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## Missing Migrants in the Mediterranean: Addressing the Humanitarian Crisis

### Summary report

September 2016



### EXECUTIVE SUMMARY

The Mediterranean Missing research project has sought to understand both the impact on families of having a relative missing in migration, and the law, policy and practice around the identification of bodies of dead migrants in Italy and Greece. Interviews with families of missing migrants from five countries confirmed the huge impact of not knowing the fate of loved ones, with families tortured by ambiguity and suffering a range of emotional and psychological consequences. In Lesbos, Greece, and Sicily, Italy, interviews with authorities, civil society and others confirm the presence of a policy vacuum around the issue of the missing, despite the duties on states imposed by human rights law. Investigation of deaths is inadequate, with effective post-mortem data collection and management challenged by the huge numbers of migrants, in some cases sufficiently to compromise future identification. In both Greece and Italy, response is characterised by a policy vacuum, with a large number of agencies with overlapping mandates lacking coordination. Whilst in Italy a dedicated Commission and its partners have demonstrated what can be done with appropriate resources, there is a need to ensure that all the dead benefit from such an approach. A constraint in both contexts remains the lack of outreach to families of the missing, who can provide ante-mortem data to enable identification, and who should anyway be at the centre of all efforts to address the issue and identify the dead.

The image shows mothers of young Tunisians missing after leaving for Europe by boat.

Photo by Abdellah Elkorchi. All rights reserved.

## THE PROBLEM OF MISSING MIGRANTS<sup>1</sup>

Deadly shipwrecks and the bodies of migrants have become the most iconic images of the contemporary refugee crisis at the EU's periphery. In 2015 and the first half of 2016, more than 6,600 are known to have died attempting to cross the Mediterranean, with an additional number of unrecorded deaths.<sup>1</sup> Although the media and solidarity groups have shed light on the plight of living refugees, and highlighted the shocking reality of shipwrecks, relatively little is known about migrants whose fate is not known to their families. The majority of dead bodies found are buried unidentified. As such, thousands of families in countries of migrant origin remain unaware of the fate of their loved ones.

Authorities in the countries of reception (most notably Italy and Greece) have been unprepared to deal with the nature and volume of this unprecedented humanitarian crisis. Currently, there is a policy vacuum around the problem, marked by minimal cooperation among different state agencies, an absence of any effective investigation, and little effort to contact the families of the missing. This results in bodies being buried with little knowledge of religious and cultural expectations or the rights of the families of the dead.



Map 1 Dead or Missing Migrants in the Eastern Mediterranean, 2014-2016.

Source: IOM Missing Migrants Project. Data obtained from local authorities, IOM field offices and media reports.

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<sup>1</sup> It should be noted that 'migrants' and 'refugees' are two distinct legal categories. However, the nature of unidentified bodies (i.e. their status prior to death is unclear) and the legal obligations of states concerning those human remains are the same regardless of that legal status. As such, for the purposes of this briefing note we will use the terms interchangeably.

The opinions expressed in the report are those of the authors and do not necessarily reflect the views of the International Organization for Migration. The designations employed and the presentation of material throughout the report do not imply the expression of any opinion whatsoever on the part of IOM concerning the legal status of any country, territory, city or area, or of its authorities, or concerning its frontiers or boundaries.

## EU MIGRATION POLICY

The policy, legislative and operational gaps identified in this report, at local and national levels, are both reflected and compounded at the level of the European Union (EU). EU policy in the field of migration and asylum is determined within the framework of Justice and Home Affairs, a policy area which, since the coming into force of the Maastricht Treaty<sup>2</sup>, has moved from inter-governmental decision-making to Community competence. In addition, since the creation of the Schengen agreement<sup>3</sup>, a range of policies have been developed that affect the way in which migration-related issues are regulated, alongside the Common European Asylum System which sets out ways in which asylum should be managed within the EU and establishes the responsibilities of Member States through Treaties, programmes and Regulations. As such, policies have not been designed to address explicitly the question of deaths of migrants on arrival at, or en route to, the EU, nor the needs of their families. However, the EU does have a remit to ensure that the human rights of migrants are protected. Underpinning the Treaty obligations is the European Convention for Human Rights,<sup>4</sup> which includes a positive duty to prevent the loss of life, and a positive obligation to investigate suspicious deaths.<sup>5</sup> Despite the lack of policy responses, search and rescue operations – or operations with such components – by EU Member States, civil society and international organisations have saved many migrants' lives in the Mediterranean. Issues linked to deaths during migration such as the role of families are however often invisible elements of these tragedies and this invisibility is also reflected in the lack of a concerted policy response at EU level, to the problem. The deaths occurring in the Central Mediterranean take place within a geographical space which reflects a gap between the operational mandates of the national agencies and Frontex and a policy gap at national, EU and international levels.

## IMPACTS ON FAMILIES OF MISSING MIGRANTS

The families of missing migrants are the victims of this humanitarian disaster and yet the impacts on them are unknown. They remain unrepresented in discussions about the management of bodies and the broader crisis, and largely unable to engage with the authorities who can identify their loved ones. This report summarises interviews with 84 families who are missing loved ones who have migrated across the Mediterranean, from Tunisia, Syria, Iraq and elsewhere. The study aims to give a voice to such families.

Families either saw their loved ones leave home to take a boat, or – in many cases from Iraq and Syria – travelled with them and other family members. In the latter case, many interviewees were themselves traumatised by the shipwreck they had survived. The majority of families have received no news of the missing and as such live in ambiguity, with no idea if loved ones are dead or alive. While those who have witnessed deaths in shipwrecks understand the missing may have drowned, others have a visceral belief that their family member is alive, believing that the missing are detained in Europe or elsewhere and so unable to contact them.

The primary need of families is to know: they seek closure, through information concerning the fate of loved ones. They want to know if the missing are dead or alive, and in any case where they are. If the missing are dead, families need their bodies to be repatriated so they

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<sup>2</sup> European Union, Treaty on European Union (Consolidated Version), Treaty of Maastricht, 7 February 1992, Official Journal of the European Communities C 325/5; 24 December 2002.

<sup>3</sup> European Union, Agreement between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders, Schengen Agreement, 14 June 1985, Official Journal L 239, 22/09/2000 P. 0013 - 0018, 42000A0922(01).

<sup>4</sup> Under the European Charter of Fundamental Rights. See also Grant, S. (2016) Mediterranean Missing Project: Dead and Missing Migrants: The Obligations of States under International Human Rights Law.

<sup>5</sup> Council of Europe, European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14, 4 November 1950, ETS 5.

can be honoured and buried where families can visit them, and they can take their place as a part of their community.

The impacts on families of having a missing relative are many. While a death can be mourned, disappearance is something that cannot be understood in the light of everyday experience, trapping family members in a situation they struggle to make sense of. The families interviewed demonstrated a range of symptoms associated both with the impact of trauma and of ambiguous loss, including sadness, sleep disturbance and dreams of the missing, anxiety and hypervigilance. They reported a sense of stasis, a feeling that life had stopped since the person went missing. A minority reported that they had psychiatric problems that they linked to the disappearance, and were receiving treatment for them.

Having a missing relative gave rise to family conflict, with individuals isolating themselves and neglecting relationships with family, to pursue an obsessive interest in the missing person. In many families there were divergent opinions as to what had happened to their missing relative, fuelling family conflict and preventing the missing person being discussed. Missing someone from the family was also seen to impact on family roles, with women in particular having to take on greater responsibilities in the home where men, particularly husbands, are missing. Women also reported becoming a target for harassment where a husband is missing, as well as seeing their identity challenged since their status as wives or widows is ambiguous. Wives of the missing reject any possibility that they could remarry without definitive news of their husbands. Families also reported challenges to livelihood, most notably in Tunisia, where they were often left without the economic support of young men who were potentially their most productive members.

Families of the missing had mechanisms that helped them cope, and in most cases were able to function well, despite the pain and anxiety of their situation. Solidarity was considered a great support, where families were in contact with others in their community who were also missing relatives, as in Tunisia where a family association brought affected people together. The Muslim faith of most affected families is also a source of strength and resilience. These data have been interpreted to both understand the severe impact of having a missing relative – and to emphasise the importance of identifying those who die seeking to cross the Mediterranean – as well as seeking routes to helping families live well despite not knowing. The lens of *ambiguous loss* is one way to interpret impacts on families, as well as offering a route to therapeutic approaches, and here is presented as a model that can aid understanding of the impact of having a relative missing in migration. Existing coping mechanisms can be supported by ensuring that family associations are able to bring affected families together and giving such family meetings an explicitly therapeutic element.

## **INTERNATIONAL HUMAN RIGHTS LAW – THE OBLIGATIONS OF STATES**

International human rights law (IHRL) applies in situations of migrant death and loss at international borders, and places duties on states, derived from international treaties, to identify the dead and respect the rights of the families of missing migrants. This is summarised in a legal memo produced as part of the Mediterranean Missing project.<sup>6</sup> States have a duty to protect the right to life of all without discrimination, to respect the right to family life of relatives of the missing who are in the country, and to take special measures to protect children of missing migrants. IHRL requires that there should be no discrimination between the deaths of citizens and of non-citizens, and that steps must be taken to prevent and investigate deaths. The implications of IHRL are that:

- States should investigate all suspicious deaths effectively, including taking steps to identify the body, and secure evidence. Effective investigation should include efforts to retrieve the body, and to trace and inform families;

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<sup>6</sup> Grant, S. (2016) *International Human Rights Law: The Obligations of States*, York: Mediterranean Missing Project.



- The right to family life includes participation by relatives in the investigation, and in the burial of a relative's body;
- The protection of children whose parents are missing includes respecting their best interests at all times, and taking specific measures to preserve their identity, including nationality, name, and family relations.

The policy vacuum that exists in the states studied by this project suggests that not all these obligations are either acknowledged or acted upon.

## MAPPING POLICY RESPONSES

Lesbos remained the key entry point for most migrants and refugees in the period 2012-2016, with approximately 490,000 refugees landing on the island between 2015 and mid-2016, more than six times the total population of the island.<sup>7</sup> Since 2014 an estimated 9,969 – almost 11 per day -- have lost their life in deadly shipwrecks in the Mediterranean Sea,<sup>8</sup> and an unknown number have died but their bodies never recovered. The Central Mediterranean route ending at Lampedusa or the main island of Sicily, accounts only for about a quarter of almost 1.5 million people who have arrived since 2014 on all routes, but for 85% of all migrant deaths in the Mediterranean.<sup>9</sup> For every body that is retrieved or washed ashore there are family and friends whose lives are substantially affected by the loss of their loved ones. This sets the scene for a transnational humanitarian challenge that affects not merely the authorities at the EU periphery tasked to deal with this problem, but also the lives of thousands of families in countries of origin.

Authorities and other actors in both Lesbos and Sicily face the following key challenges:

- The complex nature of the issue and too little transnational cooperation;
- Insufficient outreach to include families in the investigation;
- A large number of actors and limited coordination;
- Investigation driven by the prosecution of smugglers, rather than the humanitarian need for identification;
- A failure to broadly implement existing protocols, regulations and examples of good practice.

## MAPPING POLICY RESPONSES IN GREECE AND ITALY

In both Greece and Italy, the response of policy makers has to some extent been driven by the public exposure given to particular shipwrecks that resulted in mass deaths. This is particularly true in Italy, where the shipwrecks of the 3rd and 11th October 2013 - in which at least 387 persons died - drove the activation of a different set of protocols and standards, in contrast to the deaths that occurred earlier – and continue to occur. Following the events of late 2013, Italian actors adopted new approaches, for example routinely taking biological samples that allow for DNA testing.

The main steps in managing bodies in the context of migrant deaths include retrieval, transfer of bodies, autopsy, storage, and burial/repatriation.<sup>10</sup> In reality, these separate steps are linked to each other and overlap.

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<sup>7</sup> UNHCR data: <http://data.unhcr.org/mediterranean/country.php?id=83> [last accessed 9 July 2016]

<sup>8</sup> IOM 'Missing Migrants Project', <http://missingmigrants.iom.int/> [last accessed 9 July 2016]

<sup>9</sup> IOM: Missing Migrants Project. See footnote 2.

<sup>10</sup> See Morgan, O., Tidball-Binz, M., van Alphen, D. (2009) Management of Dead Bodies after Disasters. A Field Manual for First Responders. Washington D. C.: Pan American Health Organization, World Health Organization, International Committee of the Red Cross, International Federation of Red Cross and Red Crescent Societies.

## Retrieval and transfer of bodies

Retrieving bodies is crucial, as those never recovered cannot be identified. Weather conditions, time between death and recovery, and time to take the body to land, all impact on the decomposition of bodies and thus the ease of identification. Organising a timely recovery of bodies is thus key to maintaining a high chance of identification.

In Sicily, the first responders to an emergency such as a shipwreck are the Italian Navy, as well as several other actors that operate in the Mediterranean, including ships from other EU countries that operate within the framework of Frontex joint operations and ships that are operated by international and civil society organisations. In Greece, the authority responsible for retrieving bodies and for dealing with the dead and missing is the coastguard which is also responsible for rescuing survivors of shipwrecks and recovering bodies when washed ashore. This sheds light on a tension between the mandate of policing the border and preventing criminal activities, and humanitarian operations, such as rescuing survivors, collecting dead bodies or leading investigations for their identification.

First response is a key moment for collection of both bodies and data linked to deaths, such as personal belongings. There is however also a question of the limited resources to retrieve the dead are also those most needed for search and rescue the living. The collection and management of the data that are collected in such incidents remains a central issue.

## Investigation, data collection and management

Both the international and national legal frameworks impose a duty on national authorities to investigate 'non-natural deaths', such as those from shipwrecks in the Mediterranean.<sup>11</sup> Yet, in practice there is little active investigation with even easily accessible personal effects (e.g. SIM cards, notebooks, credit cards) often left on the beach. Successful identification requires a systematic collection of different types of data and their respective management.

Identification will typically occur by bringing together post-mortem data from the body (distinguishing features, material effects such as SIM cards and wallets, DNA data, witness testimony) with ante-mortem data from the families of the missing (a description of the missing, DNA data etc). An effective system is one that collects data in a standardised way<sup>12</sup> and stores them in a centralised database that facilitates the sharing of these data with actors in other institutions or countries that permits ante and post-mortem data matching. Systematic interviews with survivors are one valuable source of post-mortem data, including potentially details of the name or origin of the dead, but are not currently carried out in either Sicily or Greece for purposes of identification. Resource limitations do however often constrain the collection of both such testimony and material effects. Biological reference samples, for DNA data extraction, are however now routinely taken in both Sicily and Lesbos.

There remains however a tension between legal duties and the reality that - at the peak of the refugee crisis - it was practically impossible for the under-staffed authorities in both contexts to carry out such an investigative operation. For example in Lesbos, in the second half of 2015 daily arrivals of refugees ranged between 2,000 and 3,000.<sup>13</sup> Therefore it would be unreasonable to expect an under-resourced state agency already tasked with collecting and registering thousands of living migrants, to also search for and rescue the missing and deal with the dead bodies, while carrying out a systematic and time-consuming investigation to collect and store post-mortem data from shipwrecks.

Collecting ante-mortem data from families is one of the most challenging tasks, as it demands outreach to families of the missing, including potentially through cooperation



Photo 1, Cemetery in Sicily by Max Hirzel / Haytham. All rights reserved.

<sup>11</sup> The European Court of Human Rights and the UN Human Rights Committee have set out the steps which the state must take when a non-natural death occurs: protection of the right to life entails both a substantive duty to prevent deaths and a procedural duty to investigate deaths.

<sup>12</sup> See Interpol Disaster Victim Identification (DVI) forms. Available from: <http://www.interpol.int/INTERPOL-expertise/Forensics/DVI-Pages/Forms>.

<sup>13</sup> Patrick Strikland (2015) 'Refugee boats to Greece persist despite winter's chill' Al Jazeera, available at <http://www.aljazeera.com/news/2015/12/refugee-boats-greece-persist-winters-chill-151202175107235.html>

with relevant state authorities in countries of migrant origin. Some civil society actors and international organisations already operate outreach programmes and as such, authorities could make use of the Red Cross tracing network, engage with migrant and diaspora communities and liaise with consular and diplomatic authorities to facilitate such contact.

## IDENTIFICATION

There are three stages in the identification process:

### Step 1: Visual Identification

Visual identification is the most common method currently used in both Lesbos and Sicily, as it demands only that a relative be present to identify the body, and requires no international outreach. However, it does constrain identification to be possible only for bodies where a relative was either travelling with the dead person and survived, or where a relative can quickly come to Europe. There are significant limitations to visual identification, including that it is prone to error, particularly when bodies are in a poor condition and families are traumatised.<sup>14</sup>

In Sicily, police officers or members of the Forensic Science Department photograph the body, including the number assigned to the deceased. Investigation is led by the Public Prosecutor's office which appoints a team consisting of coroners, agents of the flying squad, Forensic Science Department staff, and cultural mediators. The latter are responsible for supporting survivors whereas the other actors are involved in the procedures of managing and identifying the dead. After landing, a first post-mortem examination is carried out by coroners or general practitioners, collecting information on height, weight, presumed age, and distinguishing marks such as tattoos or scars. Usually, the municipality should provide refrigerated facilities in hospitals or cemeteries for examination and storage<sup>15</sup>, but this can become problematic when authorities have to manage high numbers of bodies. There are two routes to identify the deceased person: visual identification through relatives examining photographs or bodies, and methods that rely on primary identifiers, such as DNA sampling, odontology or fingerprints.<sup>16</sup>

In Lesbos, the coastguard leads the investigation for identification, inviting family members to visit their headquarters where they are shown photographs of victims who appear to fit the description of the missing person. Due to the lack of resources, certified interpreters or a doctor may not be available to support this process and NGOs have played a crucial role in offering interpretation services and psychological support to relatives during and after the identification process. If the family does identify their loved one this leads either to burial in a cemetery in Lesbos or the repatriation of the body.

### Step 2: The coroner

In Sicily, medical examiners will not always conduct an autopsy: the Public Prosecutor needs to request one, which is only done where the coroner has doubts about the cause of death. Interviews with families of missing migrants have shown a concern at autopsies being done, since they are considered by some to be a desecration of the body.<sup>17</sup> During these procedures, the coroner looks for characteristics that might indicate a cause of death other than drowning. The procedure for such autopsies, though likely to be similar throughout Sicily, is not defined in law or regulation, although there are efforts to establish such a protocol more broadly in Italy. Implementing such a protocol is, however, dependent on the provision of appropriate facilities and financial resources.

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<sup>14</sup> ICRC (2009) 'Missing People, DNA Analysis And Identification Of Human Remains', p.10, also available at: [https://www.icrc.org/eng/assets/files/other/icrc\\_002\\_4010.pdf](https://www.icrc.org/eng/assets/files/other/icrc_002_4010.pdf) [last accessed 27.07.2016].

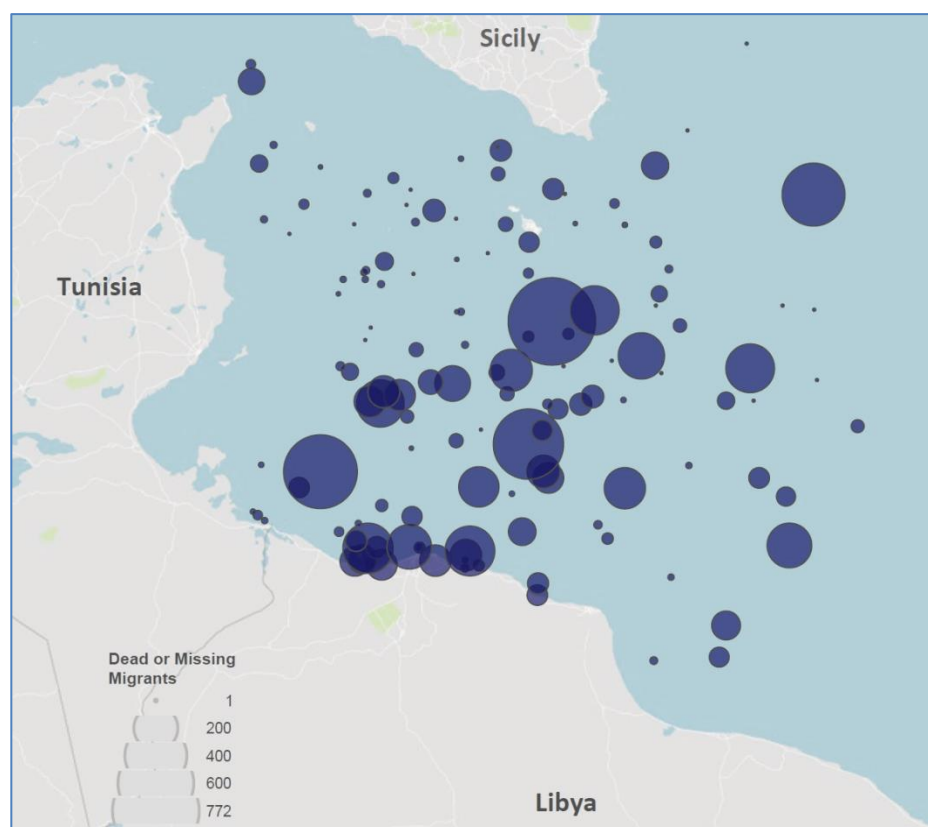
<sup>15</sup> Art. 12-14 D.P.R. 285/1990.

<sup>16</sup> Secondary identifiers are for instance detailed personal descriptions, medical characteristics or personal belongings that are found on the body.

<sup>17</sup> See also: The Mediterranean Missing Project (2016) "Like a part of a puzzle which is missing": The impact on families of a relative missing in migration across the Mediterranean.



In Lesbos, an unclaimed body, according to the law, should stay for 40 days in the morgue. Yet, as a result of poor infrastructure,<sup>18</sup> the local coroner often pushes for a speedy burial to create space for others. The coroner prepares the ‘death registrar act’ required for the burial of unidentified bodies and sends the documents to the local registry office and the coastguard. Two crucial protocol numbers are assigned to each unidentified dead body: (a) the protocol number of the death certificate assigned by the coroner and, (b) the number given by the coastguards (usually the date of the shipwreck and the number of the victim, e.g. 13/10/2013, n.6). It remains unclear as to whether or how these numbers are referenced at the actual grave, and thus what the implications are for linking data from the coroner with a particular body in the ground, potentially implying there is no route to identify a given set of post-mortem data with a particular gravesite.



Map 2 Dead or Missing Migrants in the Central Mediterranean, 2014-2016.  
 Source: IOM Missing Migrants Project. Data obtained from local authorities, IOM field offices and media reports.

### Step 3: Forensic data

Identification based on DNA data is rare in both contexts due largely to the difficulties for families to access the relevant institutions to share ante-mortem data. Despite higher costs and such difficulties, authorities prefer identification based on forensic data, as this method is more accurate than visual identification. The success of DNA analysis however depends on how many families can be reached to send samples to the investigating institutions.

In Greece, the coroner takes a tissue sample to extract DNA data from all unidentified dead bodies, which is then sent to the Forensic Science Division (FSD) laboratory, under the Ministry of Interior, and which is a branch of the Greek police.<sup>19</sup> The FSD is responsible for storing all genetic samples and results and for carrying out any future identification.

<sup>18</sup> It is only recently that a freezer was donated by a charity to the local morgue.

<sup>19</sup> Article 27, law 4249/2014

Families of the missing can send their own genetic samples for identification to the FSD at any stage, through an official agency, or through the Athens embassy of their country of origin. Thus, in Greece all DNA data is centralised, in contrast to Italy. Although in theory this means that relatives can send samples from their countries of origins this is often impossible in countries where there is distrust or fear of state authorities, as in the case of most Syrian refugees for example. There is also no outreach to families, such that families in countries of migrant origin are unaware of the possibility to share tissue samples for DNA analysis.

In Italy, interviews suggested that centralisation of the data and liaison with families would be an important improvement for identification work. Primary identifiers such as tissue samples are routinely taken from all bodies and stored in different locations depending on the institution carrying out the examination. In most cases not under the aegis of the Commissioner's office<sup>20</sup>, data are stored at the institutions involved in the investigation, namely the RIS (Investigative Science Department of the Carabinieri), the Regional Cabinet of the Forensic Science Department, the Forensic Medicine Divisions at the universities involved, the Forensic Science Department, or the Labanof institute in Milano. As such, the



Photo 2 Cemetery of Aghios Panteleimon by Dimitris Achlioptas. All rights reserved.

### **Good Practice, Italy: The role of the Special Commissioner's office**

In 2007, the Italian government established the Special Commissioner for Missing Persons as the central institution coordinating efforts in identification and outreach to families. The Commissioner's mandate includes coordination and supervision of the actors involved, maintaining a national database on missing persons as well as liaising with families of the missing, international and civil society organisations and other actors. In the context of migration-related deaths, the office of the Commissioner has specifically dealt with three shipwrecks: the incidents of the 3rd and 11th October 2013 and the case of the 18 April 2015. The Commissioner's office issued several Memoranda of Understanding (MoU) that put forward guidelines for managing such situations, establishing cooperation among some of the central actors to facilitate identification. The Commissioner's office also reached out to families by engaging with different organisations on the national and international level such as the Red Cross, the International Organization for Migration, and diaspora communities across Europe. It is worth noting however, that ante-mortem data have still only been received from a minority of relatives of the dead in these shipwrecks, demonstrating the difficulty of reaching them.

Families should be placed at the centre of the identification process, since it is work intended to serve them. Including families in the process of identification means acknowledging their position in such tragedies, as well as facilitating the work of experts who try to match ante- and post-mortem data. Setting out the guidelines and coordinating cooperation, the Commissioner's office started to fill the gaps that state policies and legislation leave – but only for three particular cases with the greatest political visibility.

data are scattered but this is not necessarily perceived as problematic as long as the coordinating office of the Commissioner knows where the data is. For those victims of the three particular shipwrecks in which the Piscitelli Commission and Labanof are involved, the situation is different, with the potential for high quality data collection and greater efforts at outreach to families (see below).

### **Burial**

In Italy, the responsibility for burying unidentified persons lies with the municipality and requires the provision of appropriate space in cemeteries. Where a person is buried depends mainly on the availability of space, as facilities have filled up due to the high numbers of recent migrant deaths. There are three main challenges concerning the burial of the dead: the costs of a dignified burial, the consideration of religious beliefs and support for families.

<sup>20</sup> See box: "Good Practice, Italy: The role of Special Commissioner's office", p. 8.

Funeral costs can be high and for unidentified migrants they are sometimes covered by an institution named Opera Pia that provides such services to those lacking the financial means. These and other basic services must be provided and funding remains an area in need of improvement. Since it is usually unclear as to which faith or confession a body belonged, generalised burials according to a certain religion are problematic. In Sicily, municipalities, in close cooperation with civil society groups and individuals, have set up multi-religious ceremonies for the unidentified.

In Lesbos, there are currently there are two cemeteries on the island where victims of shipwrecks are being buried. Since the mid-2000s and particularly in the early-2010s when the Aegean in general and Lesbos in particular became the key entry point for refugees, the number of deadly shipwrecks increased and the vast majority of identified and unidentified victims were buried in the cemetery of *Aghios Panteleimon*. Their bodies are lightly covered by earth with only a piece of broken marble on the grave, which indicates a date (of the shipwreck or burial) and a number (for victims of particular shipwreck) (see photo 2). Due to the lack of a specific policy or an authority to lead the process, each burial tells a different story and largely reflects the struggle between the families, local NGOs the willingness of local authorities to assist, and the availability of funding.

By far the most important problem with the procedure (or lack of it) followed in the old cemetery is the minimal prospect of future identification. First, it is doubtful whether the unique protocol numbers assigned by the coroner and the coastguards are put in a visible place on the grave. Second, some numbers are added on gravestones, but these are pieces of broken marble which can be easily removed. Most importantly, it is a non-state actor (i.e. funeral offices) tasked to bury the bodies, and as such it remains unclear whether local authorities ensure that protocol is being followed. So, if markers are removed and no protocol is followed this means that even if a family makes a DNA match at the forensic lab in Athens, it does not necessarily mean that they will be able to find the particular grave of their loved one.

The new cemetery in Lesbos was the result of a pressing need for local authorities to bury the 70 dead of the shipwreck of 28 October 2015 – an unprecedented disaster. The new cemetery is located in the village of *Kato Tritos*, 20 km away from Mytilene and is dedicated to the Muslim dead.<sup>21</sup> It is a step forward, providing a long-term solution to the ongoing problem of finding space for burials. Both protocol numbers (those assigned by the coastguard and that on the death certificate) are engraved on the gravestones of all unidentified victims, thereby increasing the prospects of future identification. An Egyptian volunteer manages the new cemetery and ensures that cultural and religious rituals are respected. However, the new cemetery is only an improvisation, stemming from the existing policy vacuum. Despite the positive impact on families, the municipal authorities have delegated their legal responsibilities to an individual with no official status: the volunteer has no formal contractual relationship with the Municipality, and as a result, the map of the cemetery remains in the hands of an individual with not official affiliation to the authorities that lead the identification processes.

## Repatriation

In the event of identification, families may want to repatriate the body in order to bury it closer to home. In both contexts, a broad range of institutions are involved in the bureaucratic procedures which makes this a long and complicated process.

Italian law provides a detailed protocol<sup>22</sup> of the procedures that have to be carried out before the body can be returned. Only after this process is completed, can the body be released and returned. There are two key challenges families face when trying to return the bodies. 1) If they have to travel to Italy they need to get a visa, which is often challenging to obtain for individuals from states of migrant origin, 2) religious considerations such as exhumation can affect whether return of a body is feasible.



Photo 3 New cemetery in Kato Tritos by Dimitris Achlioptas. All rights reserved.

<sup>21</sup> Although it remains unclear as to whether some of the unidentified victims buried there were non-Muslims.

<sup>22</sup> See art. 17-36 DPR285/1990.

In Lesbos, interviews with local actors illustrated that the only realistic window of opportunity for relatives to repatriate bodies is in the first few days after the shipwreck: once burial has taken place, repatriation becomes almost impossible. The only authority that can order an exhumation is the local District Attorney who remains reluctant because of concerns about public health, despite the consensus that dead bodies are of no threat to public health. Ultimately, practice remains largely arbitrary.

## **POLICY RECOMMENDATIONS**

The similarity of the challenges faced in Italy and Greece allow a single set of recommendations to be made concerning both, and one final recommendation laying out a strategy for a European approach to the issue of missing migrants. There are additional independent recommendations concerning the two contexts

### **Additional EU resources**

Authorities in Lesbos and Sicily face a complex humanitarian challenge demanding an ongoing and comprehensive response. Addressing the central issues such as systematic data collection and management as well as effective liaison with families requires appropriate resources. It is therefore essential to seek additional funding for issues such as the transportation and burial of bodies, interpretation services and psychological support, as well as for the required infrastructure. Civil society organisations provide some of these services but this does not mean they will be able to continue to do so in the future. As a European challenge it is appropriate that solidarity between the nations of the EU include financial support to the effort to identify the migrant dead.

Moreover, psychological support is clearly needed for families who travel to Europe to identify and potentially bury loved ones. Those who work on these cases should similarly be able to receive support, implying training of and support to first responders in the aftermath of shipwrecks.

### **Improving existing practices and upholding legal duties**

The utilisation of all opportunities for data gathering is necessary for successful identification. This includes the systematic collection of testimony from survivors, either through anonymous interviews or through non-governmental actors who ensure collection and storage of data for humanitarian identification, separate from that for law enforcement. Current practice is driven by the desire to prosecute smugglers. This fails to satisfy the need for data collection to aid identification, and ensures that collection is made by those enforcing the law on such prosecutions. Greater efforts must be made to retrieve the personal effects of the dead.

The importance of ante-mortem data for identification purposes steers the second element of key practices that need improvement. In Sicily, a prosecutor in collaboration with the local Syrian migrant community, set up a Facebook page in response to an incident in which he was confronted with 24 bodies to identify. The result of this personal improvisation was that he was able to contact families and obtain data that enabled identification of 22 of the 24. There is a need that authorities should learn lessons from such unorthodox approaches, and seek to formalize such good practice.

### **Respond to families' needs**

There is both a humanitarian and practical imperative to ensure that families are at the centre of all work around dead and missing migrants. Families are the principal reason why efforts are made to identify the dead and they are the most important source of ante-mortem data, which is a prerequisite for identification. It is therefore essential to reach out to families. This includes making use of existing channels such as the Red Cross / Red Crescent tracing network, exploiting the potential of social media, engaging with migrant and diaspora communities, liaising with consular and diplomatic authorities but also to systematically collect information from survivors. There is a need to issue humanitarian visas, to support families around identification, burial and repatriation of bodies. Finally, an

important element is the provision of interpreters to enable effective interaction with families and authorities through this process.

### **Building a transnational architecture to manage data around missing migrants**

In other contexts, such as that of Mexico and the Central American region, efforts to ensure the sharing of data around missing migrants have been led by civil society and largely between states.<sup>23</sup> However, in the Mediterranean case the fact that ante-mortem data concerning missing migrants must come from many states in several continents complicates the problem. As such, there is a need both for European states holding post-mortem data to have national structures that can centralize such data, and for them to have access to ante-mortem data from a large range of other sources, including potentially states of migrant origin, other European states, and directly from families.

- Post-mortem data in European states to be centralized nationally, stored securely, and to be managed by an agency independent of concerned states that can win the trust of families, and that ensures a role for civil society organizations, including those representing families of missing migrants, and independent organisations with forensic expertise<sup>24</sup>;
- Families of missing migrants to be given the required support and information to follow the process of data collection, management and identification, and any subsequent exhumation and repatriation of bodies, in ways that put them at the centre of that process;
- All data collection, management and storage to be subject to both relevant data protection standards and to an explicit separation of data used for humanitarian identification purposes and that for border control and law enforcement.

A transnational architecture is required that would enable the collection and storage of both ante- and post-mortem data concerning missing migrants from a range of sources, including state authorities and families. Matching of ante- and post-mortem data can then be made either at national level or through some transnational structure. We recommend that efforts begin to find ways in which states can cooperate and collaborate on data sharing. This could begin with the agreement of a set of principles, based on international human rights law, that could provide the foundation for such cooperation. These principles could take as their point of departure, the guiding principles developed by the ICRC, around the treatment of persons missing in conflict and political violence.<sup>25</sup> On the basis of such agreed principles and with a commitment to a human rights-based approach, a set of protocols can be developed, in collaboration with technical experts such as the ICRC and the International Commission for Missing Persons, that describe how data is collected, managed and shared, between states, families and other actors, in a way that maximises both the identification of missing migrants and the involvement of families in that process.

### **To Greek authorities: Creation of an independent Humanitarian Commission**

The key obstacle to effective management of the problem of missing migrants remains the absence of standard operating procedures: a number of different agencies are involved with very limited coordination. As such, we recommend the creation of an independent commission with an exclusively humanitarian mandate comprised of technical and empirical expertise in managing such cases, including forensic experts, local authorities, members of NGOs, legal experts, migrant communities, families of missing migrants, and national authorities. The mandate of such a commission would be geared towards:

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<sup>23</sup> Reineke, Robin (2016) Missing persons and unidentified remains at the United States–Mexico border, in Brian, T. and Laczko, F., *Fatal Journeys Volume 2, Identification and Tracing of Dead and Missing Migrants*. Geneva: IOM.

<sup>24</sup> Such as ICRC and ICMP.

<sup>25</sup> ICRC Guiding Principles



- Coordinating the actors involved at all stages in the process;
- Ensuring that standard procedures are developed and enforced nationally;
- Liaising with families, other relevant persons and authorities of third countries (e.g. embassies & consulates);
- Ensuring human rights compliance.

An important gap is that there is no outreach activity to contact families of the missing, both to ensure they play a role in the process and to collect ante-mortem data from them. The significant sample of DNA from migrant bodies is useless in the absence of ante-mortem data to match it to. There is thus a need to build channels of communication with families. The commission would need to design an outreach strategy that would facilitate communication with families who should be encouraged to share information. It is also pivotal for such a committee to find innovative ways to engage families in countries of migrant origin.

### **To Italian Authorities: Expand the role of the Special Commissioner's office**

Two key problems remain in current efforts to address cases of missing migrants in Italy. First, the Special Commissioner's restriction to work only on three particular cases and, second, the limited nature of its agreements with relevant actors. A logical next step is to expand the role of the Commissioner's office as a coordinating institution beyond the scope of these three cases and to apply the guidelines as standard procedures as widely as possible. The specifically humanitarian position of the Commissioner and his office should also be acknowledged as a perspective that facilitates the inclusion of families as being central to the identification efforts. The existing activities of the Commissioner's office concerning outreach to families should be extended to all cases of shipwrecks in the context of migration. This includes extending cooperation with diplomatic and consular authorities, as well as through established channels such as the Red Cross/ Red Crescent movement, through both national societies and the ICRC. Cooperation with these key actors is pivotal to facilitate the collection of ante-mortem data and to address families' rights and needs. Another key area for improvement is the way in which data are managed. Centralising data storage nationally as a more immediate response and building regional structures as a long-term perspective are steps the Commissioner's office can probably support and help to coordinate given its existing involvement with all the main actors. Such an expanded role would demand additional and long-term funding of the Commissioner's office and the institutions related to its work. The Labanof Institute involved in investigations around the three shipwrecks the Commissioner's office coordinates, for example, is not specifically funded for this work.

# Mediterranean Missing

Understanding Needs of Families and Obligations of States



## THE MEDITERRANEAN MISSING PROJECT

The Mediterranean Missing Project is a one year research project running until September 2016, funded by the Economic and Social Research Council of the United Kingdom. Resulting from collaboration between the University of York, City University London, and the International Organization for Migration, the project is one of the first efforts to systematically collect data and comparatively explore current responses to migrant bodies in the Mediterranean, and the impacts of a missing person on families left behind. In 2015, over 3,770 refugees and migrants are known to have died at sea while trying to reach Europe. The majority of these people are not identified, and in many cases bodies are never found. In each case, a family is left in a state of ambiguous loss, unable to fully grieve for their loved one. Despite the magnitude of unidentified deaths and the suffering of families, states have done little to address this humanitarian imperative. This project aims to shed light on the policy vacuum at EU and national levels, through investigating the policies and practices in Italy and Greece regarding the investigation, identification, burial and repatriation of migrant bodies. Research with families of missing migrants from a range of contexts aims to better understand the impacts of missing persons on families, both psychologically as well as economically and socially.

Research findings include the following publications:

- Italy and Greece country reports, including summary versions.
- A report of a study on the impact on families of having a relative missing in migration.
- A legal briefing summarising the obligations under International Human Rights Law of states concerning the migrant bodies and the missing.
- Studies of the legal frameworks relevant to missing migrants and the management of the bodies of migrants in Italy and Greece.

### Team members

Frida Ben Attia, Tunisia

Tara Brian, International Organization for Migration

Adrian Carrasco Heiermann, Research Consultant, IOM's Global Migration Data Analysis Centre (IOM GMDAC)

Stefanie Grant, Centre for Human Rights, London School of Economics

Catriona Jarvis, UK

Iosif Kovras, Senior Lecturer in Comparative Politics, Department of International Politics, City University of London

Frank Laczko, Director of the International Organization for Migration's Global Migration Data Analysis Centre (IOM GMDAC)

Giorgia Mirto, Italy

Katerina Polychroni, Greece

Simon Robins, Centre for Applied Human Rights, University of York

Ann Singleton, Senior Research Fellow, School for Policy Studies, University of Bristol and Senior Advisor to IOM's Global Migration Data Analysis Centre (IOM GMDAC)

Amal Shaiah, Turkey



IOM's Global Migration Data Analysis Centre GMDAC

THE UNIVERSITY of York  
Centre for Applied Human Rights