

Missing Migrants and Deaths at the EU's Mediterranean Border: Humanitarian Needs and State Obligations

Project summary

The deaths of migrants and refugees seeking to enter the EU along its Mediterranean frontier constitute an unprecedented humanitarian crisis.¹ In 2014 over 3,000 are known to have died crossing the Mediterranean, and deaths in 2015 are occurring at three times this rate, with an additional untold number of deaths unrecorded.² A second crisis underlies these deaths: for every body found at the EU's southern border, and for those lost at sea, there is a family awaiting news of their loved one. The missing are defined by the fact families have no news of a migrant's fate. Missing migrants thus include those whose bodies are never found, and those whose bodies are found but never identified: for families the fate of all remains unknown. The response of the EU and its member states however continues to largely deny their responsibility to manage both bodies and data in ways that permit the identification of the dead and the rights of families to know. This project seeks to shed light on the policy vacuum that exists at national and EU levels by exploring the procedures and practices adopted by authorities in investigating, identifying, burying and repatriating the remains of migrants, and understanding the needs of families of missing migrants in countries of origin. This project represents one of the first efforts to systematically collect data in the most affected areas to comparatively explore – and critically engage with – current responses to migrant bodies. This work will build on existing studies on the Greek island of Lesbos and on the Italian island of Lampedusa.³ In parallel, the study will engage with families in areas affected by large-scale migration (Tunisia, and Syrian refugee communities) through a multi-sited ethnography that seeks to understand the needs of families of missing migrants. The project will draw insights from the management of the problem of the missing and disappeared in post-conflict settings to offer policy recommendations regarding effective practices of identification of human remains and policies to address the needs of families.⁴ It represents a collaboration between UK academics at the forefront of work on the issue of missing persons arising from both conflict and migration, and the leading inter-governmental organisation working on the issue, the International Organization for Migration (IOM).

The urgency of the project is driven by the continuing failure to collect data from both migrant bodies and families of missing migrants that will enable identification of the dead: every unrecorded body in an unmarked grave represents another missed opportunity to address the

¹ Although we acknowledge that 'migrants' and 'refugees' constitute different legal and social categories, for the purposes of this project we will use these terms interchangeably, on the understanding that the needs and rights of families of the dead and missing are identical. There are however important differences in the extent to which non-refugee migrant families are able to seek rights assistance and protection from their state of nationality, e.g. to education, health, or consular services, whereas refugee families may be at risk if they even identify themselves to their national authorities.

² <http://missingmigrants.iom.int/sites/default/files/pictures/IOM-Mediterranean-Update-26May2015.jpg>

³ Robins, Simon, Kovras Iosif, and Anna Vallianatou. "Addressing Migrant Bodies on Europe's Southern Frontier." (2014) Kovras Iosif and Robins Simon, "Missing Migrants: Deaths at Sea and Addressing Migrant Bodies in Lesbos", Border Crossings (eds) Hastings Donnan, Madeleine Hurd, and Carolin Leutloff-Grandits (Manchester University Press); Zagaria, Valentina "Grave situations - The biopolitics and memory of the tombs of unknown migrants in the Agrigento province",

torture of ambiguity experienced by a family. In many contexts, families of missing migrants have mobilised around the issue, but largely failed in their search for information about their loved ones. Whilst the issue of migrant bodies is of course linked to the epidemic of deaths at sea, it can be decoupled from broader political issues like border security and migration policy. As such, addressing the issue of missing migrants is here presented as a humanitarian imperative driven by the human rights obligations of European states. Whilst the EU defines itself as driven by the desire to guarantee human rights, the rights of the families of dead migrants have never been discussed.

Aims

The project will:

- Critically engage with national (and EU) policy responses towards missing and unidentified dead migrants at the EU's southern borders;
- Define the needs of the families of missing migrants, including their need to know the fate and whereabouts of their loved ones and for the management of human remains;
- Offer evidence-based recommendations to improve policy responses and drive advocacy.

Theory and Policy Vacuum

Academic literature has side-lined the issue of migrant bodies, and particularly the impact of remote and unrecorded deaths on families of victims. Whilst there is an established literature on EU policy responses to growing migrant flows addressing surveillance technologies, border policing and 'push-backs', the role of 'smuggling networks', and legal and normative perspectives on deaths at sea,⁵ we have limited knowledge of the policy responses in dealing with the growing humanitarian problem of unidentified migrant bodies resulting from deadly shipwrecks. The exclusive focus on state actions adopted by most analyses has marginalised victims' voices; even human rights watchdogs and international relief agencies have largely failed to provide a comprehensive account of families' needs. Work with families of those missing in conflict has developed an understanding of the emotional, psychological and social impacts on families of having a missing relative in terms of ambiguous loss.⁶ In the absence of even basic information about the whereabouts of their loved ones, families are trapped in a state of ambiguous loss which does not permit them to start the mourning process: are they dead or are they alive? If they are dead where are they buried? Despite being one of the most pressing problems of the contemporary humanitarian crisis at the EU borders, there remains almost no academic or policy effort to understand the needs of the families of missing migrants. The project seeks to address this gap.

⁵ Topak, Özgün E. "The biopolitical border in practice: surveillance and death at the Greece–Turkey border zones." *Environment and Planning D: Society and Space* 32 (2014): 815-833; 209-225; Bialasiewicz, Luiza. "Off-shoring and Outsourcing the Borders of Europe: Libya and EU Border Work in the Mediterranean." *Geopolitics* 17.4 (2012): 843-866; Triandafyllidou, Anna, and Thanos Maroukis. *Migrant smuggling: Irregular migration from Asia and Africa to Europe*. Palgrave Macmillan, 2012; Spijkerboer, Thomas. "Moving Migrants, States, and Rights: Human Rights and Border Deaths." *The Law & Ethics of Human Rights* 7.2 (2013): 213-242; Grant, Stefanie. "Recording and identifying European frontier deaths." *European Journal of Migration and Law* 13.2 (2011): 135-156.

⁶ Robins, S. (2010), 'Ambiguous loss in a non-Western context: Families of the disappeared in post-conflict Nepal', *Family Relations* 59 (July 2010); Boss, Pauline (2006) *Loss, Trauma and Resilience: Therapeutic work with Ambiguous Loss*.

Moreover, most existing scholarly analyses are limited in scope, focusing either on a single location (i.e. Lampedusa, Ceuta-Melilla), or a specific group of migrants, usually those most easily accessible (e.g. those in detention centres). Still the nature of the phenomenon under investigation calls for more comprehensive, comparative and multi-sided research. For every body that is washed up in in the EU, there is a family in search of their relative, and as such it is crucial to explore the response of actors in the EU at both local and national levels, and the needs of the families in states of origin. Building on an established research network in the Greek island of Lesbos, the project will expand its focus to draw parallels with the policy responses adopted by the Italian authorities. Most importantly, this is the first effort to interview families in countries of migrant origin to better understand their needs and the challenges they face. There is an extensive literature around those missing in conflict, in terms of exhumation and identification of human remains and of correlation of ante- and post-mortem data: such approaches will drive expectations of the approach required by EU states around missing migrants.

Most importantly, the dearth of knowledge on dealing with unidentified migrant bodies and missing migrants is reflected in policy agendas. Regional organizations tasked to deal with maritime flows into the EU, such as the European Commission and the Council of Europe, have shed limited light on the phenomenon of missing migrants. Addressing the most pressing demands of migrants and asylum-seekers who survive their journey remains the priority of most EU bodies, marginalising the problem of the missing. Only recently, a number of international and inter-governmental organizations including the IOM⁷ and the International Committee of the Red Cross (ICRC)⁸ have taken steps towards addressing this problem, either by recording the deaths of migrants or by exploring the role of forensic science in identifying bodies. This project seeks to contribute to these efforts by raising and responding to the following questions.

Research Questions

- How do Mediterranean EU states deal with the humanitarian challenge of migrant bodies on their territory?
- What are the legal obligations of states to investigate, identify and provide a decent burial to dead migrants, and what obligations are there to attempt to inform families of the dead?
- What are the needs of families in search of relatives who are dead or missing as a result of migration?
- What are the legal, bureaucratic and psychological challenges that families of missing and dead migrants face in their effort to trace their loved ones?

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Approaches and methods

In understanding both the needs of families of missing migrants and the ongoing response of relevant authorities, the project interrogates the two sides of the problem using qualitative research methods. The nature of the phenomenon calls for multi-sited research, linking families in countries of origin searching for relatives with the management of migrant bodies in EU states. The 12-month project will carry out intensive ethnographic fieldwork in four contexts, including those from where migrants originate (Tunisia, and Syrian refugee communities in Turkey) and in

⁷ <http://missingmigrants.iom.int/>

⁸ <https://www.icrc.org/en/document/missing-persons-conflict>

two islands receiving migrant bodies in EU states (Lampedusa and Lesbos). The project is divided in two overlapping phases.

In phase 1 (September 2015-February 2016) Local research assistants will collect data in each of the four contexts. Semi-structured interviews with a focus on the needs of families of missing migrants and the obstacles they face in the search for their loved ones will be made in countries of origin, as well as in Greece (Lesbos) and Italy (Lampedusa). IOM with its strong network of local contacts will seek any necessary official permission from Turkish authorities and identify a local research assistant to carry out interviews with families in Syrian refugee communities in Turkey. Local research assistants in Lesbos, Lampedusa and Tunisia have an established network of contacts, as well as language fluency enabling them to start collecting data immediately. The design of the interviews will be based on the previous experience of the PI and Co-I in interviewing relatives of the missing in post-conflict settings. In parallel, researchers in Lesbos and Lampedusa will seek to understand the legal framework, official policies and actual practice around the management of migrant bodies, interviewing national and local authorities, coast guards, coroners and others, while they will also record the treatment of bodies as shipwrecks occur. In line with the 'urgent' nature of the project, the data collected by local research assistants will be sent on a weekly basis to translators who will transcribe and translate interviews and other material; this will help the research team to process information coming from the field almost in real time. Previous research has enabled many of the required tools to already be in place. A questionnaire for families of missing migrants has been prepared and tested in the field, and networks of contacts exist in all research contexts. Approval from the ethics committee at Queen's University of Belfast has already been obtained for a pilot project carried out in 2015 in Lesbos.

Moreover, previous experience in conducting research in Lesbos shows that families visit these islands only after a shipwreck and only for a few days; the psychological state of the families coupled with the ad hoc visits inhibiting the prospect of a systematic recording of their experiences. To overcome this hurdle, two lawyers will be employed for six months to provide legal counselling to families in search of their loved ones. In this way, the lawyers will not only keep record of individual cases – respecting anonymity and confidentiality– but also will prepare a final note to identify the legal, regulatory and practical obstacles that families faced. In return the project will assist families in decreasing the level of human suffering. It is expected that after six months the team will have a representative picture of the legal vacuum. To explore this further, the Human Rights advisor with long experience in dealing with migration, refugees, human rights and disappearances, Stefanie Grant, will prepare a legal briefing. The briefing will set out the legal framework for addressing dead and missing migrants, and protecting the rights of their families, with an emphasis on the human rights obligations of EU states, under both European and international human rights law.

Phase 2 (March 2016 – August 2016) involves data analysis and dissemination activities, with a focus on both academic and policy audiences. Policy briefs summarising the central findings will be prepared and published in collaboration with the IOM. The research team has already published policy briefs on the subject, and building on this experience English language outputs will be translated into Greek, Italian, French and Arabic and will be distributed to national and EU authorities. Policy workshops will be organized in Athens, Rome and Strasburg inviting national and local authorities, local offices of the UNHCR, EU policymakers (including relevant Commissioners), the Commission for Human Rights of the Council of Europe and

not only to raise awareness but to incentivize other researchers and international agencies to use this material in addressing the ongoing humanitarian catastrophe. Existing relationships with civil society in Lesbos and Lampedusa will support the making of a film about migrant bodies. The short film will be shown locally (i.e. schools, NGOs, universities) in an effort to raise awareness and, if possible, test the attitudes of the participants towards this problem after viewing the issues depicted in film. To increase the visibility of the project and summarize the findings to a broader audience, several op-eds will be published in international media outlets (i.e. *The Guardian*, *Wall Street Journal*, and *New York Times*).

Organisations and investigators involved

The project is a collaboration between The Centre for Applied Human Rights (CAHR) at the University of York, The Institute for the Study of Conflict Transformation and Social Justice (ISCTSJ) at Queen's University, Belfast, and the International Organization for Migration (IOM). In particular it will leverage both the experience of researchers at the CAHR and ISCTSJ with the issue of missing persons in both conflict and migration contexts, and IOM's practical engagement with the issue of missing migrants. IOM has led advocacy and policy work on the issue of migrant bodies, through its Missing Migrants Project,⁹ works closely with governments and regional organisations, and has field offices in over 100 countries that collect data on migrant shipwrecks and deaths. IOM Headquarters and field offices will offer support in accessing authorities, families of missing migrants and their organisations, and will lead dissemination and advocacy efforts.

The project is funded by the UK ESRC's urgent grants programme on the Mediterranean Migration Crisis.