



GUIDANCE NOTE 3

THE NEEDS OF THE FAMILIES OF MISSING PERSONS



A mechanism⁷ should be guided by the multifaceted needs of the families of persons and its objectives designed to meet those needs.

This guidance note examines how a mechanism can support the families of missing persons. It underscores the importance of carrying out an assessment to ascertain the families' specific difficulties, needs and expectations, and provides a brief overview of the different needs that families of missing persons may have.

1. INTRODUCTION

The families of the missing have specific needs, as recognized by, for instance, the 2003 International Conference of Governmental and Non-Governmental Experts on the Missing convened by the ICRC. These needs include the need to know the fate and whereabouts of their missing relatives, the need for recognition and/or justice, and needs related to economic, administrative and legal challenges. They may also have a need for psychosocial support, and for acknowledgement and commemoration. Until these needs are met, families cannot easily rebuild their lives.

There is no universally accepted definition of “family”, but the approach of several international and regional human rights law treaty bodies and courts is to interpret the term in a broad manner. The definition of a family member of a missing person will, in principle, be found in domestic law but must be able to be interpreted in a broad manner and should be flexible, in line with the traditions and cultural values of each people and contextual variations, and take into account prolonged emotional dependency and mutual acceptance of relationships. It should not be limited to a purely biological (rather than social) concept and must be interpreted to include adoptive or foster parents or, where applicable, the members of the extended family or community, as provided for by local custom. All children treated as a part of the family, regardless of legal status, should be acknowledged as family members.

Families and their members will exhibit different needs depending on a range of factors – such as gender, age, economic status, legal status and disability, among others – as will indigenous peoples and members of ethnic or cultural groups and members of the lesbian, gay, bisexual, transgender and intersex community. Any engagement with such family members may require specific approaches, experience and knowledge both to be effective and avoid inflicting harm or discriminating. There is also a need to consider the intersectional nature of vulnerabilities, discrimination and disadvantage that can affect engagement with such family members and challenge their effective participation.

A mechanism should ensure that these multifaceted needs of families are addressed, either by relevant local or national institutions, or by the mechanism itself. Wherever possible, a mechanism should strive to actively involve family representatives in the planning and delivery of services.

The person who goes missing is the primary individual affected. But the tragedy affects many others too. The relatives of a missing person usually endure great suffering until they learn of the individual's fate and whereabouts. Often, their situation is exacerbated by the administrative, legal and economic difficulties they face.

⁷ For the purpose of these notes, the term “mechanism” refers to all national institutions, commissions and other bodies and processes established by relevant authorities that aim to provide individualized answers on the fate and whereabouts of missing persons, and provide support to families of missing persons. Beyond this humanitarian objective, mechanisms may pursue other objectives, including those linked to accountability or transitional justice. However, these objectives will not be further explored in this set of guidance notes, other than insofar as they relate to the search for missing persons.

A family needs assessment should be carried out to ascertain what the families' specific difficulties, needs and expectations are.

2. FAMILY NEEDS ASSESSMENT

In order to have a comprehensive understanding of the needs of families of missing persons, mechanisms should conduct a family needs assessment. Those carrying out the assessment should be familiar with the context and trained to understand the needs of the families, as well as their perceptions of the fate of the missing. It will likely include interviews and focus groups with affected families, thus allowing a better understanding of their issues and their views on how their situation could be improved. The assessment should also address security and protection concerns.

As part of the assessment, an evaluation should be carried out of the extent to which relevant institutions, national laws, regulations and administrative procedures can address the families' needs. This could include mapping all relevant actors and the services they provide. This should allow the mechanism to identify gaps and develop its strategy accordingly.

The ICRC has publicly available reports on family needs assessments undertaken in [Brazil](#), [Nepal](#), [Sri Lanka](#), and [Ukraine](#).

3. FORMULATING A STRATEGY TO MEET FAMILY NEEDS

A strategy to address family needs could include the following activities:

- taking steps to streamline and coordinate the services provided by different state agencies to ensure an effective response to the specific needs and circumstances of the families of missing persons
- establishing an efficient and transparent system of information and referral to existing services for families of the missing
- providing certain services through the mechanism itself in cases where specific needs cannot be met by existing institutions and structures
- raising awareness and promoting recognition among the public of the needs of families and organizing community support for them
- advocating for and advising on the creation or reform of laws, regulations, policies and procedures to address challenges faced by families of the missing.



A needs assessment may need to take into account different categories of people within an affected population or even different dynamics within families themselves. For example, an assessment was conducted in **Nigeria** in 2019 with children searching for missing parents or siblings. It was repeatedly observed in previous interviews that young people were reluctant to share their opinions in the presence of other adults, or adults would speak on their behalf. For some participants, it was the first time they were able to discuss having a missing relative with somebody, as it was a sensitive subject within the family.

4. NEEDS OF FAMILIES OF MISSING PERSONS

It is essential to keep in mind that families' needs may differ, even within the same context, depending on cultural, religious and socio-economic factors. Also, needs evolve over time. The following list outlines some of the main needs families may have.

a. Need to know the fate and whereabouts of the missing person

Families need to receive information on the fate and whereabouts of their missing relative and have the opportunity to restore and maintain contact. If their relative has died, they need to know the date, place and circumstances of death and the location of the person's remains. They also need to know the process that led to their relative's identification (see page 28). If remains have not been found, families need to understand why this is the case.

b. Need for information about the search and identification processes

Families need regular information, conveyed in a clear and precise manner, about the progress of the search and identification processes. This should include information on the different stages, from the moment a case is registered to the moment the missing person is found. Furthermore, they should receive information on strategies, methods, time frame, legal aspects and challenges encountered. Families should be briefed on all possible outcomes in order to manage their expectations. Once the identity has been established, families also need to understand the process that led to it.



In **Cyprus**, families who have been searching for their missing relatives over the last four to five decades requested to receive more information about the different processes involved in establishing their fate and whereabouts, including the investigative, search and identification processes. While they mostly rely on media reports, families said they preferred to receive information directly from a more credible source. In the words of one family member, “for each family to be able to say that they know what is going on with the issue of missing persons, we need constant updates.”

c. Need to receive psychological and psychosocial support

The psychological impact of having a missing relative is wide-ranging. Persistent uncertainty and the impossibility of going through a proper grieving process are often accompanied by feelings of fear, frustration, powerlessness, guilt and anger.



The term “**ambiguous loss**” was first coined by a psychologist called [Pauline Boss](#). She defined ambiguous loss as “a situation of unclear loss resulting from not knowing whether a loved one is dead or alive, absent or present”. This severely affects the psychological well-being of families, even if they were not vulnerable before. They may spend a lifetime looking for answers, and tend to become socially and emotionally isolated as a result. One of the theory’s major achievements is that it gives a name to the isolating experience of grief without closure.

Ambiguous loss may lead to emotional disengagement, anxiety, depression and other mental health and medical conditions. Relatives often face difficulties within their families and their social environment. Therefore, they may need psychological and psychosocial support.



In **Uganda**, families talk, emotionally, about having *cwer cwiny*, an Acholi (tribe in Northern Uganda) idiom describing how their heart bleeds out of sadness for their missing loved one. Some have *par*, a sickness of thoughts, from constantly thinking of the relative who disappeared. Others have unexplained physical pains and sleeping problems, linked to psychological distress. They may even feel haunted by spirits of their missing loved ones, as, without a body, they are unable to properly perform funeral rites that would give peace to the departed soul of their relative.

In **Sri Lanka**, families of missing persons mentioned that they rarely or never talk about their problems to others. Families feel that their pain is not understood by others. Well-wishers advise them to move on, encouraging them to believe that their missing relative is dead and will not come back. For these reasons, families begin to isolate themselves from their community.

Brazil’s Missing Persons Search Policy Act stipulates that the state must create psychological and social support programmes. These services are provided mainly by cities’ Social Services Offices and the Psychosocial Support Network. The Public Defender’s Office in Rio de Janeiro employs psychologists and social assistants, and legal services are provided in coordination with psychosocial and psychological services offered to the people affected.

d. Need to receive legal and administrative support, including information on rights and procedures

Where national legal frameworks are ill-adapted, relatives may encounter a range of legal and/or administrative hurdles and may be left without any means of support. For example, families may lack access to pensions and other social benefits or be unable to exercise their rights under contract, property and family law (e.g. marriage, guardianship, inheritance). For this reason, it is important for the law to recognize missing persons, to guarantee and ensure the continuity of their legal personality and to protect their and their families' rights. Moreover, there is a need to provide clear and accessible information to families about their rights and how to claim them.

e. Need for economic or financial support

Families of missing persons may have financial problems that are directly related to the disappearance of their loved one – for instance, when the missing person is the family's breadwinner or due to the financial burden of the search. As a result, they may not be able to provide for basic needs, such as food, accommodation, health care and education costs, in addition to costs related to the search.

In some contexts, the lack of legal recognition of a person as missing and/or of their relatives as family members of a missing person has economic consequences. For example, families of missing persons may not be recognized as "victims" and are consequently excluded from certain services or benefits. In addition, they may have difficulty gaining access to bank accounts, pensions, property and other assets of the missing person.

It is important to ensure that families are aware of their rights and how to access them.



The **Ukrainian Law On the Legal Status of Missing Persons** introduces the right of families of missing persons to apply for social security. It amends the Law on Mandatory State Pension Insurance to introduce the relatives of missing persons as a category entitled to support in case of loss of breadwinner.

f. Need for truth and justice

Where persons have gone missing as a result of armed conflict or other situations of violence, families may also insist on knowing who was responsible for the disappearance or death of their relative, and, where a crime has been committed, they may demand that the perpetrators be prosecuted and punished. It is therefore important to ensure that efforts to clarify the fate and whereabouts of missing persons and to assist their families are carried out in a manner that does not become an impediment to justice.⁸



In October 2015, the **Sri Lankan government** co-sponsored [UN Human Rights Council Resolution 30/1](#) promoting reconciliation, accountability and human rights in Sri Lanka. The Office on Missing Persons (OMP) became operational on 15 September 2017, as one of four pillars of transitional justice prescribed by the government. Its mandate is to search for missing persons, with the aims of clarifying the circumstances in which they went missing, and identifying and informing proper avenues of redress to which missing persons or their relatives may have recourse. The OMP has a humanitarian mandate and is not empowered to carry out any search activities for the purpose of a criminal investigation. However, the mechanism does have the power "to inform victims, relatives, witnesses and other informants who provide information to the OMP of their right to directly refer matters to relevant authorities, including their right to report serious crimes to the relevant law enforcement or prosecuting authority": [Sri Lanka – Office on Missing Persons Act, Article 12\(i\)](#).

⁸ See (the forthcoming) Guidance Note 11 Coordination between the Search and Criminal Investigations.

g. Need to hold funerals or commemorative rituals

Families have the need for commemorative rituals. These can provide a form of public recognition of families as mourners, pay tribute to the life of the deceased and contribute to closure. Practices differ greatly according to context and may be influenced by personal, political, social, religious and cultural factors.

Usually, though not in all contexts, families will express the need to recover the body of the deceased together with scientific proof of the identity, so that funeral rites can be performed in accordance with their religious and cultural beliefs. They may also require administrative and financial assistance to enable them to hold such rituals.

Where it is determined that remains cannot be recovered, some families may be satisfied with a confirmation of death by the authorities or an organization that they consider credible. In such situations, culturally appropriate ceremonies of recognition and acknowledgement may be held to pay tribute to the memory of the missing person.



When the **Committee on Missing Persons in Cyprus** returns identified remains to a family, it provides them with a lump-sum contribution towards the costs of the funeral.

In southwestern **Nepal**, support groups for the families of missing persons have built a *pratihhalaya*, a rest area for travellers, to honour the missing. Such memorials serve as a public register of the names of the missing and also offer the neighbourhood refreshment or shelter from the rain or sun.

h. Need for recognition of harm suffered, public memory and reparations

Ensuring the memory of missing persons and the public recognition of the harm suffered by their families and communities and providing appropriate reparations are important steps in supporting families, rebuilding trust and fostering reconciliation.

This could include measures such as:

- An official acknowledgement through official statements recognizing the suffering of the families and their predicament.
- National commemorations, in order to pay respect to the persons who have gone missing and their families, and memorials which are inclusive of all families with missing relatives.
- Published lists of missing persons, with the consent of the families involved, to preserve historical memory and provide acknowledgement.

A family needs assessment should aim to understand their concerns and expectations in this regard.



On the [Peruvian government website](#), the Minister for Justice and Human Rights offers an official apology to families on behalf of the state: “On behalf of the government, we apologize for all that they [the families of the disappeared] have suffered.”

A coalition of human rights and family organizations called *Memoria Abierta* (Open Memory) has been closely involved with the government of **Argentina** and a number of other groups in designing a museum at a former torture centre in the Naval Mechanics School in Buenos Aires, to make it accessible to the public as a way to remember those who were disappeared during the 1976–1983 military dictatorship.