feeling bad.”<sup>15</sup>

### **Impact on mental health and integration**

This report shows that the mental health of individuals granted a residence permit in Sweden is negatively affected by the fact that they are no longer granted permanent residence permits. Their worry and stress are significant since they do

12 During that year 162,877 people applied for asylum in Sweden. This can be compared to the year of 2010 when a total number of 31,819 people applied for asylum

13 The temporary Aliens Act had been valid for over two years when this study was published.

14 Referral response regarding the prolongation of the Temporary Alien's Act, <https://www.redcross.se/press-och-opinion/pressmeddelanden/remissvar-tillfalliga-lagen/>

15 Interview with a nurse employed by the Swedish Red Cross, respondent 26.

not know if they will be allowed to stay in Sweden by the time their temporary residence permit expires. The shorter term permits also impact on the integration process, for example, leading to uncertainty whether it is worth focusing on obtaining a higher education or not, when they do not know if, or how long, they will be allowed to stay in Sweden.

” I couldn’t feel any happiness when I got my residence permit, it only felt as if they had prolonged the date for my return. Now when I know I can stay for one year, I feel even more stress. What will happen to me? Will I eventually be forced to return? How is my family doing?”<sup>16</sup>

Individuals who are granted a residence permit based on “particularly distressing circumstances” are only granted a permit for 13 months. This counteracts the purpose of issuing a residence permit on this particular ground. Some people are, for example, being denied health care because their residence permit is too short for them to be able to benefit from the necessary treatment.

Individuals who have applied for protection in Sweden have often endured difficult and traumatic experiences in their countries of origin and while fleeing to Sweden. The Swedish Red Cross forewarned that the introduction of the Temporary Act could lead to severe consequences for people who suffer from trauma, due to armed conflicts, torture and perilous migratory trails. This report shows that it is hard to implement proper trauma treatment for people without a stable existence. Because of the insecurity of their residence, many are not perceptive to the needed trauma treatment. The ongoing trauma also leads to an increased risk of depression and post-traumatic stress syndrome (PTSD). The temporary permits therefore lead to difficulties in treatment and recovery from mental illness. Many children arriving with their families are affected by trauma linked to the poor mental health of their parents.

” It isn’t possible to work with crisis from the past if you’re not feeling safe now. To not know whether or not you will be sent away from this country is not to be safe. There is no solid ground to stand on, something that is very obvious in the line of treatment. In therapy it becomes hard to leave the now and focus on the past.”<sup>17</sup>

### **Importance of Refugee Status Determination**

The length of the permits and the right to family reunification is, according to the Temporary Act, dependent on what kind of protection status an individual is granted. As a result, the status is now much more important than it used to be. The Swedish Migration Agency has been criticized for deficient refugee status determinations. Applicants have thus incorrectly been granted subsidiary protection when they should have been granted refugee status. This is serious as they are granted shorter residence permits through the Temporary Act and denied family reunification. Individuals otherwise in need of protection, namely those who due to an international or internal armed conflict or due to other serious disturbances have a well-founded fear of serious abuse, no longer have the right to a residence permit. They are therefore at risk of being expelled, even though they may have protection needs.

16 Interview with a person with temporary residence permit in Sweden, respondent 17.

17 Answer from a question form from a psychologist at the Swedish Red Cross in Malmö, respondent 19.

## Restrictions on family reunification and particularly distressing circumstances

The right to family reunification was limited in many ways by the Temporary Act, notably by the fact that beneficiaries of subsidiary protection no longer have the right to reunite with their families. The Act also introduced stricter supporting requirements, with regards to accommodation and income.

The government considered that the restrictions were proportionate during the period of validity of the Temporary Act, because of the need for a time-out in Sweden's reception of asylum-seekers. The research shows that the restrictions have had negative consequences, both for family members in Sweden as well as for family members left in the country of origin, or in a third country. Parents and children are often separated for many years. The absence of family support hinders recovery and impairs the mental health of people applying for asylum in Sweden. Family reunification is one of the few secure and legal ways for those in need of protection to get to Europe. When that possibility disappears, more people, including children, are forced to make dangerous journeys to and through Europe.

The report shows that many cases concerning residence permits on the grounds of family reunification are denied due to the stricter supporting requirements. The family member in Sweden is often considered to have an income that is too low or too uncertain, and difficulties in finding accommodation that is sufficiently large enough creates further obstacles. For families with many children, both the accommodation and income requirements are difficult to meet. The strict income requirements may also lead to exploitation in the labor market since many refugees and beneficiaries of subsidiary protection are ready to accept poor working conditions if they believe it will increase their possibility of reuniting with their families.

Women are at risk of being more affected by the income requirements than men. Women who have migrated to Sweden have, according to statistics, a lower employment rate and need longer time to find employment. Many women and children remain in the country of origin or in third countries, often under difficult circumstances. The reason is that it is often considered safer for male family members to make the dangerous journeys, and the plan is that the rest of the family will arrive later to the country of asylum in a legal and safe way.

” There's an obvious difference between the people who've been able to reunite with their families. You can see it in their faces and in their treatment. Even the look of them changes. First there's a small happiness when they themselves gain residence permit, but if they cannot bring their families here, they're living their lives in constant worry. Humans generally function better if they can be with their families.”<sup>18</sup>

Residence permits on grounds of family reunification and “particularly distressing circumstances” are granted, according to the Temporary Act, only if a rejection would constitute a breach of a “Swedish convention obligation”. However, many decisions and judgements that have been reviewed during the process of this research lack reasoning in this respect. It is unclear how the expression “in

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18 Interview with a psychologist employed by the Swedish Red Cross in Gothenburg, respondent 18.

breach of a Swedish convention obligation” should be interpreted, and the Swedish Migration Court of Appeal has not provided any clarification in this regard. This leads to a higher risk of legal uncertainty. A further result is that, an already vulnerable group, which was able to obtain a residence permit even before the legislative changes, now have an even smaller chance, which leads to more human suffering. The report shows that severely ill people sometimes are denied health care because the time of their residence permit is too short for them to be able to benefit from necessary treatment.

### **Concluding remarks**

The findings from the Swedish Red Cross’ report highlight the humanitarian consequences resulting from the restrictions in the Temporary Act introduced in 2015. The Swedish Red Cross’ experience shows that these restrictions have not only aggravated the exercise of the right to family life and family unity, but have also had a negative impact on the health and well-being of asylum-seekers, refugees and beneficiaries of subsidiary protection. Further, the report shows that several groups are particularly affected by these measures. Women and children as well as beneficiaries of subsidiary protection are disproportionately affected by the restrictions in the Temporary Act.

The main purpose of the Temporary Act was to reduce the number of asylum seekers coming to Sweden. However, no evidence has emerged that the decrease in the number of asylum seekers during the spring of 2016 was caused by the introduction of the Temporary Act. On the contrary, there are several indicators that the reduction started prior to the introduction of the Temporary Act and that it is due to other factors, such as the closure of the borders of many European countries, the introduction of Swedish ID controls and the EU Turkey Agreement. Considering the severe humanitarian consequences resulting from its implementation, it is questionable whether the introduction of the Temporary Act was proportionate to its objective.

The Swedish Red Cross’ experience also informs a series of evidence-based recommendations that should be considered to ensure that the right to family life and family unity is upheld. Due to the humanitarian consequences resulting from the implementation of the Temporary Act, the Swedish Red Cross has particularly advocated not to further prolong it and instead draft a long-term humane Aliens Act in compliance with the rule of law. Should refugees and beneficiaries of subsidiary protection continue to be granted temporary residence permits as per the general rule, permanent residency should then be granted in connection with extensions of the permits, provided the need for protection remains. In case the Temporary Act is extended or made permanent, the rules for family reunification should be adjusted, ensuring that the right to family reunification is guaranteed for both refugees and beneficiaries of subsidiary protection. The accommodation and income requirements, which in practice hinder or make family reunification impossible, must be reviewed. Due to the serious humanitarian consequences resulting from these measures, it cannot be considered proportionate to deny families reunification for longer periods of time. Decisions and judgements must contain better and more elaborate reasoning as to what is considered a breach of the “Swedish Convention obligation”.





Photo: Jarkko Mikkonen/Finnish Red Cross

## **Chapter IV**

### **Reuniting families across borders: The central role of European National Red Cross Societies and the Red Cross EU Office**

Across Europe, most National Societies are working to make the right to family life and family unity – as set out in International Human Rights Law, International Humanitarian Law, and International Refugee Law – applicable. In addition to restoring contact between family members, National Societies often go a step further and implement a variety of activities to support people reuniting with their relatives across borders. Here the context of family separation in Europe is presented, highlighting the role played by National Societies in supporting compliance with the family reunification framework that is in place in the European Union (EU). The various challenges to making the fundamental right to family life and family unity a reality for people on the move are identified, and reflections are shared on how the International Red Cross Red and Crescent Movement could take advantage of its unique position to address this key humanitarian challenge. This contribution is based on the experiences of European National Red Cross Societies in facilitating family unity in the EU. The data referred to was gathered through an online questionnaire which collected responses from 22 European National Red Cross Societies in early 2018.<sup>19</sup>

#### **At the end of a perilous journey to Europe: an ever-stricter framework for family reunification**

Across Europe and beyond, policies aimed at limiting migration often lead to migrants taking increased risks and their access to support and protection is reduced.<sup>20</sup> Among the multiple vulnerabilities experienced, men, women and children embarking on the perilous migratory routes to Europe risk losing contact

19 The 22 National Societies that responded are Malta RC, Swiss RC, German RC, Norwegian RC, Swedish RC, Macedonian RC, Icelandic RC, Slovenian RC, Danish RC, Italian RC, Finnish RC, British RC, Austrian RC, Croatian RC, Romanian RC, Spanish RC, French RC, Bulgarian RC, The Netherlands RC, Slovak RC, Luxembourg RC and Cyprus Red Cross Society (in order of response submission).

20 Red Cross EU Office, *Shifting borders: Externalizing migrant vulnerabilities and rights?* 2013.

with their loved ones. Even when travelling together, they can be separated at some point along the journey. Separation forces people to make critical decisions based on a limited number of options: wait for the missing person, initiate a search, or stick to the original plan with the hope that the rest of the family will follow.<sup>21</sup> In this context, people often choose to leave on their own so as to spare their relatives from a dangerous and uncertain journey. It is only after they have finally reached their destination, and obtained status, that they can contemplate the prospect of reuniting with their family.

Across EU Member States, the modalities for family reunification are governed by the European Council's Directive of 22 September 2003 on the right to family reunification.<sup>22</sup> Other legislation also has an indirect impact, such as the *Dublin Regulation*, which allocates to Member States the responsibility to assess individual asylum applications within the EU.<sup>23</sup> As such, family reunification is a right for many people who are in the EU. States should ensure that it is indeed accessible to those who are entitled to it. This also means that a common framework and comparable rules are in place across Europe. Still, there is room for interpretation and each Member State has therefore specified its own conditions and procedures to be applied.

European National Red Cross Societies have long witnessed the inadequacy of current family reunification procedures for beneficiaries of international protection across EU Member States.<sup>24</sup> According to the Family Reunification Directive, more favourable rules should be applied to this target group to enable them to enjoy their right to family life and family unity. This should translate into exemptions and derogations to the rules for refugees who apply for family reunification. However, in the experience of European National Red Cross Societies it appears that national practices remain inadequate in addressing family separation and, in particular, the specific needs of people who have fled to the EU in search of international protection.

Recent developments across Europe have further restricted the right to family reunification, either through temporary exemptions to the legislation, or via unofficial delays in the processing of family reunification claims.<sup>25</sup> While in some countries there have been attempts to restrict or postpone access to family reunification, the failure to accommodate the relatively high number of migrant arrivals in 2015 has triggered long delays and waiting times before applications can be submitted in several Member States. However, by making it more difficult for separated families to be reunited, it is harder for migrants to settle down and envisage long-term prospects in their new place of residence. European National Red Cross Societies' staff working with migrants unanimously consider family reunification as key to removing some of the strain that impedes people from meaningfully engaging in the different aspects of their new lives.<sup>26</sup>

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21 Red Cross EU Office, *Perilous journeys, Vulnerabilities along migratory routes to the EU*, 2015.

22 Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification, OJ L 251/12, 3.10.2003.

23 Regulation (EU) No. 604/2013 of the European Parliament and of the European Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast) OJ 29.6.2013.

24 RCEU/ECRE, *Disrupted flight, the realities of separated refugee families in the EU*, 2014.

25 This is particularly the case in Germany, Sweden, Denmark, Greece, and Austria.

26 Red Cross EU Office, *Moving forward together - Red Cross approach to social inclusion of migrants*, 2018.

## **European National Red Cross Societies' comprehensive approach to family reunification**

For people fleeing war and persecution, reuniting with their family members is generally their first priority upon arrival in the host country. On a daily basis, European National Red Cross Societies' staff observe the negative impact family separation has on people seeking protection in Europe, and how it affects their health and ability to engage in the integration process. The constant worry about family left behind, as well as the absence of relatives who could provide support, increase people's vulnerability and adds to the traumatic experiences associated with forced migration to which they have already been exposed. Fleeing for protection to Europe can be an isolating ordeal which often lasts years comprising the journey itself, lengthy and stressful asylum procedures, and difficult reception conditions, which in some cases include detention. Against this background, most National Red Cross Societies have decided to implement activities to support migrants in reuniting with their family members. These activities include providing information and practical support, as well as policy and advocacy work.

Information on family reunification procedures is often limited through official channels and has become increasingly complex. Consequently, it is difficult for migrants to identify the correct process and admission criteria which applies to their specific situation. Furthermore, as legislative changes have been introduced in most Member States in recent years, the eligibility rules and conditions are unclear. Even for professionals in this area, it is more and more difficult to understand and interpret the rules governing family reunification. Beyond the availability of information, its reliability is also identified as a problem. Inconsistencies in information provided by authorities and their embassies lead to confusion, while rumours and misinformation are widespread. More than 80 per cent of European National Red Cross Societies seek to address this shortcoming through activities such as the production of booklets or posters in the national language and/or relevant languages for migrants, organizing information sessions for beneficiaries about their other migration services, or explaining the procedure on their website.

Practical support, including financial and travel assistance, is also a core aspect of European National Red Cross Societies' work around family reunification. Be it through punctual assistance or extended programmes, they constantly adjust their response to address the many obstacles faced by families seeking to reunite. The family reunification procedure often requires that all family members undertake administrative steps in the EU Member State and its consular representation abroad. European National Red Cross Societies help in setting up appointments, obtaining supporting documents, and fulfilling application requirements. Some National Societies also provide the financial assistance that is often needed to cover costs relating to travel, vaccinations, or translations. Making travel arrangements and assisting those with special needs can also be decisive in enabling beneficiaries' right to family life and family unity. With its worldwide presence, the International Red Cross and Red Crescent Movement is in a unique position to support family members along the migratory trail.

European National Red Cross Societies have found that often, the right to family life and family unity cannot be realized because access to information on the intricacies of the law and affordable advice on how it applies to every individual situation is unavailable. Given the limited legal support for family members in the family reunification process, almost one in two European National Red Cross

Societies provide legal assistance to sponsors and their families. This includes lawyers or volunteers with a legal background, who provide advice and/or legal representation to migrants and their family members, to support them in the application procedure. In some instances, European National Red Cross Societies conduct strategic litigation by identifying and pursuing legal cases in order to bring about legal and/or policy change.

In fact, more than half of the European National Red Cross Societies lobby their governments for increased access to family unity through national legislation or the EU framework. This includes writing advocacy papers, sharing recommendations with public authorities, providing comments to legislative proposals and participating in public policy events with governmental representatives. In addition, many European National Red Cross Societies contribute to increasing public awareness on the complexity of the procedure. They participate in advocacy events and make themselves visible in publications aimed at influencing the applicable policy framework around family reunification. The narrow definition of family members eligible for family reunification, and the fact that the principle of the best interest of the child is not sufficiently taken into account in the procedure, are among the main issues raised by European National Red Cross Societies in their advocacy towards their governments.

### **Taking advantage of the Red Cross' unique position**

Working to improve the right to family life and family unity poses various challenges for National Societies in Europe. Not only do they need to address the increasing and evolving obstacles experienced by family reunification applicants during the process, but they also face internal and operational challenges in their work to support family unity. Almost 70 per cent of European National Red Cross Societies say they lack the capacities and funding to implement the full range of activities necessary to comprehensively support family reunification. Often, their work is project-based, which limits the long-term perspective needed when supporting procedures which can take several months, if not years, to come to term. The lack of political will in the country and of public support for migrants are also perceived as additional barriers to scaling up activities in this field. These obstacles highlight the importance of working together as a Movement to address the challenges, share experiences, and increase opportunities to support the right to family life and family unity, from both the operational and the policy perspectives.

In fact, 95 per cent of European National Red Cross Societies see a role for the Movement in supporting family unity. Most see the Red Cross, as a global movement with a mandate to restore family links, playing a leading or important role. Most also consider that the Red Cross is in a unique position to advocate for policy change and better implementation of the legislation on family reunification with governments and the EU institutions. Against this background, it comes as no surprise that a family reunion working group was recently created within the Movement, including representatives from the International Committee of the Red Cross (ICRC), the International Federation of Red Cross and Red Crescent Societies, and European National Red Cross Societies. With a view to capitalizing on the complementarity among the different Movement components, the working group aims to: develop a RCRC Movement-wide definition and framework on family reunification; further define what could be expected from each component in this field; define minimum standards; and, facilitate cooperation within the Movement and beyond.



Recent developments have indeed shed light on the Movement's importance and added value in this area. At the end of 2017, the United Nations High Commissioner for Refugees (UNHCR) was tasked by the EU to carry out emergency evacuations of refugees from Libya to Niger, pending transfer to third countries or return to their country of origin. Among those evacuated, it was quickly apparent that a small number could be eligible for family reunification to Europe. With this in mind, UNHCR contacted the Red Cross, asking for its support in Niger to provide expertise on family reunification procedures and processes in Europe. After initial discussions, the ICRC agreed to take responsibility for the deployment of such experts, with two British Red Cross staff members identified and deployed for two months in 2018. This experience illustrates the potential of the Movement to step up its work on family reunification internationally. Such activities provide the opportunity to get a real understanding of the challenges faced by family members seeking to join their relatives in the EU, and how the Movement can concretely help to address them, by working as a network with colleagues across borders. It became obvious from this posting that there are significant gaps when it comes to supporting family unity and that there is scope for enhancing the Red Cross' work internationally in this area.

### **Concluding remarks**

States bear the primary responsibility to guarantee the safety and uphold the rights of everyone under their jurisdiction. They must ensure adequate safeguards to protect the dignity and rights of migrants, including the right to family life and family unity. Nevertheless, the experience of European National Red Cross Societies shows that current frameworks are insufficient to maintain migrants' right to family reunification. In many European countries, the National Societies have developed activities to help redress the situation and contribute to the reunification of separated families. Their activities aim to overcome the obstacles encountered by family members in the EU, as well as to help address the challenging situation in the regions of origin. In doing so, they have confirmed their position as key players in making the right to family life and family unity a reality in Europe.

Their experience has also allowed them to identify a series of evidence-based policy recommendations which states should consider so as to guarantee the right to family life and family unity. In particular, they have observed how the obstacles to accessing family reunification are forcing many people to resort to irregular channels to reunite with their relatives. The scarcity of safe and legal avenues to the EU for third-country nationals pushes many to rely on the services of smugglers, given the lack of viable alternatives. Legal avenues to the EU must be further developed in order to reduce the demand for smuggling. Additional opportunities and more effective frameworks for dignified, safe, and legal migration should be implemented, especially for family reunification.<sup>27</sup> States should apply a protection-oriented approach to family reunification procedures for truly effective achievement of the right to family reunification and family unity. They should facilitate family reunification and address the legal, practical, and/or administrative obstacles currently limiting or preventing family unity. This includes systematically considering the reunification of family members beyond the nuclear family, particularly if they are dependents.

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<sup>27</sup> Red Cross EU office, [Position paper Addressing the Vulnerabilities Linked to Migratory Routes to the European Union](#) (2015)



Photo: Thierry Cassmann/CICR

## Chapter V

### The ICRC's Central Tracing Agency: A history of restoring family links

Every day, people go missing during armed conflicts, other situations of violence, in the context of migration, or as a result of natural or man-made disasters. The reasons vary greatly; for instance, people may become separated during internal displacement or along migration routes. They may lack adequate means of communication or chose not to contact their families for various reasons. Persons who are captured, arrested or abducted may be held incommunicado or in a secret location, unable to contact their families. Members of State armed forces or non-State armed groups may go missing in action. Children may become separated from their families and lose contact during internal displacement or as a result of their forced recruitment into armed forces or armed groups. Individuals whose bodies are abandoned, buried in haste or mismanaged, making identification difficult or impossible, may also be reported missing.

While there is no legal definition of a missing person under international law, the International Committee of the Red Cross (ICRC) understands missing persons as individuals of whom their families have no news and/or who, on the basis of reliable information, have been reported missing as a result of an armed conflict – international or non-international – or of other situations of violence or any other situation that might require action by a neutral and independent body.<sup>28</sup> This definition includes persons missing in the context of migration. It does not impose an element of time and a person is therefore to be considered missing from the start and not after a “waiting period”. Furthermore, the definition does not presume that the person is dead. At the other end of the spectrum, a person is considered no longer missing when the family has received sufficient, reliable and credible information about his/her fate and whereabouts.

<sup>28</sup> Definition based on ICRC, *Missing Persons: A Handbook for Parliamentarians*, Geneva, 2009, available at: [www.icrc.org/en/publication/1117-missing-persons-handbook-parliamentarians](http://www.icrc.org/en/publication/1117-missing-persons-handbook-parliamentarians).

Disappearances, dreadful enough for the individuals concerned, means anguish and uncertainty for their families who are left in limbo over their loved one's fate and whereabouts, and are faced with a myriad of specific challenges related to having a missing relative. These may differ depending on each relative's personal situation, the local context, their socio-cultural environment, the national legislation, etc. While the primary need expressed by families, according to ICRC's experience, is the need to know the fate and whereabouts of their loved ones, other needs often encountered include psychological and psychosocial, legal and administrative, social, and economic needs. Stigmatization and protection concerns may also be experienced by families. Overall, many of the needs are often overlooked, not recognized or not properly addressed.

International Humanitarian Law (IHL) and International Human Rights Law (IHRL) uphold the right of families to know the fate and whereabouts of their missing relatives. States must therefore make every effort to prevent people from disappearing, to search for missing persons and to deal with the consequences of such events. In non-international armed conflicts, relevant IHL obligations also extend to non-state armed groups that are parties to the conflict. In addition, as recognized by the 2003 International Conference of Governmental and Non-Governmental Experts on missing persons (see below), authorities should also seek to support the other specific needs families face as a result of the disappearance of a loved one, such as the need for administrative, economic, mental health and psychosocial support, the need to have their suffering acknowledged, conduct commemorative rituals, and the need for justice.

### **ICRC Action**

The ICRC has a long history of working with missing persons and their families which is based on its mandate, as enshrined in the 1949 Geneva Conventions, their 1977 Additional Protocols, the Statutes of the International Red Cross and Red Crescent Movement, and resolutions of the International Conferences of the Red Cross and Red Crescent.<sup>29</sup> Its action dates as far back as the Franco-Prussian War in 1870, when the ICRC pioneered the compilation of lists of prisoners of war and the wearing of a badge so that the dead could be identified. What was then known as the 'Basel Agency' was set up to centralize and exchange information between the parties in view of re-establishing family contact and clarifying the fate of missing persons. This was followed by other short-term agencies until the Central Tracing Agency, as it is known today, was finally established in 1960.<sup>30</sup> Another milestone came in 2003 when the ICRC organized the first ever International Conference of Governmental and Non-Governmental Experts on Missing Persons in order to promote and strengthen its engagement towards missing persons and their families.<sup>31</sup> The conference, which brought together participants from a wide array of backgrounds and sets of expertise, reaffirmed the families' right to know, recognized that they have specific needs in addition to this, and proposed concrete measures to ascertain the fate and whereabouts of the missing and to support their families.

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29 For more information, see the ICRC factsheet "Missing Persons and Their Families", available at: <https://www.icrc.org/en/document/missing-persons-and-their-families-factsheet>.

30 See <https://www.icrc.org/en/doc/resources/documents/interview/centra-tracing-agency-interview-070410.htm>

31 See ICRC, *The Missing and Their Families: Summary of the Conclusions Arising from Events Held Prior to the International Conference of Governmental and Non-Governmental Experts* (19–21 February 2003), Geneva, 2003, available at: <https://www.icrc.org/en/doc/resources/documents/report/5jahr8.htm>. And on outcomes of the International Conference of Governmental and Non-Governmental Experts at: [www.icrc.org/eng/resources/documents/report/5jygc.htm](http://www.icrc.org/eng/resources/documents/report/5jygc.htm)

Since the conference, the ICRC has further diversified its action on the issue of missing persons which today includes a wide variety of activities aiming to prevent persons from going missing, to search for those who do, and to support their families left behind. The ICRC also works to develop national legislation and measures to support States in implementing their international obligations and ensuring protection for the missing and their families under the law. This includes promoting and supporting the setting up of and providing technical advice to the mechanisms seeking to clarify the fate and whereabouts of missing persons and to support their families, as well as playing an active role through chairing five coordination mechanisms in ICRC's function as a neutral intermediary. As part of its humanitarian forensic action, the ICRC seeks to build the capacities of forensic actors, in particular by reinforcing national medico-legal systems that relate to the dignified handling and identification of the dead.<sup>32</sup> In most of its operations today, ICRC addresses the issue of missing persons in one way or another, with over 50 delegations in 2019 engaging in specific missing-focused, multi-disciplinary programs. While around half of these programs address post-conflict situations (as exemplified by the Sri Lanka example below), the ICRC is seeing an increased engagement on the issue of missing persons and their families during conflict (see section on Ukraine below) as well as in relation to migration (see below section on Senegal).

As of the end of 2018, the ICRC was following at least 139,000 cases of missing persons (i.e. tracing cases), a majority of which concerned men (over 80 per cent), and around 20 per cent of the total concerned children. These figures are more than double in comparison to three years ago and while contexts like Nigeria, Yemen, Iraq, Afghanistan and Syria account for a majority of the more 'recent' cases, many cases dating several years or even decades back are still being followed in places like Sri Lanka, the Western Balkans, Lebanon and Nagorny Karabakh, to name but a few. While it may be the highest numbers that ICRC is faced with in more than 15 years, it is only a fraction of all the people believed to be missing worldwide owing to past and current armed conflicts, other situations of violence, disasters or in the context of migration. However, such numbers only reveal part of the tragedy, as behind every missing person there are countless more people affected among their families and communities left behind.

On the positive side, roughly 7,000 persons followed by the ICRC were located in 2018 and, in collaboration with National Societies, the ICRC facilitated family contact through the exchange of nearly 1.2 million written and oral messages and phone calls, while 1,000 family members were reunited, out of which more than 800 were children. Thousands of families of the missing, in over 25 countries and contexts, received support, including through the Accompaniment program in 15 contexts which seeks to provide a multi-disciplinary response while forming empathic relationships and mutual support networks with local actors (so called 'accompaniers').<sup>33</sup> This included the participation of almost 5,000 families in mental health and psychosocial support activities in 2018, in addition to other activities and support provided to help meet their various needs. A majority of these relatives were women (at least 70 per cent) while at least 103 children were also directly supported.

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32 For more, see <https://www.icrc.org/en/doc/resources/documents/publication/p4156.htm>, <https://www.icrc.org/en/publication/4152-living-absence-helping-families-missing> and <https://www.icrc.org/en/international-review/article/qa-icrcs-engagement-missing-and-their-families>.

33 For more, see <https://www.icrc.org/en/publication/4110-accompanying-families-missing-persons-practical-handbook> and <https://www.icrc.org/en/publication/4311-guidelines-mental-health-and-psychosocial-support>.





Photo: Pieter Jan De Poe/ICRC

## Chapter VI Addressing the needs of missing persons and their families: ICRC's perspectives from Ukraine, Senegal and Sri Lanka

### Ukraine

” Our city lives its own life. There is no war. People celebrate births, marriages, birthdays, visit exhibitions and football games. And no one bothers about us. But I will never stop searching. I see the face of my son in every young man passing by me in the street and I feel that he is alive.”

– Mother of a missing person

From the start of its action in Ukraine, where the ICRC has been permanently present since the beginning of the armed conflict in 2014, in the conflict-affected regions of Eastern Ukraine, the ICRC has been engaged on the issue of missing persons and unidentified bodies. It has been carrying out Restoring Family Links (RFL) activities, including tracing, engaging with the responsible authorities, strengthening the medicolegal system, improving forensic capacities, and seeking to understand and address the various needs of the families of the missing. Through its detention activities, the ICRC has also been consistently seeking to clarify the fate of persons allegedly arrested and detained in relation to the conflict.

Together with the Ukrainian Red Cross Society (URCS), nearly 1,700 tracing cases have been collected to date, out of which over 740 remain unresolved. While most persons went missing in the beginning of the conflict, new cases are still being received. In the lack of comprehensive and consolidated official records, it is estimated that the overall figure could be at least 1,500 persons. The vast majority are men of working age – brothers and sons, husbands and fathers – including roughly equal numbers of civilians and combatants.



In 2016, the ICRC together with the URCS carried out an assessment of the needs of missing persons' families, followed by a cross-checking exercise in 2018 to understand if and how their needs had evolved over time.<sup>34</sup> A total of 73 relatives of missing persons were heard and the priority need they expressed was the need to know the fate and whereabouts of their missing relative(s), in addition to financial, mental health and psychosocial, legal and administrative needs, as well as justice and recognition. The majority of the interviewed families believed that their missing relative is alive (65 per cent) in comparison to the 12 per cent of families who thought that their loved one is dead, or the 23 per cent of interviewed families who said they do not know. All families had searched for their missing loved one(s) through different ways: visiting hospitals, military bases and morgues; enquiring with available state institutions, organizations and other actors; in addition to less conventional means such as fortune tellers. The search often stretches over several years and is not only tiring but also costly for the families, adding further burden on the many who have also lost their main breadwinner. Living in constant uncertainty and anguish concerning the fate of their loved ones had taken a toll on a majority of the interviewed families' well-being with stress, depression and negative emotions as a common expression, which also led to a deterioration in the overall health of many relatives. Lack of financial means to cover medical expenses, itself related to the fact of having a missing person, made an already difficult situation worse. Most families interviewed, except those whose relatives were members of the armed forces, had not received assistance to support them in these difficult times nor were they aware of specific rights or benefits they could be entitled to.

The results of the assessment were presented to the authorities who have taken some action to address the needs of the missing persons' families. As other countries in a similar situation, Ukraine had a system in place to clarify the fate of missing persons prior to the current conflict. However, this system was overwhelmed with the large number of persons who went unaccounted for and of dead bodies, and unprepared to deal with the complexities of conflicts or mass casualties. As a consequence, authorities have faced difficulties coping with the search and identification process. To address this, as well as the multi-faceted needs of the families of missing persons, the authorities in July 2018 adopted Law n° 2505, *On the Legal Status of Missing Persons of Ukraine*, prepared with the ICRC's support. It recognizes the right of families to know the fate of their relatives, including their whereabouts and, in case of death, the circumstances surrounding this as well as the burial place and the right to obtain the remains of their loved ones. The law also introduces a legal status of a missing person, provides for the right of families of missing persons to receive financial assistance and provisions for the management of the missing person's property. Concerning search and identification, the law introduces the concept of multi-disciplinary approach and integrated identification - essential to achieving reliable results. The law separates persons who go missing or die in non-emergency/non-special circumstances, from persons who go missing or die in special circumstances of emergency, i.e., conflict or man-made/natural disasters. Procedures for the latter will be coordinated by a National Commission on the Missing, yet to be established. The law also provides relatives with an opportunity to be more actively involved in the search for their loved ones and to be informed about the actions of the authorities, in particular about the search and identification process.

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34 A public version of the report is available in Ukrainian and English at: <http://ua.icrc.org/2018/12/21/fna-report/>

Following the approval of the Law, the ICRC organized an ‘International Conference on Integrated Actions towards Clarification of the Fate and Whereabouts of the Missing Persons and Support to their Families,’ to support the authorities in building the national mechanism foreseen in the Law. The conference in October 2018 was attended by 127 participants from 13 countries, including representatives from missing person mechanisms, allowing for a fruitful peer-to-peer exchange of experiences.

In addition to its engagement with and support to the authorities to fulfil their obligations to clarify the fate of missing persons, ICRC has provided financial and psychosocial support to missing persons’ families through its Accompaniment program, launched in 2016. Activities comprise individual home visits, support group sessions, family gatherings and support in addressing health, financial, legal and administrative needs. To date, over 420 persons in both government- and non-government-controlled areas have benefited from financial assistance (through cash or vouchers). The objective is to help those families who lost a breadwinner, in relation to the conflict, to meet their basic needs. In addition, 50 families have received psychological and psychosocial support through psychologists and URCS volunteers trained as accompaniers. The ICRC has also facilitated family gatherings in order for relatives of missing persons to be able to commemorate their missing loved ones and to provide a space for emotional processing of their uncertainty.

Through its humanitarian forensic action, the ICRC has assisted local agencies to strengthen the medicolegal systems responsible for the search of missing persons and proper management and identification of the dead. This has included: working at the level of recommendations for policy making and adjustments in the legal frameworks; providing technical advice to ensure procedures are up to international standards; building up the local forensic expertise, providing material support and refurbishment of facilities for better working conditions; and, ensuring families are involved in forensic processes. With this work the ICRC has established a good level of dialogue and acceptance. This has resulted in small but significant changes that, together with close follow-up of the ICRC’s caseload, has had a positive impact on the overall process and has allowed cases to be solved (925 tracing cases). Several meetings with families were held by the authorities to inform them of developments in the search for their missing relatives and/or identification results. Forensic experts, law enforcement authorities and military personnel have attended ICRC trainings on various aspects of the search and identification process, both in Ukraine as well as abroad. ICRC has furthermore served as a neutral intermediary in facilitating the collection of forensic data and DNA reference samples. In its discussions with the armed forces, the ICRC stresses the importance of preventing the disappearance of people during armed conflict and other situations of violence, and of their obligations towards maintaining the dignity of the dead, and proper management of human remains in line with international law.

Through communication campaigns, the ICRC has also worked to promote the families’ right to know, to increase the visibility of families’ multi-faceted humanitarian needs, and to raise awareness of their plight among the general public.<sup>35</sup>

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35 For a compilation, see: <http://ua.icrc.org/?s=missing+>.



Photo: José Cerdón/ICRC

## Senegal

“ Our life may never be like before. Victor was the pillar of our family. His father no longer has the strength to work. He has had five operations since Victor left.”

– *Mother of a missing son*

Migration from Senegal towards African countries and Europe is not a new phenomenon; traditionally, young men have left from different parts of the country due to conditions in their home region and/or in search for different opportunities abroad. This phenomenon should, however, not only be understood in economic terms, but also as part a rite of passage many young men go through. Due to changes in migration and border policies, and the often irregular nature of the trip, migrants take increasingly more risky routes and means of travel. Loss of contact with families and disappearances are some of the humanitarian consequences this situation entails.

Having worked in the region several years prior, the ICRC opened its regional delegation in Dakar in 1989, covering Senegal, Cape Verde, Gambia and Guinea-Bissau. Among its activities, it supports the National Societies to carry out RFL activities for families dispersed by armed conflict, detention, migration or other circumstances. In Senegal, where existing needs relating to missing migrants are believed to be substantial (though difficult to quantify in the absence of clear and reliable statistics), the Movement has mainly been reactive in its RFL approach, including opening tracing requests, due to the complexity and challenges of active search.

In 2010, while doing a stakeholder mapping in relation to migration in Senegal, the ICRC encountered for the first time an association of families of missing migrants in Thiaroye-sur-Mer, a suburb of Dakar. Together with the Senegalese Red Cross Society (SRCS), other families of missing migrants throughout the country were subsequently identified, and the challenges these families expressed were similar to what the ICRC has encountered in other contexts, such as those affected by conflicts.

In 2012, the ICRC together with the SRCS therefore engaged in an assessment of the needs of families of migrants who had left home in 2004-2009 from regions particularly affected by the issue (Thiaroye-sur-Mer, Saint-Louis, Tambacounda and Casamance). Relatives in a total of 53 different localities, representing 273 missing migrants, all of whom were men aged 18–69 years, were heard. As the first of its kind carried out for this specific population, the assessment showed that families of missing migrants experienced many of the same needs as conflict-related cases; they expressed the primary need to know the fate and whereabouts of their loved ones, in addition to the need for financial, mental health and psychosocial support. Legal and administrative issues also ensued after some time following the disappearance, and even if Senegalese law foresees the status of absence, few families knew about this provision or had attempted to obtain such status for their missing relative.<sup>36</sup> Finally, although families did not necessarily consider the authorities responsible for their loved ones going missing, in contrast to what can be observed in conflict contexts, they nevertheless felt that their situation had not been recognized by the State and that not enough had been done to look for their loved ones. However, due to the irregular nature of many departures, few families approached the authorities about their particular situation.

As a result of the needs assessment, the ICRC launched an Accompaniment program in 2014, together with the SRCS, which to date has assisted 287 families in six regions, including a large number of women (mothers, wives and sisters) and also children.<sup>37</sup> Activities include group sessions allowing for mutual peer support, as well as home visits, including for those unable to attend groups. Commemorative events and legal workshops are organized with the participation of local, traditional and religious authorities, thus bridging the gap between families and key actors in their communities, raising awareness about their particular situation and challenges. Referrals for specific needs such as health, mental health and psychosocial care, or for support with administrative issues such as birth registrations, are provided when needs are identified by the ICRC-trained accompaniers, themselves members of the local communities and volunteers of the SRCS. In some regions, summer camps for children and extra tuition support to catch up with school have been organized, in view of the many children affected by the disappearance of their father. Since the vast majority of missing persons reported are men who are often the main breadwinners, or otherwise filling an important role in supporting their families, socio-economic activities mostly targeting women have included

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36 Article 16 of the Family Code defines an absent person as “someone whose absence of news renders his/her existence uncertain”. A demand for presumption of absence can be lodged at the regional court of the last known home address of the missing person one year after the last news. One year after depositing the request, the relative can be declared absent and a person appointed to temporarily administer his/her property. If married, the wife/husband can get a divorce. According to Muslim law, a wife has to wait another 4 months and 10 days before she can remarry.

37 For more information about the program, see <https://www.icrc.org/fr/document/senegal-appui-aux-familles-des-migrants-portes-disparus>, and for testimonies from some of families, see here: <https://www.icrc.org/en/document/senegal-new-hope-families-missing-migrants>, and <https://www.icrc.org/fr/document/tambacounda-keur-daouda-dans-le-quotidien-dune-famille-de-migrant-disparu>.



literacy classes and vocational training, as well as cash grants and revolving-credit schemes which have allowed them to carry out income generating activities, including acquiring entrepreneurial skills necessary to run a project. Support to the creation of family associations or to the functioning of existing ones has also been given to ensure the presence of a sustainable supportive network for families.

While the Accompaniment project has seen positive results in terms of its overall impact, as well as mental health, psychosocial and socio-economic outcomes, learning about the fate and whereabouts of their loved ones remains key for the families in order to move on with their lives. As of the end of 2018, over 500 cases of missing persons, the majority migrants, are pending resolution with the ICRC while the fate and whereabouts of nearly 60 were resolved in the same year. This may be the tip of an iceberg since there are no comprehensive statistics at the national level nor have the ICRC and SRCS reached out to all affected families or localities.

The tracing requests collected are shared, with the enquirer's consent, with the Family Links Network along the migration routes, who also enquire with relevant authorities, organizations and communities, as well as through publishing cases on Trace the Face. Challenges, however, include: lack of access to some key areas and actors; the reluctance of migrants themselves to sometimes re-establish family contact for various reasons; a lack of information and/or inconsistent details necessary for the search; and, a lack of efficient means to centralize and share information on missing persons and unidentified human remains across diverse regions and countries. Families in Senegal have been informed about procedures undertaken for the search and have been able to share additional information, allowing them to play a more active role in the process. In some cases, families were also able to re-establish contact on their own, some even as long as 10 years after the loss of contact.

In its dialogue with Senegalese authorities, the ICRC focuses on the necessity of creating a national mechanism for clarifying the fate of missing migrants and providing their families with assistance, and on incorporating this still rather under-reported and under-recognized theme in their policies at national and local levels.

Finally, the ICRC is also engaged in supporting the identification process carried out by the authorities in Italy in relation to specific shipwrecks, notably the one that occurred on 18 April 2015 in the Mediterranean, off the coast of Libya. The authorities recovered the vessel and retrieved the human remains about one year later in an effort to identify and give the victims a proper burial. Based on an agreement between the Italian authorities, the ICRC and the Italian Red Cross, the ICRC's role is to liaise – in cooperation with National Societies – with the families of missing migrants in countries of origin, transit and/or destination, and to collect information necessary for the purpose of identification. This project includes a number of families in Senegal and its aim is to help families of missing migrants to clarify the fate of their loved ones. It is also expected to contribute to identifying measures and developing practices to further address the issue of missing migrants and strengthen the response to the families' needs.





Photo: CC BY-NC-ND/ICRC, Article: Waiting for Answer, 25 January 2018

## Sri Lanka

“ My son has been missing for 26 years. We didn't talk about it with anyone outside our family, until we joined this group. Before, even though we lived in the same village and saw each other often, we didn't talk about our shared pain. We would just greet each other in passing. Now, we know each other well, and talking about our missing children has relieved us all of a heavy burden we've carried for years.”

- Mother of a missing son

The ICRC has been present in Sri Lanka since 1989, responding to humanitarian needs from the uprising of the Janatha Vimukthi Peramuna (JVP) in the South and from the non-international armed conflict (from here on 'the armed conflict') between the Government of Sri Lanka and the Liberation Tigers of Tamil Eelam (LTTE).<sup>38</sup> During the armed conflict, ICRC registered about 34,000 tracing requests from families reporting the disappearance of one or several relatives, carried out tracing activities, and maintained a dialogue with the parties to the conflict, reminding them to protect civilians and search for missing persons. These efforts allowed the ICRC to clarify around 18,000 cases; nevertheless over 16,000 persons across the country are still missing from that period, a majority of whom were men aged 17 to 25 at the time of their disappearance.

Following the armed conflict, the ICRC maintained its presence in Sri Lanka, albeit reduced, and with the agreement of the authorities, it carried out a needs assessment with 395 families of missing persons throughout the country between October 2014 and November 2015.<sup>39</sup> The purpose was to identify and better under-

38 More information on ICRC activities can be found in the country webpage [www.icrc.org/lk](http://www.icrc.org/lk) and in the ICRC's Annual Report <https://www.icrc.org/en/annual-report>.

39 The public report of the assessment is available in English, Sinhala and Tamil at: <https://www.icrc.org/en/document/sri-lanka-families-missing-persons>.

stand how their relative's disappearance was affecting their daily lives several years on. The findings showed that what the families wanted most was to know what happened to their loved ones, followed by emotional, economic, legal and administrative needs, as well as the need for acknowledgement and justice. The combination of a lack of answers regarding the fate of their missing relative(s) with pressing economic concerns created psychological and psychosocial problems. In terms of action by the authorities, the majority of families believed that receiving answers on the fate of their relative(s) would resolve their problems, closely followed by financial assistance.

Following the needs assessment, a set of recommendations were shared with the authorities, and in November 2015 the ICRC launched a comprehensive peer-to-peer support program for the families of missing living in Sri Lanka, together with local organizations. Through home visits, support groups and assistance, the Accompaniment program provides families with a space to share their experiences, break their isolation and help them to better cope with their loved ones' absence.<sup>40</sup> Local 'accompaniers', themselves often relatives of missing persons, have so far reached over 6,000 families, guiding them to cope in their daily lives. The program has enabled families to obtain assistance – from ICRC or via referrals to local authorities or nongovernmental organizations (NGOs) – to meet their mental health and psychosocial, legal and administrative needs. Children are also supported with school materials and scholarships, provided through referrals to NGOs. For the most economically vulnerable households – including those headed by women – economic support through cash grants and training have helped families start or expand small businesses and increase their food production.

In 2015, following Resolution 30/14 of the United Nations Human Rights Council to “*promote reconciliation, accountability and human rights in Sri Lanka*”<sup>41</sup>, the Government decided to engage in different reforms to implement the recommendations of the resolution. In particular, it engaged in a transitional justice process including four pillars – accountability, reparations, truth-seeking and guarantees of non-recurrence – and the clarification of the fate and whereabouts of missing persons. As part of this, Sri Lanka adopted in 2016, the *Office on Missing Persons (Establishment, Administration and Discharge of Functions) Act*, No. 14. In its preamble, the OMP Act recognizes that relatives of missing persons are entitled to know the circumstances in which a person went missing, including their fate and whereabouts. The OMP has the mandate to trace and search for missing persons, to identify the appropriate mechanisms to do so and to clarify the circumstances in which the persons went missing while providing assistance to their relatives. The OMP shall also “protect the rights and interests of missing persons and their families, identify proper avenues for redress and provide or facilitate provision of welfare services, including psychosocial support”. In 2016, a legal framework was also established for issuing “certificates of absence”; documents to attest to the absence of missing persons, in order to enable their families to request State assistance.

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40 A video presenting the program can be found at: <https://www.icrc.org/en/document/coping-together-families-missing-persons-help-each-other>, and testimonies of families at: <https://www.icrc.org/en/document/sri-lanka-9-years-families-missing-loss-conflict>.

41 [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/RES/30/1](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/30/1).

In March 2018, the seven Commissioners of the OMP were appointed and the entity has since been working on setting up its office(s) and all the procedures required to discharge its mandate, functions and powers. In light of these developments and the authorities' responsibility to clarify the fate and whereabouts for missing persons, the ICRC in Sri Lanka offers its services to provide advice and technical expertise to the OMP and other relevant authorities involved in the process. It has engaged with the OMP through sharing experiences from other contexts and providing technical expertise and capacity building on different aspects, including: legal framework, including the development of data protection rules, forensic technical expertise, building a data management system, supporting the families during the process, etc.

The ICRC will consider the possibility to transfer some information collected through tracing requests for persons reported missing in relation with the armed conflict to the OMP, if in the best interest of families and depending on the fulfillment of strict conditions and the informed consent of the family members (enquirers). For this purpose, the ICRC has been re-contacting the over 16,000 families who opened a tracing request for a relative missing in connection with the armed conflict in order to confirm if the relative is still unaccounted for, and to enquire if the family gives its informed consent to this possible data sharing.

The ICRC in Sri Lanka also supports authorities in strengthening the medicolegal system through different actions such as the reform of the Inquests into Deaths framework. The last draft of the law reflects important humanitarian considerations related to the identification of human remains and the need to involve families in the technical process, as well as the coordination with the different agencies. In relation to the OMP mandate, the ICRC has trained experts to raise awareness about the importance to coordinate the actions from preliminary investigations, the recovery of bodies, and the proper examination and final disposition or handover of human remains to the families. The ICRC also provides technical support to the Institute of Forensic Medicine and Toxicology (IFMT) for the implementation of best practices and to manage human remains in mortuaries more effectively.

### **Looking forward**

Whether in Ukraine, Senegal, Sri Lanka or the number of other contexts where the ICRC has engaged on the issue of missing persons and their families, the need to know the fate and whereabouts of a loved one is the most recurrent and pressing need for an overwhelming majority of families. Whatever the reasons leading to a person going missing, and regardless of the time that passes, families will often struggle to fully rebuild their lives until they receive concrete and individual answers. The way families live through the period of search, uncertainty and waiting may differ depending on each person, his/her social surrounding, the cultural, socio-economic and political context and other factors. The ways disappearances affect other aspects of families' lives will differ as well but to the ICRC, one thing remains clear; time does not heal. Answers do.

Cases of missing persons that occurred decades ago are still pending clarification in many countries, thus spreading the waiting and anguish of families over generations and, in some cases, marking the history of entire communities. New cases are added each day owing to ongoing armed conflicts, other situations of violence, or disasters. Migration, albeit not new, represents another complex context, one without a clear beginning or end, in which people go missing.

While the global scale of the predicament of missing persons is unknown, the response given is often largely insufficient. Early action is also lacking, in terms of measures to prevent more persons from going missing as well as the means to effectively gather, analyze and act on relevant information, trace those who have gone missing, and identify and support the specific needs of their families.

In order to improve the overall response given to the issue of missing persons and their families, the ICRC in 2018 embarked on a new project to set technical standards in relation to missing persons and their families, together with expert partners and a global community of practitioners who have shared objectives – preventing people from going missing, providing answers on the fate and whereabouts of missing persons, and responding to the specific needs of their families.<sup>42</sup>

Complex contexts such as migration have shown the crucial need for international cooperation between countries of origin and transit/destination in order to properly address the issue of missing migrants. The ICRC has engaged in the *Global Compact for Safe, Orderly and Regular Migration* and provided concrete recommendations to policy-makers to highlight specific challenges and to support authorities in properly addressing the issue.<sup>43</sup>

While authorities bear the primary responsibility to prevent disappearance and uphold the right to know, the International Red Cross and Red Crescent Movement plays a key and unique role. Beyond the activities of the ICRC and the lead role of its Central Tracing Agency, the Restoring Family Links services of all National Societies have always sought to help clarify the fate and whereabouts of missing persons. The core ambition of the new *RFL Strategy for the Movement 2020–2025* is to strengthen the Movement's response to the situation of missing persons and their families. With this aim, it contains concrete implementation measures, in particular under the first strategic objective – *Prevention of separation and disappearances and maintaining family links*; the third strategic objective – *Increased case resolution*; and the fourth strategic objective – *Personalized support to families of missing persons and separated families*.

Combined, these initiatives represent renewed efforts to tackle the predicament of missing persons and to support their families, however, more work needs to be done to reduce the numbers of persons going missing in the first place and on providing their families with what they need most.

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42 See <https://www.icrc.org/en/international-review/article/qa-icrcs-engagement-missing-and-their-families>

43 See [https://shop.icrc.org/missing-migrants-and-their-families-the-icrc-s-recommendations-to-policy-makers.html?\\_\\_store=default](https://shop.icrc.org/missing-migrants-and-their-families-the-icrc-s-recommendations-to-policy-makers.html?__store=default)

## IV. Recommendations

This publication outlines a set of key recommendations for policy-makers, States and the RCRC Movement which are based on the broad experience of the RCRC Movement and its work on behalf missing persons and their families as well as separated family members, and in particular in the context of migration.

### Recommendations to States

States have the responsibility to prevent disappearances, clarify the fate and whereabouts of missing persons and assist their families, in line with relevant international rules and standards.<sup>44</sup> By implementing the following recommendations States will be able to build important humanitarian safeguards to prevent family separation and disappearance and respond to the specific needs of their families, in line with their international obligations. To this effect, we urge States to take the following actions:

- Prevent disappearance and clarify the fate and whereabouts of missing persons. Work to reduce the number of persons going missing by undertaking early action, both in terms of measures to prevent more persons from going missing as well as means to effectively gather, analyse and act on relevant information.
- Address the specific needs and challenges of families of missing persons and separated families. This entails supporting families of missing persons throughout the search and identification process as well as ensuring that they are able to exercise their rights and access existing services and other support to meet their specific needs, including by clarifying the legal status of the missing migrant.
- Implement the priorities in the Global Compact on Migration aimed to protect migrants from death, disappearance and family separation along the entire migratory route. The Movement plays a key role in supporting the implementation of these priorities as recognised in paragraph 44 of the Global Compact. We therefore encourage States to partner with their National Red Cross or Red Crescent Society, as their auxiliaries in the humanitarian field, to address the protection and assistance needs of migrants, in accordance with the Fundamental Principles of the Movement.
- Apply a protection-oriented approach to family reunification and address the legal, practical and/or administrative obstacles that limit or prevent family unity. This includes systematically considering the reunification of family members beyond the nuclear family and minimising the period of separation to reduce the potential risks that family members are exposed to in either their home, transit and/or destination countries.
- Regularly review the impact of policies, laws and practices and ensure that these do not create or increase the risk of disappearance or family separation and conform to states' obligations under international law.
- Provide safe and legal avenues to access protection and protect migrants from death, disappearance, family separation and violations of their rights along migratory routes. Develop and implement additional opportunities and more effective frameworks for dignified, safe and legal migration.

<sup>44</sup> See legal references in Chapter 1, page 6.



## **Recommendations to the RCRC Movement**

While authorities bear the primary responsibility to prevent disappearance and family separation and uphold the right to know the fate and whereabouts of missing relatives, the Red Cross and Red Crescent Movement also plays a key and unique role in this context. Whenever people are at risk of being separated or are separated from their loved ones as a result of armed conflict or violence, natural disasters, migration, or other situations requiring a humanitarian response, the Movement should respond efficiently and effectively by mobilizing its own resources and the authorities to prevent separations and disappearances, maintain and restore family links and family unity, clarify the fate and whereabouts of missing persons and support the families left behind. To this effect, we call upon the Movement to implement the following recommendations:

- Strengthen the Movement's cooperation and response to the issue of separated families and families of missing persons by implementing the new RFL Strategy for the Movement 2020-2025. In particular, implement the key measures with regards to preventing separation and disappearances and maintaining family links, increasing accessibility of RFL services, increasing case resolution as well as personalised support to families of missing persons and separated families.
- Broaden National Societies' operational involvement to include multi-disciplinary services for the families of missing persons, such as legal, administrative, economic, psycho-social and specialised mental health support in collaboration with affected people, the authorities and other actors, according to existing needs and contextual constraints and National Societies strengths and capacities.
- Conduct evidence-based advocacy on the issue of separated families and families of missing persons as well as families' right to family unity with relevant authorities and stakeholders.
- Support families of missing persons and separated families throughout the search, identification and family reunification process, including post reunification. Ensure that support is provided for building social connections, re-navigate roles and responsibilities and rebuild relationships within the family and with the wider society.
- Identify risks, gaps and possible solutions for preventing and responding to family separation and disappearance together with affected people and exchange and learn from good practice within the Movement so that services are as consistent and effective as possible all over the world.
- Forge links with authorities, other components of the Movement and families of missing migrants in other countries in order to develop a coordinated, effective and sustainable response at transnational level.

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