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Respecting and protecting the lives of migrants and refugees: the need for a human rights approach to save lives and find missing persons

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ABSTRACT

The world is in a migration crisis. Thousands of people are dying annually trying to get across the Mediterranean. However, this is not a problem unique to Europe. It has remained a hidden global problem for a long time. What is specifically unknown are the numbers of people who have gone missing while migrating. This article therefore focuses on such missing people. It examines the numbers of people that are known to have died, and argues that there is a general dearth of information about both people who have died, as well as those who have gone missing. The article reviews who missing people are and argues that the term missing is only found to any large measure in the laws of armed conflict, and most other situations that cause people to go missing, those who are subject to enforced disappearances, are not covered. The article argues that more research ought to be done on these issues and more data ought to be collected and analysed. It argues that people on migration routes are vulnerable and further argues that more needs to be done to provide them with protection and assistance. The laws dealing with the missing are analysed. The article argues that a human rights approach is needed to deal with the problem and that states need to play much more of a compassionate and humane role concerning migration matters and missing people generally and specifically. The article also argues for partnerships and coordination, that the families need to be given more support, and that more public education is needed to deal with the negative perceptions and misconceptions that exist in many societies to which those migrating seek to move to, as this will give greater positive impetus to states to deal more appropriately with those who migrate for whatever reason.

KEYWORDS

International law; refugees; migrants; missing persons; human rights; Europe

Introduction

Our message is blunt: migrants are dying who need not. It is time to do more than count the number of dead. It is time to engage the world to stop this violence against desperate migrants. (IOM Director General William Lacy Swing)¹

The world is on the move. Political instability, conflict and violence have seen an increase in the number of asylum seekers, displaced persons, refugees and migrants all over the

world. People are moving in their own countries and around the world as never before. This is partly because the world, at present, is more politically violent. More, and longer-term, conflicts are taking place than have for some years. At the same time, globalisation has made the world a much smaller place. Travel is easier and cheaper. The world is however by no means a safer place. Particularly for some, the world is very dangerous. This is especially true for those who migrate, and even more so for those who are undocumented and travel in the shadows. They are dependent upon people who use illegal means. These people are more likely to take advantage of people who are vulnerable, especially migrating women and children. These exposed people are usually unable, and mostly unwilling to obtain recourse because of their undocumented circumstances.

At present, the processes of migration by economic migrants and refugees are a major focus of attention because of the large flows of people into Europe. As a result of the need of migrants to work,² and the need of refugees to escape the circumstances they are in, many people seek access to other places.³

More than 1.4 million people navigated their way in the migration flows into Europe in 2015. The numbers increased dramatically in 2016.⁴ The number of people dying trying to cross the sea in 2015 was put at 5267 around the world,⁵ of whom 3279 were reported to have died in Europe. The reported numbers rose substantially to 7509 globally in 2016, of whom 5083, the number reported by governments, the media, the United Nations (UN) or non-governmental organisations (NGOs),⁶ died trying to cross⁷ the seas into Europe.⁸ These numbers, while substantially higher than previous years, are probably vastly inaccurate. It is probable that many, many more people die, but their deaths are unknown and not recorded. IOM uses the phrase 'at least'. Thus, while they state that their numbers are based on various reporting, it is unrealistic and misunderstands the extent of the crisis. The real number of people who are dying and are going missing is without doubt many times more than the numbers cited by IOM and other agencies. What is not understood is that many people who die or go missing who unknown and whose statistics are not recorded. The official numbers do not reflect these people. The formal numbers that are usually cited mostly reflect the bodies of people found, or large shipwrecks where hundreds die. It is important to note that the numbers of the 'missing far outnumber the known dead'.⁹ It is significant that in 2010 it was estimated, by some of those working in the field, that at least three times more people were dying than the figures indicated.¹⁰

This article therefore focuses on people that go missing because of migration flows. Both migrants and refugees are dealt with on the understanding that while these groups are different, legally speaking, what happens to both of these categories of people while they migrate is the same. Both groups face tremendous challenges. They die in large numbers during their journey. They go missing and they are both injured and abused in vast numbers while travelling to their destinations.

The article reviews who missing people are and why missing people are usually only seen to be those missing as a result of armed conflict. The article argues that the term missing is only found to any large measure in the laws of armed conflict, and most situations, besides those who are subject to enforced disappearances, are not covered. The article examines how there is a beginning of a widening of the scope of the missing into other categories including disasters, various crimes including abductions, human trafficking, as well as when people cannot be found for a range of other reasons. These

additional reasons include terrorism, displacement, homicide,¹¹ accidental death and migration. It is argued that the laws dealing with the missing are found mainly in the laws of armed conflict, and that there is a need to update and widen the issues to encompass all types of missing persons.

The article focuses on people who go missing while migrating. It focuses on Europe, to some degree, because that is where the attention is presently focused. However, it is indicated that this is far from an exclusive European problem. It looks at other parts of the world to locate the problem in a global context. It examines the numbers of people that are known to have died, and argues that there is a general dearth in the information available regarding the numbers of people who have died or gone missing. It is argued that the numbers are usually wrongly extrapolated. The article argues that more research ought to be done on these issues and more data ought to be collected and analysed. It argues that people on migration routes are vulnerable and further argues that more needs to be done to provide them with assistance. The laws dealing with the missing are analysed. The article argues that a human rights approach is needed to deal with the problem and that states need to play much more of a compassionate and humane role concerning migration matters and missing people generally and specifically. The article also argues for partnerships and coordination, that the families need to be given more support, and that more public education is needed to deal with the negative perceptions and misconceptions that exist in many societies to which those migrating seek to move to, as this will give greater positive impetus to states to deal more appropriately with those who migrate for whatever reason.

Understanding who the missing are, and why migrants and other categories of the missing have been excluded from the legal definition

Millions of people, in various places, and for various reasons, go missing each year. In fact, tens of millions of persons have gone missing for a range of reasons over the last century. They go missing because of international and internal armed conflict, because of a variety of human rights violations, including those who suffer the fate of an enforced disappearance or those who are human trafficked. People also go missing because of a variety of disasters some manmade and some natural. They also go missing because of homicides and terrorism, as well as while migrating.

The missing are not a new phenomenon. They are only becoming a more important issue because of a greater focus on them today. This is because there is now greater press surrounding the issue.¹² The matter has received much more attention because of the thousands of people who have gone missing while crossing the Mediterranean in their quest, at any cost, to get to Europe. This is not new. It has been going on all around the world for a long time, but not in the numbers that have been reported in Europe over the last few years. It is higher up on the agenda because of the general migration crisis into Europe. This issue is now becoming one that needs greater attention.

Traditionally, legally speaking, missing people have been defined as those individuals who cannot be found as a result of armed conflict. The term encompasses anyone who cannot be found as a result of conflict, including combatants and civilians. It includes forced recruitment into armed groups,¹³ or because opposition groups abduct them.¹⁴ If the groups doing the abductions are connected to the state, such abductions are legally

defined as disappearances.¹⁵ This is because the definition of an enforced disappearance needs some connection to a state.¹⁶ The only exception to an enforced disappearance needing a connection to the state is in terms of the Rome Statute of the International Criminal Court.¹⁷ The statute permits political organisations to be held accountable if they have committed widespread and systematic disappearances that reach the level of crimes against humanity.

The term missing is thus generally legally speaking an international humanitarian law issue. It is found almost exclusively in the laws of armed conflict. It is problematic that the terms 'disappearances' and 'missing' are used interchangeably. They ought not to be used as substitutes for each other as they are different and connote different groups and different reasons for why a person cannot be found. One reason why people who disappear in armed conflict are termed the missing is because the term and processes to deal with them are contained in the Geneva Conventions that are part of the laws of armed conflict. Thus article 32 of the Fourth Geneva Convention requires parties to a conflict to facilitate processes to deal with missing persons. Additional Protocol I obliges state parties to search for persons reported missing. The term missing is also delineated as an issue of armed conflict because the main organisation dealing with missing persons has been the International Committee of the Red Cross (ICRC). Its mandate comes from the Geneva Conventions. This is where dealing with the missing seemingly originates. Until recently, the ICRC only dealt with cases emanating from armed conflict. That is changing. Thus, there has been a very clear line about who the missing are, who deals with them, and even how they are dealt with. Thus, there has been great compartmentalisation of the issues. While there is overlap between the missing and disappearances, the 2013 General Assembly resolution on the missing did not even mention disappearances other than the resolution welcoming the coming into force of the International Convention on the Protection of All Persons from Enforced Disappearances.¹⁸

The term missing is seldom found in international human rights law. This, despite the fact that the world has adopted a multitude of international human rights treaties since the Universal Declaration of Human Rights in 1948. Since the 1960s, international treaties have been adopted on a range of issues for different groups of people that create binding obligations. Despite all the jurisprudential advances, many gaps remain. One of the biggest gaps, in protection, concerns missing persons. While there are laws to deal with the missing, they are generalised and mostly apply to situations of armed conflict. For example, the Security Council has adopted numerous resolutions over the last decade or so dealing with children in armed conflict that deal with these matters. However, there have been few calls to deal with the missing outside of the armed conflict context. Thus, human rights law as a body of rules does not see being missing as a category of person upon whom violations have occurred, or are worthy of specific protection. However, there are places where the missing are dealt with, such as the Convention on the Rights of the Child (CRC). Article 10 of the CRC provides that when there is an application by a child or parents to arrive or depart a state for family reunification the request shall be dealt with in 'a positive, humane and expeditious manner'. Article 22(2) of the CRC also provides that states shall cooperate in any efforts to trace parents or other members of the family of any refugee child for purposes of reunification. Principles 16(1) and

17(4) of the 1998 Guiding Principles on Internal Displacement specify that families of 'all internally displaced persons have the right to know the fate and whereabouts of missing relatives'. Article 19(3) of the 1990 African Charter on the Rights and Welfare of the Child provides that where there has been a separation because of the action of a State Party, that state shall provide essential information concerning the absent family members. Article 25(2)(b) of the African Charter also provides that states 'shall take all necessary measures to trace parents or relatives [of children] where separation is caused by internal and external displacement arising from armed conflicts'. Thus, with rare exceptions for very specific issues, international human rights law does not really deal with the missing. It only deals with a few matters that missing people are affected by. For example, it deals with some issues concerning children, those who have been trafficked to some degree, and those who have disappeared. However, there are very few instances of international human rights law focusing on how to find the person. Broad state responsibilities are, at times, laid out, but there is often little specificity on dealing with those who may be considered missing.

While there are few specific laws, there have been some pronouncements by various human rights bodies on state duties to deal with the missing. Thus, the UN Human Rights Committee (HRC) in 2006, in its concluding observations on Bosnia and Herzegovina, noted with concern that the fate and whereabouts of those who went missing remained unresolved. It stated that families have the right to be informed about the fate of the missing and that the failure to investigate the cause and circumstances of their deaths, as well as to make available information concerning the burial sites of missing persons, escalates uncertainty and suffering which may give rise to a violation of article 7 of the International Covenant on Civil and Political Rights.¹⁹ However, as noted, they were actually dealing with disappearances and not really the missing. It is important that the HRC noted the difference between a disappeared person and a missing person as far back as 1982 in its General Comment 6 on the right to life.²⁰ In that document the HRC noted that the state was obligated to 'establish effective facilities and procedures to investigate thoroughly cases of missing and disappeared persons in circumstances, which may involve a violation of the right to life'.

Even for those who are disappeared there is little focus on processes to search for, recover and identify those people.²¹ More often, those who have suffered the fate of an enforced disappearance are dealt with generally as the missing, and are generally called the missing. However, even these cases are often not incorporated in resolutions and actions dealing with the missing. Thus, the missing have not been a group incorporated into human rights law to any great extent. Often, there is a mix-up with the usage of the term missing people to describe those people who have actually suffered the fate of an enforced disappearance. This occurs because in places such as Bosnia-Herzegovina people suffered enforced disappearances during the armed conflict, and processes were set up to deal with such cases. These cases were termed missing mainly because these persons went missing during armed conflict. However, the term missing in this context was a misnomer, as they were people against whom a crime was committed. They were 'missing' because the state committed crimes against them to make them disappear. The processes to deal with these types of people, who were disappeared, were deemed as having to fall within the laws of armed conflict because that is the time they went

missing. Thus, the Working Group on Enforced or Involuntary Disappearances (WGEID) saw their mandate as excluding such matters that occurred during the international armed conflict in the Western Balkans in the 1990s. To deal with the events in the former Yugoslavia,²² the UN set up a special mechanism in 1994, termed the Special Process on Missing Persons in the Territory of the former Yugoslavia.²³ The Working Group changed its rules in 2011 to allow it to take such cases now.

There has been a general reluctance within the UN system to deal with the missing. There it provokes little attention. The only UN group that has focused on the missing to any real degree is the Advisory Committee of the Human Rights Council. They have noted in their reports that the missing person are composed of two groups 'those whose families are without news of them' as well as those 'unaccounted for as a result of an international or non-international armed conflict'.²⁴ Thus, the first part allows anyone missing to be included but there is no unequivocal demarcation of who is included. The report does state that its report does not deal with 'cases when people go missing as a result of other situations, for example, natural disasters or internal violence or disturbances'. Thus, they signal the intent for those types of missing to be included even though they do not deal with them in their report. Similarly, when the UN General Assembly adopted Resolution 61/155 in 2007 on Missing Persons titled 'Missing Persons' it did not limit the definition only to those missing because of armed conflict. The report itself only focuses on those missing because of armed conflict.²⁵ A parallel stance is taken in reports of the UN Secretary-General. In the report of the Secretary General on the implementation of Resolution 61/155 in 2008 it is noted that: 'The problem of missing persons is *particularly severe* in the context of armed conflict (my emphasis)'.²⁶ In other words there are other groups besides those missing as a result of armed conflict but the most important are that group of missing people.

There is therefore a beginning of an acceptance that the missing ought not only to be about the people missing as a result of armed conflict. There is a move to see the issue more widely. Thus, the Council of Europe has defined 'missing person' as 'a natural person whose existence has become uncertain, because he or she has disappeared without trace and there are no signs that he or she is alive'.²⁷ Thus, there is recognition that the millions of reported cases of missing and disappeared persons either from armed conflict or human rights abuses, as well as a range of other causes, ought to also be considered. The numbers are frightening and probably off-putting for any attempt to begin to deal with the issue more systematically.²⁸ Every year millions of persons go missing as a result of various types of disasters: human trafficking, organised violence, as well as everyday causes.²⁹ These include elderly people who wander off,³⁰ sometimes as result of a mental disability,³¹ as well as children who run away.³² Others go missing for a variety of reasons, including migration.³³

Almost every country suffers the consequences of catastrophic events, including disasters such as earthquakes, volcanoes, floods, tsunamis, etc. These cause many people to go missing or be killed. As a result of these events many people cannot be found or identified.³⁴ Thus the categories of the missing ought also to include those affected by terrorism, migration, displacement, organised trafficking, homicides,³⁵ abductions, and accidental deaths, etc. It must also focus on the process of migration as it has severely impacted³⁶ the number of people that have gone missing around the world.³⁷

The inadequacy of international law to deal with missing migrants

At present, legal processes dealing with migration hardly deal with the missing. However, the rise in the importance of migration as an issue in the global context can be seen in the fact that in 1990 the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families was adopted. It only came into force however, in 2003, 13 years after it was adopted. This was the case because an insufficient number of states ratified the convention. In fact, it remains one of the least ratified treaties. This does show, at least to some extent, a lack of a universal interest and lack of commitment by states to deal with migration issues.

The International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families only deals with migrants and not other categories, such as asylum seekers or refugees. Refugees are dealt with in a range of other laws including the 1951 United Nations Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees. Again, nothing is directly mentioned concerning refugees who go missing outside of situations of armed conflict. One of the major problems with the Migrant Workers Convention is that there is a differentiation in what rights and protections are available to different types of migrants.³⁸ Thus, undocumented migrants are not accorded the same rights as those that are documented. This means that many of those migrating are not sufficiently under the protection of the convention, as most migrants doing the dangerous crossings are undocumented. Critically, the convention does not deal with migrants who go missing. The problem of migrants who cannot be found is not mentioned. The convention does however note that migrants are vulnerable people. This is done however only in the preamble of the convention. The preamble recognises them as being vulnerable because they are not in their state of origin and because they may have difficulties in the state in which they are employed. Nowhere are there specific provisions in the convention that deal specifically with their vulnerability while travelling to the places they want to go. Article 65 does vaguely provide that states shall:

maintain appropriate services to deal with questions concerning international migration ... which functions shall include ... the provision of information and appropriate assistance ... regarding requisite authorizations and formalities and arrangements for departure, travel, arrival, stay, remunerated activities, exit and return, as well as on conditions of work and life in the State of employment and on customs, currency, tax and other relevant laws and regulations.

Thus, the obligation seems to be more about the provision of information than anything else. The section does however note that appropriate assistance ought to be provided. It does not state what this should be or for what purposes. Much more needs to be focused on this obligation and to ensure that states deliver on it specifically as far as missing migrants. Article 65(2) may be useful in this regard as it demands that states 'shall facilitate as appropriate the provision of adequate consular and other services that are necessary to meet the social, cultural and other needs of migrant workers and members of their families'.

Because only a few states in the years after the drafting of the Migrant Workers Treaty signed and ratified it, the UN appointed a Special Rapporteur on the Rights of Migrants in 1999. Various mandate holders have held office since then.³⁹ Little time was devoted to the

issue of the missing by these mandate holders, until recently when there has been some attention devoted to these problems.⁴⁰

A document that deals with migrants at border posts, that was published in 2015, is the Office of the High Commissioner on Human Rights' *Recommended Principles and Guidelines on Human Rights at International Borders*. While the useful document deals extensively with a range of issues and includes the need for search and rescue to be carried out at times, there is no mention of missing persons or the need for processes to find people who are missing. Further, this document has no status and whether it has any impact in practice remains to be seen. If there was a commitment to comply with such provisions then the document ought to be given some official recognition.

It is useful though that Principles 16(1) and 17(4) of the 1998 Guiding Principles on Internal Displacement specify that families of 'all internally displaced persons have the right to know the fate and whereabouts of missing relatives'. However, even though it is soft law, more needs to be done to ensure that these provisions are known about, and given full application. Such a provision ought to be incorporated into treaty law as well and given more attention by treaty bodies and other institutions.

As far as other international laws dealing with migrants are concerned, there are a multitude of laws that could, as mentioned above, play a role, if they were strengthened and contained more specific provisions to prevent as well as search for, recover, identify and return to their families migrants that go missing. An example is the Protocol Against the Smuggling of Migrants by Land, Sea and Air adopted in 2000.⁴¹ It supplemented the United Nations Convention on Transnational Organized Crime. By mid 2013, 116 states had signed the protocol. The protocol obliges states to adopt laws designed to disrupt organised crime networks facilitating the illegal entrance of migrants into their countries.⁴² However, it does not deal with finding and dealing with missing persons. This is an example of a gap in the legal framework that has tremendous effects for millions of people. The laws are inadequate and need substantial work to make them more applicable to the issues of the missing.

It must also be noted that a number of maritime conventions are also applicable to the issues of missing persons that occur at sea, although these instruments do not refer to the missing and are not usually applied to missing people as a group. These laws include, the United Nations Convention on the Law of the Sea of 1982 (UNCLOS), the International Convention for the Safety of Life at Sea of 1974 (SOLAS) and the International Convention on Maritime Search and Rescue of 1979 (SAR).⁴³ Thus, for example, SAR is applicable, but has been narrowly applied to those known to be in distress. It is not usually applied to cover people or circumstances that are not specifically known about. While one provision of SAR notes that: 'Parties shall ensure that assistance be provided to any person in distress at sea. They shall do so regardless of the nationality or status of such a person or the circumstances in which that person is found',⁴⁴ that provision does not deal with a common situation that those in distress may not specifically be known about.

There are a range of other maritime standards that exist that could impact the problem of the missing to a greater extent. These include the International Maritime Organisation's (IMO) Maritime Safety Committee Guidelines on the Treatment of People Rescued at Sea. Again, they are narrowly viewed, and narrowly applied, and are not applied to missing persons in the widest sense. Generally speaking, a missing person in this context is

usually seen to be a single missing person, who possibly falls overboard, such as on a cruise ship. That is usually the scope of how a missing person is often seen in maritime affairs.

If there is to be an impact on how many people go missing there needs to be active searches, rather than the passive waiting for a distress call to be received, which often never occurs.

A further problem is that European states have often outsourced their maritime obligations to others. Sometimes the states that take up these responsibilities do not have the capacity or equipment to do this work adequately. For that reason, there needs to be much better integration between states' maritime duties and their human rights obligations. A problem is that while there are many rules and regulations that could impact the missing better, how they ought to be read, understood and applied is unclear.⁴⁵ More needs to be done to ensure that all provisions that could impact the situation are widely interpreted, known about, and understood in a much broader way than occurs today. It must be noted, that probably the majority of migrants that go missing do not do so at sea. Thus, changes to the maritime law framework can only go so far in addressing the problem of the missing. Much more has to be done internationally within in various legal frameworks to deal with the missing.

People on the move around the world and the effects on the numbers of people dying and going missing

The numbers of people on the move around the world are dramatic. In 2013, 232 million people, or 3.2% of the population of the world, were international migrants.⁴⁶ These numbers are much higher than in previous years. Thus, in 2000, there were 175 million international migrants, while there were 154 million in 1990. The World Bank estimates that the number of migrants could double to about 405 million by the year 2050.⁴⁷ There are also 740 million internal migrants⁴⁸ and 72 million enforced migrants of whom 15 million are refugees.⁴⁹ There were also 28.8 million internally displaced people (IDPs) in 2012, and more than 10 million stateless people. Of the 232 million international migrants in 2013, 136 million lived in the global north while 96 million lived in the south. Europe and Asia together host almost two-thirds of international migrants. In 2013, more than half of all international migrants lived in ten countries. These were the United States (46 million), the Russian Federation (11 million), Germany (10 million), Saudi Arabia (9 million), and the United Arab Emirates and the United Kingdom (8 million each). Most international migrants fall within the working ages of 20 to 64 years old. Women constitute 48% of international migrants.⁵⁰ They have many human rights violations perpetrated upon them.⁵¹ Of critical importance is the realisation that migrants play a crucial economic role in the world.⁵² Remittances globally totalled US\$ 414 billion in 2009.⁵³

While the migration focus has been intensely on Europe, there are many other places that people seek access to, besides Europe. In fact, the majority of refugees and other people travelling to avoid difficulties where they live are not travelling to Europe. The countries that the greatest numbers of refugees are travelling to include Pakistan, Iran, Kenya, Lebanon and Turkey. There are many known routes of transit for migrants and refugees in different parts of the world. Places in the world where many people die because of overloaded, un-seaworthy vessels include the Caribbean,⁵⁴ and the seas off

Thailand and Indonesia, to name just a few. All these places have seen tragedies involving overloaded, un-seaworthy boats, with dire consequences.⁵⁵ Some routes are more dangerous than others.⁵⁶ For example, about 74,000 people crossed the Gulf of Aden in 2009.⁵⁷ Many died on the route.⁵⁸

As far as Europe is concerned, the sea is a favoured crossing route into Europe for undocumented people.⁵⁹ As a result of the dangers of doing so, and often because the crossings are done in very unreliable un-seaworthy small boats, at night, and frequently when detection is believed to be less likely, in other words when conditions at sea are even more perilous, many die or go missing. It has been argued that the journey is becoming riskier as routes become known and alternative ones are sought.⁶⁰ IOM has called this problem 'an epidemic of crime and victimization'.⁶¹

Thousands of people have drowned in the Mediterranean trying to reach Europe.⁶² The numbers are very conservative, representing really only known deaths.⁶³ Regardless, the worldwide total of people who have died or gone missing is high.⁶⁴ However, these are dramatically unreliable statistics. Many die on the way from their places of origin⁶⁵ and are mostly unrecorded. IOM notes, for example, that

Little is known about the deaths of migrants travelling overland from sub-Saharan Africa towards Northern Africa; this remains a large gap in any comprehensive count of deaths worldwide.⁶⁶

At times, dead people found on migration routes are buried without any process to record them or to try and ascertain their identity. They are sometimes buried in graves without registration,⁶⁷ or any process that records post-mortem details to allow later identification.⁶⁸ How common this is, is unknown, but it is certainly clear that many countries, especially in the global south, believe that they do not have the resources to do identifications, and that there is little point as the likelihood of enquiries yielding results are minimal.

For these and other reasons, the numbers of people who have died or have gone missing are completely unknown. While IOM estimates that over the last decade and a half tens of thousands of migrants have died in the Mediterranean,⁶⁹ it is more likely that the statistics are far higher. IOM notes in one footnote of their publication *Fatal Journeys* that:

Numbers refer only to deaths about which IOM is aware. Precise values presented reflect the data available to IOM and do not claim to represent the exact numbers of migrants who have died or gone missing from each region; all figures are approximate. Information on nationalities and region of origin is patchy and in some cases the region of origin has been assumed based on available evidence.⁷⁰

In certain places, more data are collected than in others. Thus, for example it is believed that about 3,000 migrants died trying to reach Italy between 2006 and 2011.⁷¹ It has been estimated by the ICRC that between 2,000 and 3,000 people die each year attempting to reach Spain.⁷² UNHCR has estimated that about 1,500 people trying to reach Europe from Libya died on route in 2009.⁷³ However, many deaths are not known to have occurred, and many bodies are never recovered.⁷⁴ The numbers of missing are not really tabulated and are unknown.

What is known is that the numbers attempting the hazardous routes to Europe have dramatically increased since 2014. IOM suggests that there are 6,000 people whose

bodies have not been recovered from the Mediterranean in just the period from the beginning of 2014 to May 2016. This is probably just the tip of the iceberg. The numbers are probably much, much higher. Many people are not known to have gone missing. Families mostly do not report them as missing, as will be discussed later.

Another major problem is that many bodies that are recovered are never identified.⁷⁵ Thus, there are thousands of families who, even if they attempt to find their loved ones, will never be able to determine what happened to them.⁷⁶ The effect on them, living in limbo,⁷⁷ is dramatic.⁷⁸ They live their lives continually waiting for information and the return of their loved one.⁷⁹

Thus, many people go missing in their quest to make a journey.⁸⁰ Often the numbers of missing are extrapolated, but conservatively so, from the numbers of known deaths. In this regard, IOM estimates that at least 60,000 migrants/refugees died on migration routes between 1996 and 2016.⁸¹ Of those known fatalities, 46,000 have occurred since 2000. These numbers are recognised by them as conservative.⁸² IOM does note that there have been 20 incidents since 2014 that have each seen more than 100 deaths, totalling, in just those instances, 6,406 dead or going missing.⁸³ However, little is known about occurrences where there are not as many fatalities, which do not make the news, or do not even get noticed.⁸⁴ Even if one relies on the conservative statistics, one in every 23 people who attempt the crossing into Europe either dies on the journey, or goes missing.⁸⁵ What is particularly disturbing is that the rate of people who are dying on this route is going up (according to IOM). In 2014, the ratio was believed to be one in 50. Their journeys are perilous in part due to the dangers at sea but also because they are subject to crime and other hardships along the route. Many die as a result of the effects of the journey, including thirst, a lack of food or because of the weather. Most are never identified and thus are classified as missing by their families who get no news. To the people that discover these person's bodies, they see these people as missing, as they are not usually able to identify them.

Besides the people who die or who go missing, many migrating people are harmed while travelling.⁸⁶ Many different types of violations are committed on such people.⁸⁷ They:

experience discrimination and arbitrary decision-making, unlawful profiling and disproportionate interference with the right to privacy, torture and sexual and gender-based violence, dangerous interception practices, and prolonged or arbitrary detention.⁸⁸

UNICEF reported in 2017 that migrating women and children are routinely having to endure sexual violence, mistreatment, ill-treatment and confinement along the Mediterranean migration route.⁸⁹

The vulnerability of people on the migration routes

All people who travel are vulnerable. Vulnerability however increases for travellers who are undocumented, travel unusual routes, want to avoid detection, and rely on people who are conducting a business that is in violation of the law.

Many of the places that these people travel through are violent and dangerous. Those looking to commit crime usually know that those migrating are vulnerable, are carrying their worldly possessions on their persons, and are unlikely to report what has happened

to them. Their only protection is that they often travel in groups. This is not always a protection, as numbers are no match for criminal gangs, and against those that use weapons.

Borders and the areas around them are dangerous. The people that guard borders are usually given special powers and at times conduct themselves in coercive ways in an attempt to deter people from returning.⁹⁰ They are often protected when they do not conduct themselves in a human rights friendly manner.⁹¹ It has been argued that even if human rights abuses are not specifically perpetrated, indifference to the plight of those migrating exists.⁹² Some argue that border enforcement is often done at the expense of human lives.⁹³ People at such places, and on their way through and to these places, are extremely exposed to danger. However, some groups, such as women, are even more vulnerable. Children, many of whom are unaccompanied, also face major difficulties.⁹⁴ This makes them also acutely susceptible to being trafficked and abused. However, children are not only going missing on the route to get into Europe, but also once they get there.⁹⁵ More than 10,000 children who migrated to Europe in 2015 are believed to have gone missing after they arrived.⁹⁶ One of the problems related to this is that the processes needed to respond to these cases are disjointed and uncoordinated. Missing Children Europe, a grouping of 30 organisations providing child protection, argues that this problem occurs partly because there is a 'clear lack of ownership' to deal with such cases.⁹⁷

The paucity and irregularity of the information about the missing

In spite of the number of people dying and going missing there is no general system for registering migrants or keeping a register of migrants⁹⁸ who are reported to have died or those who have been reported as going missing.⁹⁹

At the moment, even the process of collecting information on those who die, and whose bodies are found, on the migration route is deeply problematic.¹⁰⁰ Information about deaths at sea, or of other people who die attempting to cross borders, is generally gleaned from news reports only. A more accurate record collecting system has started with the establishment of the 'Deaths at the Borders Database' for such deaths in Southern Europe. This is being done by collecting information from death certificates from some specific countries in Europe.¹⁰¹ However, this is being done not by European states, that could easily pool together such information, but by academic researchers, who are collecting this information from 563 state-run death registries in that part of Europe. A further eight registries in this part of the world have so far refused to provide information to the researchers.¹⁰² A centralised post-mortem collection process, using death certificates and collecting all other information about all deceased, even those who are found at sea, which is not the case always today, is needed for the whole of Europe, but also for other parts of the world. Such a process, for Europe needs to be run by the European Union (EU) or Council of Europe, or both. This is a critical need to ensure that such information is not scattered and inaccessible.¹⁰³ Such a coordinated process is needed in Europe, but maybe globally, to collect information and allow coordination of the information on those known to have died.

It is however information about those people whose whereabouts are unknown that is even more difficult to ascertain. For the missing, the information concerning them is even less known, more scattered and much more inaccessible. That information is not collected,

centralised or coordinated. Already in 2007 the European Commissioner for Human Rights argued that:

It is imperative to begin a process to identify and account for the thousands of ‘missing’ undocumented migrants, who disappear – on the journey or after arrival – and whose identities are unknown.¹⁰⁴

Despite this call a decade ago, Grant, in 2016 noted that,

Despite the frequency and magnitude of these tragedies, European states do not regard migrant death and loss in the same way as deaths in armed conflict and humanitarian disaster which require systematic identification, nor do they recognise that migrants’ families have a right to know the fate of missing relatives.¹⁰⁵

This seems to be borne out by the fact that most of the bodies that are recovered are never identified.¹⁰⁶ It is true that few of the bodies have documents on them to help identify the person. This makes the process extremely difficult. However, a lot could be done to remedy this by collecting DNA¹⁰⁷ and finding ways to allow families to access the information that is collected.¹⁰⁸

To deal with the problem, to some degree, and in part, already in 2009,¹⁰⁹ the EU accepted the necessity of avoiding such catastrophes and to register and identify migrants.¹¹⁰ However, that is, after those migrating had arrived in Europe. If this process was up and running everywhere in Europe it would assist in ensuring that migrating children, as noted above, would have greater protection and would be less likely to go missing. They would be known, there would be the ability to know the numbers of those that have arrived, who they are and with whom they are meant to be. It would be more difficult for them to go missing.

The process presently however is not coherent and not applicable everywhere. Not all information is collected. This ensures that those migrating, and not following usual processes, are not protected. They remain in the shadows and can therefore be exploited by people they come into contact with. In this regard, the connection between migration and organised crime has become more apparent.

It is also important to recognise that the need for secrecy on the migration routes also promotes the scarcity and inconsistency of the information.¹¹¹ This is another reason why the true magnitude of the tragedy is not known.¹¹² Secrecy is an important consideration for those on these routes.¹¹³ Secrecy is needed to get assistance to make the journey. Those that profit in providing ‘aid’ to those who want to travel are providing this service illegally.¹¹⁴ Both the service provider and the person seeking to travel dread discovery.¹¹⁵ As they fear detection they give very little information about what they are planning and who they are working with, even to their loved ones. Often, they do not even tell many people where they are going.

These fears that those doing the migrating have are exacerbated when states seemingly want to punish those migrating and seeking asylum. Thus, the fact that Denmark adopted a law allowing it to confiscate assets over €1,340 from asylum seekers and that Hungary detains and prosecutes them for unauthorised entry into the country promotes a further culture of secrecy. However, those undertaking the migration cannot often even inform their relatives where they are going, as often they do not know. They usually do not know the route they will take. This makes them extremely vulnerable.

The need for research and data collection

Much more needs to be researched and more information collected,¹¹⁶ including the numbers and causes of deaths,¹¹⁷ but also information about people going missing.¹¹⁸ Part of the problem is the difficulty in collecting the information, but more needs to be done to attempt to do so.¹¹⁹ It is useful that IOM created the Missing Migrants Project in 2013 to collect information. It is useful that it has an accessible online capability. These are only small steps in the right direction. It is states that have the major capacity to get this information, store it and make it available widely. Without the data and information being available, the chances of determining what happened to missing people is reduced.¹²⁰ At present, because of an absence of data, the problem is probably under-assessed. The IOM Missing Migrants Project is the only project to collect data from everywhere. This, if successful, will ensure that there are no gaps. However, without states cooperating, the widespread availability of information will not occur. Such processes ought to be incorporated into a protocol to the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families so that states have obligations in this regard. For countries that have not ratified that treaty, other ways to get them to provide information should be found. It could be by making such data obligatory to all members of organisations such as Interpol or Europol. States could be asked to provide the information as part of the Universal Periodic Review Process that occurs at the Human Rights Council. States could be made to provide this information by a resolution of the Security Council. Treaty bodies could demand that states apply a due diligence standard in this regard and make states accountable when they do not by naming and shaming them.

A human rights approach to dealing with those migrating: reform

This article has not intended to deal with causes of the migration crisis. The article also does not have the space to go into the need to reform the international laws dealing with migrants and refugees. The problems with those laws are however unlikely to be addressed because of a lack of political will by many states to do so. A lack of political will to deal with the migration crisis problem also seems to be a reason why technology has not been deployed in more significant ways to save more lives. A lot more could be done to prevent more people going missing at sea, and elsewhere.

It does need to be noted that part of the problem that contributes to the migrant crisis is the increasingly restrictive migration policies of the EU and its member states.¹²¹ It has been noted that: 'structural flaws in the design of the policy of border security partly account for the growing incidents of shipwrecks'.¹²² Europol has stated that:

increasing control of external borders, the introduction of higher quality travel documents and other protective measures implemented by destination countries are making illegal immigration more difficult for individual migrants, forcing them to seek the services of organised crime groups.¹²³

Thus, the connection between strict border controls and people dying and going missing is recognised.¹²⁴ It is the legitimacy of the strict controls, their effect and the extent to which these ought to be blamed which are questioned.

A greater focus on human rights,¹²⁵ and the duty of states to protect and respect the rights of all, including non-residents and people who are undocumented, needs to occur.¹²⁶ There should be no reason, other than an attempt to deter migration, not to ensure that every person has his or her rights protected whether documented or not.¹²⁷ Doing so will ensure that fewer people will die or go missing while travelling to their chosen destination. This means that all involved in the bureaucracy of the state, and especially those that guard the borders and deal with those migrating, must uphold and protect the rights of all, even those irregularly at the border post and even if migrants are undocumented.¹²⁸ The universality of rights and the fact that every person regardless of their status is entitled to their rights needs to be stressed. It also needs to be stressed that human rights protection is not dependent on whether a person is rich or poor, male or female, urban or rural, young or old, educated or not, white or black, gay or not, HIV positive or not, or whether a person belongs to a particular culture, or has a specific social status. This also means that all human remains need to be treated in the same way. At present, in some places, bodies that are presumed to be those of migrants are not given the same status as bodies presumed to be of citizens. Many remain unidentified.¹²⁹ Unidentified migrants' bodies¹³⁰ are at times put in common graves and little is done to enable identification to take place then or even at a later time.¹³¹ IOM has stated that:

Identification is difficult for many reasons. Local authorities tasked with investigating these deaths are often severely under-resourced. As many migrants travel without documents, migrants have to be identified by other means, such as tissue samples that can be used for DNA testing. But this information needs to be matched with that of family members who may not be easy to find, and who may not have legal access to the territory where the body is found. Bodies that are not found immediately in remote regions of the world can quickly become decomposed, making identification especially difficult.¹³²

However, if local authorities are under-resourced, as is noted above, then either the process needs to be centralised in each state, or more resources need to be allocated to local authorities to do so. There is no reason why there could not be a reimbursement process. This would mean that generally not that much funding would be needed. DNA sampling should be taken for all unidentified bodies¹³³ regardless of whom they are suspected to be. This would make identification at some time in the future possible. Yes, it is true that it may not be easy to do and that it may take years. In spite of what IOM states in the quote above, DNA can be taken years later. Decomposition is no longer a major obstacle to identification. The new techniques allow for degraded DNA to be collected and used. In fact, there are cases of DNA being successfully collected hundreds of years after a death. Collecting DNA and putting it into a databank would suggest to families that identification is possible and that they ought to put their DNA into a databank for families so that matches can occur. Collecting DNA is not expensive. States could do this very easily. Doing this at least would be seen by families as a humanitarian gesture. It would inspire families that an outcome was possible.

The role of states in addressing missing persons

A number of the issues dealing with missing persons, and dealt with above, concern the lack of political will by states to deal with the issues. Dealing with migrants and refugees can be done in a more human rights friendly manner. The processes to deal with missing

people and their remains can be done in a far more respectful and compassionate way. A commitment to dealing with people who die or go missing would mean that more resources would be allocated to facilitate this.

The roles and responsibility of governments in addressing missing persons cases, needs to be clarified in the international legal framework. As far as state responsibility for the missing is concerned, governments need to be held accountable for what they are meant to do, and to ensure that they comply with the relevant standards contained in international and other laws. Some have argued that some of the actions by states concerning migrants may be crimes against humanity.¹³⁴ As many European states have ratified the Rome Statute, individuals from those states who are responsible for actions taken against migrants and refugees could be brought before the International Criminal Court.

The European Court of Human Rights¹³⁵ has also held that a state's failure to conduct an effective investigation 'aimed at clarifying the whereabouts and fate' of 'missing persons who disappeared in life-threatening circumstances' constitutes a continuing violation of its procedural obligation to protect the right to life under Article 2 of the convention.¹³⁶ It is therefore important to advance the responsibility of states on missing persons' issues.¹³⁷ Equity and non-discrimination should be overriding principles in dealing with the missing. It must not matter where the person went missing, their background or nationality or any other discriminating factor. States must assist families in their quest to find their loved ones by assisting them to provide their DNA¹³⁸ in order to make matches to human remains that are recovered.¹³⁹

Dealing with the missing, at times, ought to be conducted in a rule of law context. Where those who have gone missing have done so because a crime has been committed, those cases need to be dealt with in the context of accountability and justice.

Partnerships and cooperation

There is a need for a coordinated human rights approach to deal collectively with missing persons cases. It would be beneficial to all involved. It would also be more cost-effective. It would uphold various human rights including the right to an identify,¹⁴⁰ the right to dignity, the right to family life, etc. The Parliamentary Assembly of the Council of Europe in 2006 found that:

irregular migrants should be protected from slavery and forced labour, and victims of trafficking should be granted specific rights in line with the Council of Europe Convention on Action against Trafficking in Human Beings.¹⁴¹

Partnerships and cooperation are therefore needed by all the role players at the local and global level to deal with migrants and refugees that have gone missing.

Dealing with the missing ought to be much higher on the agenda of the UN and other international, regional, sub-regional or national actors. More ought to be done to systematically and cohesively deal with all issues relating to the missing. Various institutions such as the ICMP, ICRC,¹⁴² Interpol,¹⁴³ Europol and others have a crucial role to play. Some institutions have not wanted to deal with missing persons. Europol has stated, for example, that 'finding missing children did not fall within its remit. Our role is to support law enforcement authorities in different member states. We don't have any powers to act alone.'¹⁴⁴ While this might not be a function that Europol plays alone, it should not obviate its

responsibilities in this regard. Missing persons is, at least, in part, a policing issue, especially when it concerns missing children. Children often go missing. Often, when it concerns missing refugee or migrant children, crimes have been committed. At a minimum, Europol should play a role as a coordinating body. This is especially true in places where the lack of information being shared is a fundamental problem.

It is useful that the ICRC and national Red Cross Societies have begun an online tracing process called Trace the Face, to allow parents and children to find each other. This is not going to bear tremendous fruit as many children need to be found by law enforcement, as mentioned above.

Missing persons units, within national police forces, need to be established where they do not exist and given more resources where they do. They need to coordinate locally, nationally, regionally and internationally.

Improving global capacity is crucial, and developing and increasing standing technical capacities is vital. To do this, cooperation agreements should be entered into and the technical infrastructure created. There is a need to develop capacities to link data to locate missing persons on an international level in a manner that protects the privacy of those who volunteer information to search for missing persons.¹⁴⁵

Supporting the families of the missing

The families of those missing as a result of migration have few places to go and few places to obtain support. They need tremendous assistance.¹⁴⁶ While it is not clearly delineated, there is also a duty to ensure that their families are able to determine what happened to them.¹⁴⁷ For that reason, more support needs to be provided to families of the missing.¹⁴⁸ However, the situation for families is dire. As the Advisory Committee of the Human Rights Council noted, in 2011:

The families of missing people face a whole range of problems arising from their situation of vulnerability. Very often, these families are unable to overcome their pain and rebuild their lives and communities, even many years after the events, a situation that can undermine relationships between communities for generations. Missing persons should therefore not be considered the only victims; all the members of their families, in the broadest possible sense, are victims too.¹⁴⁹

If the person has gone missing within a state there is a possibility of some help. It depends on the sophistication and resources of the state. However, even in well-resourced countries this is often not available. Often the police will take a missing persons report, and enter the report into their database, but will do little more to find the concerned person.

A universal missing persons inquiry function ought to be established which assists families in their search for the missing.¹⁵⁰ Such information could be stored on a database to be a useful tool for families to get information.¹⁵¹ Where appropriate, assisting families in their quest to provide DNA in order to make matches to human remains that have been recovered¹⁵² ought to be done by the state.¹⁵³

An interactive online inquiry network could be established for this purpose. In addition, the participation of the families of the missing needs to occur on a much more consistent basis on all issues concerning the missing.¹⁵⁴ The families need to be engaged with, listened to, and kept informed.¹⁵⁵ Their consent needs to be obtained

more regularly.¹⁵⁶ Families should be regarded as active and engaged participants in any medico-legal investigation. Social trust is important to obtain their willingness to cooperate with, and support, processes and structures.¹⁵⁷ When issues concerning consent and privacy are dealt with, the implications of these processes should carefully be explained to the families.¹⁵⁸

Coordinated capacity and machinery to deal with the missing

At present there is a very individualised approach by states to deal with the problems of the missing. As a result, states respond to these matters in a disjointed way. Even within a specific nation, different localities deal with these cases differently. There is at least a need for a national response in countries. A regional response that all states adhere to would be far better for a range of reasons. IOM states in this regard:

there is not yet an international framework establishing what information should be collected and how it should be shared. In some regions, there is no centralized system for identifying the bodies of deceased migrants, nor is there a systematic method for informing their families. There are very few shared secure databases at regional or international levels, which bring together information necessary to facilitate the tracing of missing migrants.¹⁵⁹

While there are specific services¹⁶⁰ to register those who die in states,¹⁶¹ for missing persons there is no international registration process. Such a process ought to be established. An international database ought to be created where a missing person's details could be registered and accessed. It is useful that Interpol is creating a police database to try to identify missing persons and unidentified bodies around the world. The project to do this is called the Fast and Efficient International Disaster Victim Identification (FASTID) Project and was begun in 2010. States need to fully cooperate with this process. It does mean that the police, in the various countries that will work with the system, will collect all the information that will be placed in the database. This may be seen to be an obstacle by at least some families who may fear the role of the police and fear the consequences of reporting and cooperating with a process that will collect information for a policing purpose.

There also ought to be processes and a way to preserve evidence where someone is found, including photographs, fingerprints, whatever personal possessions are found (for example, clothing).¹⁶²

At present the processes of accumulating, chronicling and maintaining all post-mortem materials are 'ad hoc and uncoordinated'.¹⁶³ Similar approaches need to be adopted as not doing so makes the process harder, if not impossible.¹⁶⁴ There needs to be cross-disciplinary work by all relevant professions including medical doctors, the police, dentists,¹⁶⁵ fingerprint specialists, DNA experts, archaeologists, anthropologists and others.¹⁶⁶ There also ought to be better interaction, synchronisation and cooperation by all.¹⁶⁷ Assistance must be provided at country level to meet the growing demand for forensic practitioners, institutions and service providers.

At the minimum, it must be the duty of each state to have such a process. Coordination with other nations to do this is essential. This is necessary as Spijkerboer argues, states have obligations to the families and they 'must try to identify the bodies, using information about the region of origin of the victim, testimony of surviving fellow migrants, and if

possible finger prints, DNA, and other tools of international policing'.¹⁶⁸ As Stefanie Grant has noted, the 'vast arsenal of technology used in border control (should be diverted) to the humanitarian task of maintaining a register'.¹⁶⁹ Satellites, drones and other surveillance equipment can be used to save lives and find missing persons.

In addition, an international process is necessary to link state information together as all the information is in different countries and thus it is crucial that people are able to access the database no matter which country they are in.

The issues of consent and privacy need to be dealt with carefully, taking into account the needs of the families.¹⁷⁰ An international, comprehensive, interactive online inquiry network is necessary for this purpose.

Public education on migrants/refugees and the missing

Much needs to be done on educating people, particularly in the global north, about migrants, refugees, stateless people and others. Many wrong perceptions and misconceptions exist which undermine the possibility for states to be humane in their approach to these issues. Right-wing politicians use fallacies about refugees and migrants, often for political purposes, particularly at election time. In this regard, the Review Conference for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in Geneva in April 2009, noted that states need to:

take measures to combat the persistence of xenophobic attitudes towards and negative stereotyping of non-citizens, including by politicians, law enforcement and immigration officials and in the media, that have led to xenophobic violence, killings and the targeting of migrants, refugees and asylum-seekers.¹⁷¹

More needs to be done to continually educate about the benefits of people moving to different places and the positive roles that they play. At present, too often it is almost exclusively the negative that citizens hear. They are told by those with a political agenda, far too often, how migrants commit crime and take away the jobs of citizens. Ways need to be found to improve the public understanding of these matters.

Conclusion

There is a crisis of missing people around the world. It is an under-recognised problem which ought to be given far more acknowledgment and far more attention. While Europe is the present focus for many of the migration and refugee problems, the situation is not new or specifically European.

Those migrating remain extremely vulnerable on their travels.¹⁷² They are vulnerable all along the migratory route, from point of departure to their final destination. In this regard, there are also a growing number of unaccompanied minors. The rights of migrants in practice are limited. They are often discriminated against, abused and treated badly. They find it difficult to have their rights upheld. Many migrants go missing for a range of reasons in circumstances that do not allow their families to know what happened to them.¹⁷³ More needs to be done to protect migrants as well as to document and account for those who die and those who go missing.¹⁷⁴ Dealing with the missing needs to be carried out by all role players. This work needs to occur across borders, in regions and at the international level. The number of missing, and the ongoing increase in the

number of new missing people, makes this a daunting project. Much needs to be done to prevent people from going missing. Finding ways of preventing people from going missing is a far better way than trying to find them when they go missing. Making migration easier, putting protection systems in place and making those on the migration route believe that they can request assistance, will all play a major role in reducing the numbers of the missing. The greatest effect would occur if states became more humane¹⁷⁵ in their approaches to migration and people would not have to use dangerous routes and criminal organisations, which make them susceptible to a whole range of negative effects.

However, all missing persons ought to be catered for, although not necessarily in the same ways. Not all people who go missing are affected or should be contained in either international human rights law or international humanitarian law. Dealing with them ought to be an issue of human rights that is incorporated more specifically into human rights law regardless of their category. All families of the missing ought to have the rights to truth, justice, reparations, etc. It does not mean that each group of missing persons should be dealt with similarly or enjoy the rights in the same way.

While the terms missing and disappearances are different, in reality there ought to be processes for both to find the person concerned. For both groups, there are not really organisations or processes to find them. Investigations are not really carried out. There are processes to register people who cannot be found, which are used often regardless of why the person cannot be found. Lists are compiled, and shared, but little happens beyond that. Ways of really looking for missing persons ought to be explored. It will be costly, and the police, who ought to be a main agency in this regard, in many places, are already overstretched. A human rights approach would mean that more would be done in regard to the rights of victims to truth and justice. However, the rights that apply to all groups of missing persons cannot be the same. For example, the right to truth cannot be same for those who have had a crime committed against them by the state, such as when a disappearance occurs, compared to someone who has gone missing while crossing the sea and some accident occurs without any state role. Despite this, much more needs to be done to deal with missing people everywhere, in all categories.

Notes

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