



Viewpoint

In Potters' Fields¹

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Following the deaths of all 150 passengers and crew on board Germanwings flight 4U9525 on 24 March of this year, when the aircraft crashed into the mountainside at Seyne-les Alpes, a sophisticated search and rescue operation was underway immediately, although it very soon became a recovery operation.

As it was put by Colonel Patrick Touron of the recovery team, “the work is physically exhausting, perilous and psychologically draining”.² He and his team of gendarmes had spent three days in very difficult terrain, searching the debris for human remains and had “gathered some 1500 ‘elements of bodies’ and ‘biological matter.’ After being sealed in bags, these were winched up and away from the mountainside by helicopter and taken to a laboratory where they entered the so-called ‘post-mortem chain.’”

A team of lab workers extracted DNA from the remains and then conducted comparisons between the analyses of the genetic material that had been gathered, and those obtained from, for example, ‘personal items’ that had belonged to the dead, such as toothbrushes, provided to the team by family members.

Colonel Touron explained that his teams were working long hours, despite the extraordinary mental and physical demands of the task, in order to “get the job finished and allow the families to recover what they can”.³ He added: “The overriding feeling among the teams is of injustice; that these people who didn’t deserve to die were killed intentionally seems so unjust. We cannot do anything for them, so we are making a very big effort for their families.”⁴

A very big effort is always made following commercial disasters such as shipwrecks or airplane crashes, and following humanitarian disasters such as earthquakes or

¹ A potter's field, pauper's grave, or common grave, is a term for a place used for the burial of unknown or indigent people.

² The Guardian, Kim Willsher, 28 March 2015

³ The Guardian, Kim Willsher, 28 March 2015

⁴ Guardian, Kim Willsher, 28 March 2015

tsunamis. A well-oiled system swings into operation, albeit that respect for the rights of the dead and their surviving family members, may not be the sole or main concern of those who are or may be responsible for the disaster, with commercial considerations normally playing a part. Nevertheless, full investigations take place. Conventions and protocols apply. There is painstaking collection of evidence and of data as a matter of routine, and there will be detailed reports, payment of compensation, and surviving family members will be enabled to identify, bury and mourn their dead.

In the case of the Germanwings crash, Lufthansa have already stated that pending the conclusion of the careful investigation that is underway, they would be making immediate interim payments to the next of kin of those who lost their lives in what was apparently a deliberate act on the part of the co-pilot, Andreas Lubitz, to fly the aircraft into the mountainside. Within about two months of the crash it was announced that the work of the teams on the mountainside was concluded and the world has watched the coffins of many of the dead being received in Germany.

The search continues for the Malaysian Airlines aircraft, MH370 that disappeared on a flight from Kuala Lumpur to Beijing on 8 March 2014, when it was carrying 227 passengers and 12 crew members. Debris from a wing was discovered in August 2015 after it washed ashore on Reunion.

And all this is just as it should be.

But what if a disaster does not involve a commercial aircraft or vessel? What if the disaster concerns an unseaworthy boat, and the dead and missing are "irregular" migrants?

According to the United Nations , as of 31 October 2015, more than 744,000 migrants have crossed the Mediterranean in smugglers' boats since the start of 2015, many to the Eastern isles of Greece including Kos, Chios, Samos and Lesbos. Most of these have arrived on the north coast of Lesbos. More than 218,000 crossed the Greek border in the month of October alone.

Thirty six dinghies, each carrying between 30 and 40 people, arrived near Methymna (Molyvos), on one day over the weekend of 12-13 September, and twenty to thirty boats each day has been the norm for the past few months, and rising of late to forty, according to Eric and Philippa Kempson of Efthalou, whose tireless work, swiftly and calmly guiding the boats to shore safely then helping the refugees to disembark and providing them with water, dry clothing, basic food and foil or other blankets for babies, children and other more vulnerable arrivees, or assisting in rescues, cannot be praised enough. Fortunately, there are now some volunteers arriving to help them in their extraordinary tasks.

Reports of rescue operations, often accompanied by a death toll, now occur with increasing frequency. The world appeared shaken from complacency by the recent image of the drowned child, Aylan Al Kurdi, who lost his life, as his mother Rehan and brother Ghalib lost theirs, in the course of an attempt to cross from Turkey. Hands were thrown in the air and then wrung, the applause that so recently greeted some refugees on their weary arrival in Germany already consigned to memory. The European Union failed to agree on responsibility sharing at its 14th September

meeting. The focus looks to be on the protection of borders rather than of refugees. It has also failed, without apparent reason, to implement the Directive for Temporary Protection (CD2001/55/EC) of 20 July 2001. This was the concrete response of the European Union to the need for special procedures that was demonstrated by the mass influx of displaced persons following the conflicts in the former Yugoslavia, Kosovo and elsewhere. Its provisions are based on solidarity between European Union States.

Due to the worsening weather conditions with the onset of winter, the seas have become rougher. As a result the bodies of 19 people were recovered from the Aegean in three separate incidents on Sunday 1 November alone. More than 70 people, many of them children, died during the past week when the flimsy boats carrying them across the sea capsized. There is no room in the cemeteries of Lesbos⁵.

Those in these tiny craft often face additional peril at the hands of the smugglers and their networks as men may descend upon them, injure them, steal such belongings as they may have managed to bring, or toss them into the sea. If the boat is a dinghy, the engine is likely to be seized to sell for re-use, usually after the dinghy has landed, although there are allegations that this has also happened at sea.

From the high hills behind the coast of northern Lesbos, numbers of eyes, not all benevolent, are glued to telescopes and binoculars trained upon the stretch of water, said to be six and a half kilometres at its narrowest point, and the Turkish coast that lies beyond. Corresponding sets of eyes return their gaze from the Turkish mainland.

Italian website Fortress Europe⁶ estimates that since 1988 at least 21,439 people have died in the attempt to travel from places such as Libya, Tunisia and Turkey, to Malta, the Canaries, Spain, Italy and Greece. The International Organisation for Migration ('IOM'), states that in the first ten months of 2015 more than 3329 people have died in the course of crossing the Mediterranean, at least 435 of whom have died on the Eastern Mediterranean route since 6th October. But we do not know the real numbers. Suffice it to say that given the nature of frontier deaths, precise figures cannot be gleaned and it is likely that the true figures, both of those who migrate irregularly, and those who die in the course of that journey, are somewhat higher.

Some die in the desert en route for a port or other coastal point of departure, in unknown places, claimed by the heat and dust.

Between 1996 and 2013 at least 1790 migrants died attempting to cross the Sahara.⁷ While many drown in the Mediterranean having left the shore in unseaworthy, overcrowded vessels, usually piloted by one of the migrants after the most basic of instruction from a smuggler; others succumb to the Evros river that runs between Greece and Turkey, despite the seeming ease of crossing⁸.

⁵ Greek Reporter, 3 November 2015

⁶ <http://fortresseurope.blogspot.co.uk/p/la-fortezza.html>

⁷ Fatal Journeys-Tracking Lives Lost during Migration, IOM, 2014

⁸ Evros is the natural border between Greece and Turkey and one of the biggest rivers of the Balkan peninsula. It flows into the Thracian sea, near Alexandroupolis where it forms a vast and multiform Delta. It was named after

Movement across the water has been commonplace since Greece all but sealed its land border with Turkey in 2012 and arrivals are being registered in the more southerly Aegean islands such as Kos and others in the Dodecanese.⁹

Of course, numbers also die traversing other borders elsewhere in the world such as the Rohingya refugees who have fled Myanmar (Burma) and are seeking safety in Malaysia or Thailand, as well as those moving between the Horn of Africa and the Yemen, and those from Latin America attempting to cross into the United States of America. What is said here is as relevant to them as it is to the migrants whose aim is or was to reach safety in Europe.

The decision to cease funding the Mare Nostrum initiative, was taken mainly, it would seem, because governments, and the United Kingdom ('UK') in particular, regarded the provision of such search and rescue as a 'pull factor' that would only encourage more migrants to undertake dangerous voyages, a reason that has been exposed as erroneous in the most appalling way. A new operation has since been set up with the UK sending HMS Bulwark to participate in search and rescue operations, but with the proviso that none of the survivors was to be permitted to set foot in the UK. (HMS Enterprise replaced HMS Bulwark in July, charged only with intelligence gathering. However, it did participate in a rescue effort on 22 August off the coast of Libya. It was joined by HMS Richmond by 26 October). Nor will the UK receive any of the survivors for settlement, whether as refugees or otherwise. No responsibility sharing here then.

In July 2014, the Italian government established a commission to identify those who drowned in two shipwrecks off Lampedusa in October 2013, whose bodies were found but whose names are still unknown. Some 150 survived when a boat carrying more than 500 refugees sank. The commission will interview relatives and try to establish identity through photographs, documents, personal possessions and DNA testing.

Since October 2013 many more lives have been lost, including off Malta, from where, on 23 April 2015 our television screens and other media showed us rows of coffins, each with a number rather than a name. This event was acknowledgement of the dead as human beings who were entitled to respect and a dignity that included the public ritual of a funeral. But it took place soon after the twenty-four bodies were recovered. Twenty-eight people survived while more than eight hundred perished. None of the dead appeared to have been identified. We do not know what efforts had been made to identify those who died, to ensure the keeping of evidence that could be linked to the deceased in future, or to make contact with family and loved ones back home so that they might attend the funeral or recover their loved ones, not least since the media reports were silent on it.

If facilities for the living are lacking, the more so is there an absence of provision for those who are dead on arrival, those whose bodies, often almost unrecognizable, wash ashore on pine scented sunlit beaches, or are plucked from the seas by the

Evros, son of Kassandros, king of Thrace. According to Virgil, that is where the Bacchae threw Orpheus' head after tearing him to death.

⁹ Migrant Crisis Spreads to Greek Isles, Apostolis Fotiadis, IRIN, 19 May 2015

coastguard. The first few days after a death are critical and it is unusual for the sea to give up its dead after more than a month has passed, by which time identification of the deceased will already have become extremely difficult if not impossible. There is no uniform practice and procedure that is followed in relation to the treatment of the dead, whether in Greece, in Europe or across the world in general. And there is certainly no such practice and procedure in relation to the treatment of surviving family members, whether they be in their countries of origin, in the country where the family member has died, or elsewhere.¹⁰

At the end of September 2014 two friends were in touch with me to ask for help. A few weeks earlier, with other family members, they had been on their annual Greek holiday to the island of Ikaria. Early one evening, at a beachside taverna as they were taking their usual ouzo, they noticed something being carried toward the shore on the incoming tide. Locals began to move to the waterline and attempted to deflect my friends when they joined them. The something was a body, a male body. A young man who had probably had not been in the water too long. Likely he was from Eritrea or Syria. They were told not to worry, advised to go back to the taverna for their meal. The coastguard had been called.

Feeling there was nothing useful they could contribute, return they did. The body was soon removed. Life went on. The holiday continued. But my friends had been deeply shocked and were unable to dismiss the young man and his untimely death from their minds. Who was he? How, when and where had he died? Where was he from? Was he alone? These and many other questions went round and round in their minds. Although not religious, one day they decided to carry lighted candles to the beach and to spend time there in contemplation of him, his life and death, of his family and loved ones, to mark his passing with respect. One friend wrote a poem in his memory. Here is the last stanza:

“...Shockingly unexpected, I am jolted from my quiet privilege

The horror of our differing fortunes

All resting on our birthplace

We receive you here

Strangers who never heard your story

Never shook your hand.

But the powerful statement made by

Your desperate demise

Will remain with me

¹⁰ See , e.g. Stefanie Grant, Recording and Identifying European Frontier Deaths, European Journal of Migration law 13 (2011) ‘Migrant frontier deaths and violations of migrants’ rights have tended to be seen as a ‘tragic by-product’ and as ‘unintended side effects’, of state action to control national borders, prevent irregular migration, and combat international crime. Too little attention has been given to the migrants themselves, to their protection, or to developing rights-based policies to prevent these deaths. Perhaps as a result, the issue has been seen largely in isolation from other situations involving significant loss of life, whether as a result of serious human rights violations, in humanitarian disasters, or in situations of conflict.’

Triggering reminders
Pricking at my complacency
Like small electric shocks
Released when I observe
The strength and relentlessness of the sea
Or the cracking open of a pistachio
Or any mention of a refugee."

What could be done, my friends asked, to try to find out what had happened to the body, to try to find out who he was and to somehow let his family know what had happened and where their son, brother, uncle, perhaps also husband or father, now was?

Through Iosif Kovras, a Greek academic currently at Queen's University Belfast, and author of, amongst other publications, *Addressing Migrant Bodies on Europe's Southern Frontier*¹¹ I was able to make contact with Efi Latsoudi, a Greek woman living on Lesbos who, with others, dedicates her time to supporting migrants who arrive on the island. This includes work as a volunteer at an unofficial reception centre and shelter for 80 of the most vulnerable migrants at PIKPA (a former holiday centre for children) which is run by members of the local network "the Village of All Together". It is currently overcrowded, housing some 120 refugees. She also helps to ensure identification of those who have lost their lives; to enable families to reclaim their dead, and to ensure decent burial. All the while she presses the authorities to respect the rights of the migrants, of the dead and of their families. Her work is almost too thankless, but she carries on with her tasks, raging from time to time against the lack of funds; the failure by the authorities to take responsibility; the inconsistency in behaviour of the authorities, locals and NGO's; the stonewalling, the threats to close the PIKPA centre.

The systems in Greece are such that it is already theoretically possible for there to be a good chain of communication between, for example, the coastguard; the coroner; the hospital; the mortuary; the district attorney, the police; the International and National Committees of the Red Cross and the Representative of the United Nations High Commissioner for Refugees, as well as other NGO's, and of course with the family and loved ones of the deceased. That is the theory. How often the system works properly is difficult to know. Certainly it works better for those who have the advocacy of people like Efi and advice and representation of a lawyer.

With Efi's help to press home my enquiries and after I had spoken on the telephone with a forensic pathologist from the International Committee of the Red Cross ('ICRC'), it was ascertained that the young man was a Syrian national aged 22 years. He had had his passport with him together with some photographs that had been in a 'banana bag' tied round his waist. His body had been moved to the island

¹¹ Addressing Migrant Bodies on Europe's Southern Frontier: An agenda for research and practice, Simon Robins, Iosif Kovra, and Anna Vallianatou, June 2014, Queen's University Belfast and York University, Centre for Applied Human Rights

of Syros and was in the hospital mortuary there. It was not clear why he had been moved from Ikaria. Was Syros the island with responsibility in these situations? Or was it just that there was no coroner on Ikaria? Had a post mortem examination been carried out? Had DNA samples been taken, preserved and identified in a traceable record? The man from the ICRC assured me that DNA samples had been taken and preserved. In any event, Syros could not keep the body indefinitely. Either he would be buried there shortly, courtesy of the municipality – there are very few functioning refrigerated boxes in the country - or, if there was no room in the cemetery, his body would be transferred to Athens where there is a cemetery for foreigners.

Would he be buried in a named grave? I wanted to know. Why could the ICRC not issue notice that the body of this young man had been retrieved from the sea on that September day so that his family would know where he was and be able to claim his body, or at least know where his grave was to be found? No, the ICRC and the national Red Cross do not issue such notices. They only respond with information when someone who has proved that they are related as claimed has first made contact with them. They are reactive only.

I wondered what thoughts he might have about improving the system – the practice and procedure, providing more and better support for the migrants and their families. Although we were speaking by telephone, I could see his eyebrows and shoulders raising in unison as he said that of course this would be good - appropriate and proper - but Greece had no funds for such things, their resources were stretched and existing organisations were already facing real challenges. And the Greek people might take it rather hard if more money were to be spent on dead migrants and their families when they themselves had not enough to live on.

I recalled Nikos, a taxi driver in Kardamyli, in the summer of 2013 and his recounting the story of a family from Athens. The parents had come to the extraordinarily painful decision that they would have to place their daughter into the care of the local authority as they simply could no longer afford to keep her. The child's response: Mummy, Daddy, please don't send me away. I promise never to be hungry.

I replied that it was fully understood that the situation was complex. Of course I had shared responsibility in mind, not that Greece would be expected to pay for everything. Funds would have to come from the European Union. Again, I could see the shrug on the other end of the line.

It seemed we had reached an impasse and that we may lose track of the body altogether. By now it was November 23rd and Efi's work on the case was interrupted by another shipwreck on Lesbos. Four Syrian nationals were missing, among them a little girl about two and a half years old. The rescue operation was underway but there was not much hope. It is very easy to die in the Aegean she said. That is how it is.

After many attempts, Efi finally managed to speak to the local authority on Syros and our luck changed as completely by chance she discovered a friend working in the Environmental Section of the Municipality, with responsibility for the cemetery and for all funerals.

Efi was assured that no funeral of a refugee had taken place lately. Also, she was

informed that bodies that were unidentified or unclaimed were sent to Syros Aegean coroner service and kept there in the refrigerator of the hospital for about three months as the coroner would wait for somebody to ask for the body.

There would not appear to be any hard and fast rule about the period of time for which the body would be kept, but obviously it could only be retained in the morgue while there was space.

On Syros, at any rate, we learned, the municipality would provide a decent funeral with a name or a number on the grave. It was unclear what links were made and kept between a grave name or number and any data as to the identity of the deceased, including DNA, and, in this case, at least his passport, the photographs, clothing and dental data.

Some graveyards where migrant bodies are buried are in obscure places far from towns: unmarked places with unmarked graves.

On Syros, at any rate, three years after the burial the bones are removed and discarded. It seems this is the general practice across Greece. Whilst a body would have to be transported to Bulgaria for cremation, at considerable expense, as there are no facilities for this in Greece; it may be disinterred, boiled and rendered three years after burial. It follows that any family or loved one searching for someone would not be able to find them after that time. Efi and I agreed that there was a need to change the practice and procedure so that the bones - or at least one sample bone from each body- were held in an ossuary or other suitable place, enabling there to be a much longer-term link between the remains and the data held in the local records. In this way, even the next generation of the family would have a chance of finding their relative.

Efi's friend had contacted the hospital and now knew that the plan was for the young man's funeral to take place in early December. The friend had asked them to please postpone it and to contact Efi so that there could be a little more time in which to try to find the family.

Everyone we had contacted so far was aware that myself and my friends from the UK wanted to see this young man's family informed of what had happened to him and to have the opportunity to claim his body if at all possible. The coroner made contact with Efi, agreeing to postpone the funeral until about 20th or 22nd December and to ask the coastguard to provide identity details. It would be difficult to keep the body for longer than that.

Efi thought she might be able to travel to Syros with some people from the Muslim community to help ensure an appropriate funeral if that was what transpired. The authorities on Syros would not provide a Muslim funeral and there was no Muslim graveyard.

Efi was worried that her standing as a volunteer worker in a support network of NGO's might not suffice, but the coastguard was willing in the circumstances, after being contacted by the coroner, to provide some information. It transpired that the head coastguard on Ikaria had himself made efforts to find the family. He had

contacted the Syrian Embassy in Bulgaria – the nearest to Greece, and had tried the internet, to no avail. It would be nice to think that our progress was unrelated to the fact of my involvement in the case and the interest of others from outside Greece.

Suddenly, we had the personal identity of the young man and copies of some photographs. Between us we entered his details on the site Refugees Reunited and on Facebook. The entry on the latter brought an almost instant result and it was possible to consider Facebook in a new and rather more positive light than before. Two people got in touch who turned out to be his brothers. They were also Syrian nationals. With the help of those who could translate and interpret between Arabic and other languages, it was possible to explain the situation. One brother travelled to Turkey from where their youngest sibling had set off that mid-September night. The family immediately wanted to travel to Greece to recover his body. But refugees and asylum seekers cannot easily obtain visas to travel in such a situation. It would be extremely expensive to take the body to Turkey and either remain there or try to go back to Syria, even if they managed to obtain permission to transport the body and visas for themselves. In fact they did not have formal refugee status, or any status in Turkey, making things even more impossible. There is an urgent need for a new visa regime to allow for not only humanitarian visas for those fleeing serious harm, but also visas to permit lawful movement of bereaved family members and procedures for repatriation of bodies in such situations. The wider question of lawful cross-border movement must be left for discussion elsewhere.

After communication with the Red Cross, two relatives of the young man managed to travel to Syros in mid-December. They identified the body as that of their brother. Having accepted that it was not possible to take him to Turkey, it was agreed that his body be transferred to Athens and thence to Komotini in northern Greece where the country's only Muslim cemetery is to be found. There he has been laid to rest in a marked grave after an appropriate funeral ceremony attended by family members. His burial place is known. It can be visited by his loved- ones. One day, perhaps, when the times in Syria are different, it may even be possible for his body to be exhumed and taken home.

Of course, there are many different experiences. Some relatives whose family members were missing after their vessel went down, or who were on a vessel that travelled more recently, reported an obstructive and unhelpful response from the authorities and being sent from pillar to post between the police and the coastguard, even where one relative spoke fluent Greek so it could not be said to be a case of misunderstanding. Another obstacle to finding the missing is that on arrival survivors are often if not always held in detention in a camp or otherwise restricted in movement.

Greek law does provide, through Presidential Decree, that the police must apply best efforts to search for and find any person reported missing, in cooperation with all police authorities across Greece, and where unsuccessful in any case, must make a formal declaration to the Deputy Directorate for Criminal Investigation. This provision applies to all persons of any nationality no matter their immigration status.

There is also a provision in the Greek Civil Code for judicial recognition of absence, but only following lengthy judicial and administrative procedures. However, it applies

only to Greek nationals and those of another nationality provided that they had been living in Greece or had real property in Greece. It follows that migrants who go missing while trying to cross the Greek border do not fall under this legal framework.

So, returning to the group of Syrians mentioned by Efi, who were missing after their boat went down, it can be seen that their family members who were searching for them would not be able to rely on that law in order to obtain any legal declaration that they were missing, or missing presumed dead. This situation, which may well be duplicated in many other countries, creates great difficulties for surviving family members who need to somehow continue living their lives, including problems in any situation where authorities ask for proof of death before accepting that a survivor is entitled to inherit any property, to a welfare benefit or even to re-marry. And it is inevitably difficult for grief to run its course.

Some survivors report that only when there was local support and a lawyer did things begin to move forward. It seems that the police do not actively search for any person reported missing in any event, so that a declaration would only be of use should a body be recovered or a missing person re-appear.

There are also reports of boats being pushed back when they have all but reached the shore and of ill-treatment of migrants. There was an allegation of a pushback by the coastguard, in the early hours of 20 January 2014, of a boat they were said to be towing that was carrying 27 refugees, when it was just off the coast of the island of Farmakonisi, that caused the deaths of 11 of the 27 Afghani and Syrians who were on board. The allegations were denied by the coastguard in the course of an initial investigation by the Piraeus Marine Court, which made a preliminary finding that the allegations were manifestly ill-founded. This decision apparently sufficed to justify closure of the case in all Greek jurisdictions.

The Group of Lawyers for the Rights of Migrants and Refugees of Greece reports in its blog:

“In particular, the prosecutor accepted as a ‘given’ the following:

- in general, **no pushbacks** take place*
- the Greek Coast Guard staff were ordered by their superiors to transfer the victims safe to Greek land.*

The Prosecutor refers to the order issued by the Directorate for the Protection of the Sea Borders which dealt with the case from the moment of interception until the final sinking of the boat. It must be pointed out however, that the mandate of this Directorate concerns only the “protection of the national sea borders and the deterrence of illegal migration”. It does not include rescue at sea, which is managed by the Joint Center for the Coordination of Research and Rescue (EKSED). “

Vital questions are raised as to the role of the coastguard in what is an increasingly common situation for such officials, and as to the apparent conflict between protection of borders and deterrence of “illegal”migration on the one hand and the duty to preserve life on the other, whether a vessel be in national or international waters at the time.

Where states fail to take all reasonable steps to safeguard and identify the dead so as to enable surviving family to recover, lay to rest and mourn their loved ones, potential breaches of the right to freedom from cruel inhuman and degrading treatment arise, as well as failure to respect the right to family life and to physical and moral integrity, of those left behind.¹²

Also of key importance to family is the prompt issue of a death certificate to enable inheritance rights to be established and, in the case of a spouse, to enable re-marriage to take place, so it may be necessary to re-visit the law on presumption of death where such law exists, or to create it where it does not.

At the beginning of June 2015, the Migration Policy Institute ('MPI') Europe, a Brussels-based think tank, published a report¹³: *Before the Boat: Understanding the Migrant Journey*. Part of their research was based on interviews with 120 migrants and potential migrants in Europe, the Middle East and North Africa. The policy makers in Europe are taking too simplistic an approach arising from too superficial an understanding of what it is that is driving the current unprecedented influx, the researchers say.

Policy makers erroneously believe that migrants embark on perilous journeys because they don't understand the risks¹⁴. However, research has consistently found that migrants are usually well-informed about the dangers of a particular route, but view the benefits of reaching their destination as worth the risks. The MPI report also notes that people in general are not very good at calculating risk and migrants have the same tendency as the rest of us to underestimate immediate dangers when focused on realizing a longer-term goal. Those fleeing serious harm in their country of origin often experience severe hardship in the places where they initially seek refuge, for example, Lebanon, Egypt, Jordan and Turkey. Remaining in those countries may feel more dangerous than the short-term risk involved in reaching a place of safety in Europe, (in particular since UNHCR and the World Food Bank have declared that they can no longer care appropriately for those in the refugee camps). Information campaigns such as those mounted by the IOM with funding from the EU are often viewed as 'biased propaganda' and probably have limited impact.

Another key element of the new European Union ('EU') Agenda on Migration is 'working in partnership with third countries to tackle migration upstream.' This includes help with strengthening borders, cracking down on smuggling networks and implementing re-admission agreements that allow the EU to return irregular migrants to countries such as Turkey and Tunisia. But the MPI report warns that source and transit countries have limited interest or capacity to deal with irregular migration, practical implementation of co-operation agreements has been slow and the political importance of stopping irregular migrants from arriving in the EU is not shared.

¹² The right of burial and the dignity of the dead are concepts long held dear, not least since ancient Greece. See, e.g. Antigone, Sophocles.

¹³ MPI, May 2015, Jacob Townsend and Christel Oomen.

¹⁴ See IRIN News: Five False Assumptions Driving EU Migration Policy, Kirsty Siegfried, 2 June 2015.

On 12 May 2015 The Deaths at the Borders Database for the Southern European Union was launched by Prof. dr. Thomas Spijkerboer and Tamara Last, VU University, Amsterdam, following research. It is said that the database can be used for evidence-based policy making and to assist in the identification of deceased migrants. A European Migrant Death Observatory as part of the Council of Europe is proposed. Spijkerboer suggests that “the increasing number of deaths may be in part an unintended side-effect of European policies. The [observatory] can collect data on migrant deaths and evaluate the impact of policies, leading to evidence-based policy making.”

As has been said, many dead migrants are not identified (less than half according to Spijkerboer and Last). “Local authorities along the EU external borders are left to their own devices to deal with those who die during the crossing, without national or European assistance or supervision. Identification of deceased migrants is crucial for the dignity of the person concerned, and for surviving relatives” says Last.

As Stefanie Grant has recently put it:

“At the present time, no state is responsible for systematically monitoring the number of migrant deaths. But the IOM has moved into the empty space and is systematically recording and publishing numbers of deaths. With one or two exceptions, (the US and to an extent Italy), states/governments still either don’t collect or don’t publish numbers. In many countries there are no rules or requirements for states to investigate and record the identity of those who die at their borders, or to preserve personal possessions, and make information available to relatives. There are often no common practices for correlating information which is collected, either nationally or between different states. Although the technical skills needed for identification exist, including DNA testing, there is not yet an international framework which lays down what information should be collected, and how it should be shared.”

In the absence of such an international framework, many bodies are buried anonymously in unmarked graves; families cannot find out if the body of a relative has been found, and if so where he or she is buried. When Eritrean survivors and the relatives of those who died at Lampedusa met the Pope on 1 October 2014, they spoke about their wish to know the place of burial; one man said, ‘we don’t know where to go to cry’, or under what [cemetery] number an individual has been buried. The Eritreans gave the Pope a sculpture of a bottle adrift at sea; instead of a message, it contained a mother, father and child.¹⁵

On Hart Island, nearby New York has its own potter’s field where the remains of 850,000 people rest in pine boxes in a grid of covered trenches. They are the unidentified or unclaimed dead, whether citizen or migrant, who have been found around the city, often with little hope of their loved ones ever knowing their fate.¹⁶ But with advances in DNA technology and anthropology, and with federal funding, the city’s medical examiner has exhumed dozens of the bodies, several decades old, in a new push to identify the dead. This is how Ben Maurer’s family finally learned

¹⁵ Informal Briefing Note, 2014, amended 2015

¹⁶ Huffington Post 2012.

that the 17 year old had jumped to his death from a Manhattan building on 25 June 2002. His brother said that this had meant everything to the family, finally giving them closure over what had happened to Ben. Samples of DNA were not regularly taken from bodies until 2006, so the only way to identify some is to disinter them, extract DNA and seek to marry the results through use of a public data base called NamUS that is run by the National Institute of Justice. This helped to identify Maurer. The DNA technology was developed for the need to identify the remains from the September 11 attacks and other disasters and has contributed to a national push in recent years to identify unclaimed remains.

Whether the suggested observatory is established in the Council of Europe, or elsewhere – certainly the data referred to is needed – as is stated by Last and Spijkerboer, the development of procedures for identifying deceased migrants would help local authorities along the borders. And whether EU Policy makers pay heed to warnings highlighted in the MPI report, there remains a very real need to develop at the least, best practice and procedure protocols, and preferably stronger measures, including visa regimes, in relation to the rights and the treatment of those who die, their relatives and loved ones, not only within the EU, but worldwide. It may be that such an international framework should emanate from the United Nations.

Perhaps it is unrealistic to expect new measures equivalent to those that operate in respect of situations such as the Germanwings crash. But there is every reason to aim for such a framework.

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