

## Missing Migrants: The Management of Dead Bodies in Sicily

### Italy Summary Report

September 2016



### POLICY RECOMMENDATIONS

- 1) Expand the role of the Government's office of the Special Commissioner for Missing Persons beyond the three cases that it currently addresses, ensuring that it has both a mandate and the resources to address all cases of missing migrants;
- 2) Secure additional resources to the effort of identifying missing migrants, including leveraging European solidarity to access greater support from EU funds;
- 3) Improve data collection and management, including through systematic interviewing of survivors of shipwrecks; make systematic outreach to families of missing migrants, ensuring both access to ante-mortem data and that families can be placed at the centre of work on the issue;
- 4) Respond to families' needs, including through the provision of psychosocial support to families that travel to Italy to identify or search for loved ones, as well as to first responders working in the aftermath of shipwrecks;
- 5) Build a global architecture to address missing migrants, to begin in Europe, with the development of a set of human rights-based principles agreed by European states that can provide a foundation for data-sharing protocols.

The cover image shows the grave of an unidentified victim of the 18<sup>th</sup> of April 2015 shipwreck. Castellammare del Golfo, Sicily.

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## EXECUTIVE SUMMARY

As part of the Mediterranean Missing Project, this report seeks to describe and analyse how the bodies of migrants who have died, in the attempt to cross the Mediterranean to Europe, are managed, the relevant legal framework, and what practices have developed to ensure that the dead are identified and families informed. Our research focuses on the Italian island of Sicily, administratively including Lampedusa, which has been one of the main entry points to the EU and the endpoint of what has been termed the deadliest of Mediterranean migration routes. This report aims to identify both deficiencies and good practice in current efforts to respond to these tragedies.

The report is based on 27 semi-structured interviews with representatives of local and national authorities, and of civil society organisations. Five key challenges have been identified:

- Migrant fatalities represent a complex humanitarian issue that requires a coordinated response. As a transnational phenomenon, it demands liaison and data-sharing among a range of actors in different states, including families of the dead and missing;
  - To make identifications, post-mortem data from bodies must be matched to ante-mortem data from families of the dead and missing, demanding both links to families and effective collection and management of all relevant data;
  - A lack of resources, funding and infrastructure complicates the working conditions of those tasked with identification, who have been overwhelmed by the numbers of dead in recent years;
  - The broad range of actors addressing the issue in Italy lack coordination;
  - Investigation is driven by the desire to prosecute smugglers, rather than humanitarian identification, and a tension remains between these two goals;
- While the common application of existing protocols, regulations and agreements is increasingly taking place, this needs further facilitation. Although the victims of the three shipwrecks politically prioritised to being addressed by the Special Commissioner for Missing Persons<sup>1</sup> are largely being well handled, this is not the case for other deaths;



Photo 1 Graves of the victims of the 3<sup>rd</sup> and 11<sup>th</sup> of October 2013. Castellammare del Golfo cemetery, Sicily.

Based on these key challenges, the project recommends expanding the role of the dedicated office for missing persons and its good practice, as well as making use of opportunities for funding, in order to provide the needed infrastructure. A central need is to systematically make use of opportunities that are currently underutilised for gathering data, such as the collection of personal effects and survivors' testimony. Most importantly, families should be placed at the centre of investigations. Families expressed their need to know about their loved one's fates, and their inclusion is important from a practical viewpoint, since families are the principal source of ante-mortem data that enable the identification of bodies. It is urgent to begin the development of a global architecture to address missing migrants. This can start in Europe, with the development of a set of human rights-based principles agreed by European states that can provide a foundation for data-sharing protocols, to facilitate the collection and matching of ante-mortem data with post-mortem data obtained from the bodies.

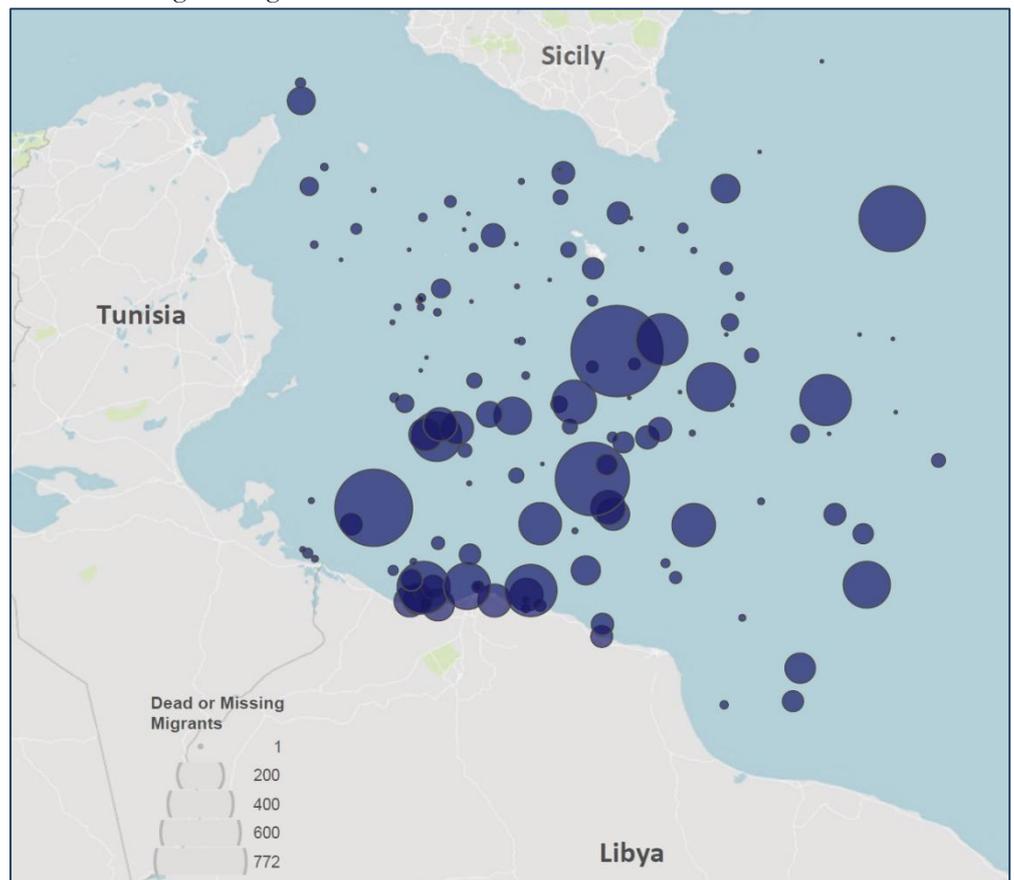
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<sup>1</sup> The Special Commissioner for Missing Persons was established in 2007 by the Italian Government and coordinates identification efforts around the issue of missing persons in general, including unidentified migrants. See also page 8 Good Practice: The Role of the Special Commissioner and Collaboration with Labanof.

## INTRODUCTION TO THE PROBLEM OF MISSING MIGRANTS<sup>2</sup>

Deadly shipwrecks and the bodies of migrants have tragically 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>3</sup> Although the media and solidarity groups have shed light on the plight of 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.



Map 1 Dead or Missing Migrants 2014 - 24th of July 2016

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

Authorities in the countries of reception (most notably Italy and Greece) have been unprepared to deal with the nature and volume of this humanitarian crisis. Migrants have been dying en route to Italy for many years, and arrivals to Italy have significantly increased in 2014, before the spike in arrivals on the Eastern Mediterranean route. 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

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<sup>2</sup> In this paper, it is acknowledged that 'migrants' and 'refugees' are two distinct legal categories. The nature of unidentified bodies however that their status prior to death is unclear, and that 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.

<sup>3</sup> International Organization for Migration: Missing Migrants Project. Available from <http://missingmigrants.iom.int/>. [Last accessed 02.08.2016].

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.

### **The policy and operational gaps at European Union level**

The policy, legislative and operational gaps identified in this report, at local and national levels, are reflected 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>4</sup>, has increasingly moved from inter-governmental decision-making to EU competence. In addition, since the adoption of the Schengen agreement<sup>5</sup>, a range of policies have been developed that affect the way in which migration-related issues are regulated. 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>6</sup> which includes a positive duty to prevent the loss of life, and a positive obligation to investigate suspicious deaths.<sup>7</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 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 both 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**

As a part of the Mediterranean Missing project, 84 families from Tunisia, Syria, Iraq, Palestine and Egypt, who are missing relatives in migration, have been interviewed to understand how they are affected by the situation. The main conclusion is that most have no information as to the fate of relatives and are therefore trapped in a state of ambiguity, between hope and despair. Ambiguous loss is the most stressful type of loss, precisely because it is unresolved. Emotionally and psychologically, families are affected in ways which undermine their well-being through a generalised anxiety disorder, a sense of stasis in their lives, hypervigilance and sleep disturbance, while those worst affected have had to seek professional psychiatric help. Family conflict and self-isolation was prevalent among the affected relatives in this study, and women in particular experienced the impact of the dramatic change in role required to head a household in which the husband has gone missing. Those who survived shipwrecks in which relatives went missing were likely to be traumatised, potentially suffering from post-traumatic stress disorder.

The needs of families are clear: they seek an answer, a resolution of the lack of clarity over the fate of the missing – are they dead or alive? In either case, they also want to know where their missing relatives are: if they are dead families want to retrieve the body and bring it home so that the lost person can be honoured and buried in a space that returns a relative to the family. Some family members have taken part in efforts to identify loved ones, including the often traumatic exercise of examining bodies in morgues or photos of the dead. Many

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<sup>4</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, available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:C:1992:191:FULL&from=EN>. [Last accessed 09.08.2016].

<sup>5</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), available at: [http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1470668430959&uri=CELEX:42000A0922\(01\)](http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1470668430959&uri=CELEX:42000A0922(01)). [Last accessed 09.08.2016].

<sup>6</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>7</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, available at: [http://www.echr.coe.int/Documents/Convention\\_ENG.pdf](http://www.echr.coe.int/Documents/Convention_ENG.pdf). [Last accessed 09.08.2016].

have shared DNA samples with authorities in Europe but very few have received any response.

### ***International Human Rights Law – The Obligations of States***

International human rights law (IHRL) applies in situations of migrant death and disappearance 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>8</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 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 also entail efforts to retrieve the body, and to trace and inform families;
- 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 covered by this project suggests that not all these obligations are either acknowledged or acted upon.

### ***Key challenges in Sicily***

The Central Mediterranean route accounts only for about a quarter of almost 1.5 million people who have arrived to Europe since 2014 on all routes, while around 85% of almost 10,000 recorded deaths have occurred on this route.<sup>9</sup> Increasing numbers of fatalities make 2016 the deadliest year for migrants since the International Organization for Migration (IOM) started to systematically record migrant deaths in 2014. Within this context, authorities in countries at the external border of the EU face a complex humanitarian challenge that involves a range of stakeholders in different countries. At the same time, 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. Authorities and other actors in 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;
- Failure to broadly implement existing protocols, regulations and examples of good practice.

## **MAPPING POLICY RESPONSES**

### ***The role of the shipwrecks of the 3rd and 11th October 2013***

Before describing practices established in Sicily, it is important to acknowledge the enormous relevance of the shipwrecks of the 3<sup>rd</sup> and 11<sup>th</sup> of October 2013, in which at least 387 persons died. Despite many previous deaths en route to Sicily, these shipwrecks received great public, political and media attention due to the scale of deaths involved. Their significance is reflected in the understanding of these events as mass disasters, which activate a different set of protocols and standards, in contrast to the deaths that occurred earlier – and continue to

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<sup>8</sup> Grant, S. (2016) *International Human Rights Law: The Obligations of States*, York: Mediterranean Missing Project.

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

occur. Migration-related deaths occur on a regular basis and thus confront authorities with different needs for resources than exceptional disasters. These incidents require a consistent and ongoing response.

Following the events of late 2013, Italian actors adopted new approaches, for example routinely taking biological samples that allow for DNA testing. Moreover, authorities now have greater opportunity to justify expenses related to the identification of the dead in the context of migration. As a direct outcome of these events, the Italian government initiated operation Mare Nostrum, a humanitarian search-and-rescue operation that also retrieved bodies of the deceased, for one year up to the end of October 2014.

## MISSING PERSONS PROCEDURES IN ITALY

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.

### **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 and the Coast Guard, 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.



Photo 2 Piano Gatta cemetery, Agrigento, Sicily.

The short timeframe of first response is a key moment concerning the state of the body and collection of personal belongings. There is however also the question of resources, where limited resources to retrieve the dead are also those most needed for search and rescue of survivors. When a body is successfully retrieved onto a boat, appropriate transport is essential. Most ships that operate in the Mediterranean however lack the infrastructure to store bodies, for example in refrigerated rooms.

At the port, bodies are placed out of sight of survivors and others to start the first examinations. There is thus a system in place dealing with incidents of deaths in the context of migration. However, this system does not necessarily acknowledge the ongoing nature of these incidents. A central issue in this regard is the collection and management of the data that are collected in such incidents.

### **Investigation, data collection and management**

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 samples, etc.). An effective system is one that collects data in a standardised way,<sup>11</sup> and stores them in a centralised database that facilitates the sharing of these data with actors in other institutions or countries, allowing for ante and post-mortem data matching. Systematic interviews with survivors are one valuable source of post-mortem data, potentially including details of the name or origin of the dead, but are not currently carried out for purposes of identification. Other areas where data collection can be improved include the gathering of personal effects such as identification documents, credit cards, photos, telephones and SIM cards, as these can hold valuable data for identification. Resource

<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.

<sup>11</sup> See Interpol Disaster Victim Identification (DVI) forms. Available from: <http://www.interpol.int/INTERPOL-expertise/Forensics/DVI-Pages/Forms>.

limitations do however often constrain the collection of such material effects. Biological reference samples, for DNA data extraction, are however routinely taken.

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 with relevant state authorities in migrants' countries of 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

In Sicily, investigation of migrant fatalities is led by the Public Prosecutor's office. In preparation for the landing of the survivors and bodies, the Public Prosecutor's office appoints a team to conduct the investigation and follow respective procedures. This team consists of coroners, agents of the flying squad, Forensic Science Department staff, and cultural mediators (appointed by the municipality or the local health authorities). 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. Usually, the municipality should provide refrigerated facilities in hospitals or cemeteries for examination and storage<sup>12</sup>, but this can become problematic when authorities have to manage high numbers of bodies. Whether at the port or in other facilities, the external examination of the bodies involves collecting information on height, weight, presumed age, and distinguishing marks such as tattoos or scars. 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>13</sup>

### **Visual Identification**

Visual identification is the most common method currently used, 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 victim and survived, or where a relative can quickly come to Italy. Usually, police officers or members of the Forensic Science Department photograph the body from different perspectives, including the number assigned to the deceased. In fact, most authorities involved in the process document the body independently. 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> The greatest constraint on such identification is the need for a family member to be present: in most cases no such relative is available.

### **Autopsy**

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. Both judiciary (for victims suspected of having committed a crime) and non-judiciary autopsies (solely for purposes of identification) can be ordered for unidentified bodies. Among our interviewees there were different opinions on the utility of the information produced in autopsies in the context of migrant fatalities for identification. Some argued that autopsies do not produce meaningful evidence from an investigative point of view, as drowning is invariably the cause of death. Others challenged this, as there are cases in which people die of other causes, for example of inhaling toxic gases. Similarly, interviews with families of

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

<sup>13</sup> Secondary identifiers are for instance detailed personal descriptions, medical characteristics or personal belongings that are found on the body.

<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].

missing migrants have shown a concern at autopsies being done, since they are considered by some to be a desecration of the body.<sup>15</sup> The autopsy itself involves the assessment of the inner organs, the brain and stomach, and blood toxicity screening. 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. Some interviewees reported difficult working conditions such as a lack of electricity or running water.

### **Forensic data**

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. Identification based on such data is rare due to the difficulties for families to know which institutions to contact to share ante-mortem data. In the interviews it was suggested that centralisation of the system concerning data management and liaison with families would be an important improvement for both the families and the authorities involved in identification and outreach work. Despite higher costs and the difficulties just described, 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. From a financial viewpoint, DNA analysis might still be preferable, as families can send a sample without having to travel to Italy.

Centralised storage of the samples obtained from the deceased, allowing a single institution to manage forensic identification, is far from the case at present. In most cases not under the aegis of the Office of the Special Commissioner for Missing Persons, 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<sup>16</sup> in Milano. As such, the 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 the victims of the three particular shipwrecks in which the Commissioner 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 & Repatriation**

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. 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.

A central concern in the management of burials is the way in which families can take part in this process. Burial is an essential element affecting how families cope with the loss of a relative. This is a specific area where authorities could provide support to families, both



Photo 3 Graves of two migrants who lost their lives on 19<sup>th</sup> of August 2006. Piano Gatta cemetery, Agrigento, Sicily.

<sup>15</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.

<sup>16</sup> Laboratorio di Antropologia e Odontologia Forense (Laboratory of Anthropology and Forensic Odontology).

concerning travel to Sicily in order to identify their relatives, around burial of the identified dead, or when repatriating the body.

In the event of identification, families might want to repatriate the body in order to bury it closer to home. 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>17</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 migrants' states of origin, 2) religious considerations such as exhumation can affect whether return of a body is feasible.

## **GOOD PRACTICE: THE ROLE OF THE SPECIAL COMMISSIONER AND COLLABORATION WITH LABANOF**

In 2007, the Italian government established a dedicated office in the Ministry of Interior dealing with issues related to missing persons.<sup>18</sup> Focusing on all cases of missing persons, not only migrants, the Special Commissioner for Missing Persons became the central institution coordinating the efforts of the different actors involved 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 3<sup>rd</sup> and 11<sup>th</sup> of October 2013 and the case of the 18<sup>th</sup> of April 2015. All three cases gained strong media coverage and were prioritised in the political debate due to the scale of deaths.<sup>19</sup> The Commissioner's office issued several Memoranda of Understanding (MoU) that put forward guidelines for managing such situations. These documents established and informed cooperation among some of the central actors in the field of identification. A key objective of these memoranda was to facilitate the identification of persons who lose their lives during migration to Italy. Despite their limited binding nature as MoUs, they represent examples of good practice that can help to inform practice more generally. 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, borderline-europe, the Comitato 3 and diaspora communities, such as Eritreans 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. Moreover, diplomatic channels were utilised, through embassies of migrants' countries of origin and in states with large diaspora communities of the main nationalities involved in the disasters. 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 highest numbers of victims.

## **POLICY RECOMMENDATIONS TO ITALIAN AUTHORITIES**

### **1) *Expand the role of the 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

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

<sup>18</sup> DPR 31.7.2007

<sup>19</sup> In the two shipwrecks of 2013 387 bodies were recovered, in the one in 2015 675 bodies could be recovered.

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.

## **2) Securing additional EU resources**

Italian authorities in Sicily and elsewhere 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 use existing funding opportunities 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 this is 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 Italy 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.

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

The utilisation of all opportunities for data gathering is necessary for successful identification. In the case of Sicily, this concerns, for example, the systematic collection of testimony from survivors for the purpose of identification. It is important to either allow for anonymous interviews, or to ensure that gathering of reports through non-governmental actors who ensure collection and storage of data for humanitarian identification, is 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.

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 learn lessons from such unorthodox approaches, and seek to formalize such good practice.

## **4) Respond to families' needs**

As explained above, 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 systematically collecting information from survivors. If families reach out to authorities or the latter are able to contact them, there is a need to issue humanitarian visas. These visas need to allow for longer stays, as bureaucratic processes can take several weeks. Finally, an important element is the provision of interpreters to enable effective interaction with families who seek to identify, bury and repatriate their loved ones, supporting both families and authorities.

### **5) 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>20</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 migrants' states of 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>21</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 from 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 the 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>22</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.

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<sup>20</sup> Reineke, Robin (2016) Missing persons and unidentified remains at the United States–Mexico border, in Brian, T. and Laczko, F. (Eds), *Fatal Journeys Volume 2, Identification and Tracing of Dead and Missing Migrants*. Geneva: IOM.

<sup>21</sup> Such as ICRC and ICMP.

<sup>22</sup> ICRC Guiding Principles

# Mediterranean Missing

Understanding Needs of Families  
and Obligations of States

[www.mediterraneanmissing.eu](http://www.mediterraneanmissing.eu)



## 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.

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