BARSAKH

TEKKI?

Edited by Paolo Cuttitta and Tamara Last

Border Deaths

Causes, Dynamics and Consequences
of Migration-related Mortality

Amsterdam
University
Press

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Preface: The Increasing Focus on Border Deaths

Paolo Cuttitta

A 2018 report by two non-governmental organizations (NGOs) revealed that US Border Patrol agents 'routinely intimidate, harass, and surveil humanitarian-aid volunteers, thus impeding the administration of humanitarian aid' along the US-Mexico border. Furthermore, they 'stab, stomp, kick, drain, and confiscate the bottles of water that humanitarian-aid volunteers leave along known migrant routes' (La Coalición de Derechos Humanos and No More Deaths 2018). More broadly, through the criminalization of humanitarian assistance and the 'weaponization' of the terrain, US authorities make themselves responsible for the suffering, death and disappearance of many people (Morgan-Olsen 2018; Osuna 2018). On the other hand, Border Patrol agents often carry out rescue operations to save migrants, which – they argue – demonstrates 'their dedication in protecting human life' (U.S. Customs and Border Protection 2019). They are presented as true humanitarians (Price 2018). According to US President Donald Trump, the problem of border deaths can only be solved with more border control. 'Border Patrol needs the Wall and it will all end' was his comment on the death of two children occurred short after their crossing from Mexico (Tatum 2018).

On the other side of the Atlantic, the two most recent Italian ministers of interior, Marco Minniti and Matteo Salvini, have launched an offensive against NGOs engaged with search and rescue (SAR) in the Central Mediterranean (Cuttitta 2018a; 2018b; 2018d) in order to facilitate forced returns by the Libyan Coast Guard and Navy. This resulted in reduced SAR capacities and increased risk to life between Libya and Italy. Moreover, while the people intercepted by NGO vessels are brought to a port of safety in Europe, many of those returned to Libya 'die of lack of medical care in detention centres' (Hadj-Sahrawi 2018). However, the Italian authorities claim their 'commitment in rescuing people cannot be questioned' (Tondini 2018), and Italy, by stopping NGOs and allowing push-backs to Libya, is 'only trying to assist the

Libyan government to address the problem of the smugglers' (ibid), because Salvini is 'sick of seeing children dying in the Mediterranean' (RaiNews 2018), and it is smugglers who are responsible for border deaths (Il Tempo 2018).

Exceptionalization

We may call it hypocrisy, or even organized hypocrisy (Cusumano 2019), but there is no doubt that the global rise of the phenomenon of border deaths has resulted in a shift: while the issue of border deaths (and the resulting need to rescue migrants) was previously used only or mainly by those who wanted to criticise restrictive migration and border policies, now it is used also by policymakers to justify these.

More generally, the increasing relevance of death has resulted in a process of humanitarianization of the border (Walters 2011), which runs in parallel to that of securitization. Scholars have shown how humanitarianism – materializing in the action of subjects as varied as border patrol agents, the Red Cross or politically motivated NGO – is inherently and intimately connected with security logics and practices (Cuttitta 2018c; Pallister-Wilkins 2015).

Two of the main characters of the border spectacle (De Genova 2002) are the victim (the poor migrant, whose life is put at risk) and the perpetrator (the callous smuggler or heinous trafficker). Border deaths are thus presented as both a security and a humanitarian crisis or emergency, which requires immediate and exceptional action (to rescue the victims and prosecute the perpetrators) – an action that can hardly be contested, exactly because of its exceptional nature. Through the focus on border deaths, the entire social phenomenon of migration runs the risk of becoming increasingly exceptionalized.

Normalization

However, and paradoxically, by perpetuating the current state of things, with the continuation of border deaths, death ends up being normalized: the extraordinary stops being extraordinary if we get used to it. Indeed, while border deaths should be the exception, they have become 'a norm through which migration is governed' (Squire 2017: 514). Through processes of spatial distanciation (Fekete 2003) and symbolic dehumanization (Weber 2010) of people on the move, restrictive migration and border policies result in a growing collective indifference towards border deaths (Basaran 2015), which

makes the 'norm' increasingly accepted. Importantly, such normalization takes place within a context of exceptionalization of migration as such: migration, which could well be seen as a normal social phenomenon, is turned into an exceptional one. The normalization of death and the a-normalization of migration then appear as mirror processes. From this perspective, what is left is just the need to fight irregular migration and smuggling.

Surely, the role of smugglers in causing border deaths should not be underestimated (Horwood 2018b). However, state-centric processes of criminalization of smugglers indiscriminately affect the entire category: for example, the Migrant Smuggling Protocol supplementing the United Nations Convention against Transnational Organized Crime linked people smuggling at large directly with transnational organized crime, blurring the distinction between organized and non-organized smuggling (Oldfield 2018). This contributed to the legal and symbolic criminalization of any activity related to the facilitation of irregularized migration, also including non-lethal and non-violent forms of smuggling as well as humanitarian assistance (Fekete, Webber and Edmond-Pettitt 2017, 2019; Vosyliūtė and Conte 2018). Such indiscriminate criminalization of migrant support may also contribute to perpetuating border deaths.

In sum, talking about border deaths lends itself to being used to normalize the current state of things, thus depoliticizing (Cuttitta 2018d; Pécoud 2015) migration and border policies, insofar as these are presented as politically neutral, as based on technical measures aimed at reaching goals – such as security and humanitarian ones (saving lives; fighting organized crime) – that can hardly be disputed. Thus, the entire – and highly political – policy framework remains unquestioned. The risk is losing sight of the connection between border policies and border deaths, and of the difference between what is (or should be) normal and natural – migration – and what is (or should be) exceptional and unnatural – dying of migration.

Policies

Even when border deaths appear (or are presented) as 'natural' or 'accidental', they are in fact the result of the structural violence of migration policies (Reineke 2018; Schindel 2018a, 2018b; Weber and Pickering 2011: 93-118). Structural violence is linked with physical violence, but it also goes hand in hand with cultural violence (Ochoa O'Leary and Soto 2018), because borders have a sort of 'racial filter' (Reineke 2018: 11). Indeed, border policies play a role in determining not just fatalities in general, but also who dies (the composition

of the border dead population in terms of origin, age, gender, social condition, etc. is largely under-researched), where and how (Weber 2018).

However, states prefer to put the blame elsewhere, be it on criminal groups or on natural conditions, or even on the hazard-taking migrants – on what Horwood (2018a) calls their aspirations and risk-taking behaviour. If even they look at the relationship between border deaths and their policies, states tend to see deaths as 'collateral damage' (Ferrer-Gallardo and van Houtum 2014: 299), as the 'unavoidable consequence of legal constraints' (Fine and Lindemann 2018). At best, they then decide to launch SAR operations for people in distress (Cuttitta 2018c) – but some governments refuse to do so even in cases of enduring emergency (Shum 2018) – or establish regional migrant search protocols for the missing (Medrano 2018).

Presenting border deaths as 'natural' or 'accidental', or as the result of criminal activities, or of the irresponsible action of migrants, means diverting the attention from the direct or indirect impact of migration and border policies on migrant mortality (Weber and Pickering 2011), by uncritically reproducing the given policy framework, hardly leaving any room for debate about different political options to approach human mobility and thus prevent border deaths.

Post-mortem

Besides discourses about causes of death, also the way we deal with post-mortem issues – such as counting, mourning, and engaging dead bodies – deserves critical reflection.

Counting can be done and used in different ways, and it's up to us to collect and use data in one way or the other (Laczko 2018). Statistics can be used to support different ways of representing border deaths, as well as of addressing the problem in practice. Therefore, while it is important to insist that states take over the task to produce official data on border deaths, and that national death management systems adopt common standards in data collection (Last et al 2017), data may result in naturalized and dehumanized representations of border deaths. Aggregations of numbers should not be allowed to obscure the significance of each death and the processes that lead to border deaths: 'the problem lies in employing fatality metrics as the central way of engaging with fatality', insofar as this may contribute to 'distancing these events of death from a geography of accountability' (Dickson 2018: 5).

Mourning sometimes materializes in state ceremonies which raise the impression of being formal gestures aimed at clearing the collective

conscience of a political community (Ritaine 2015: 124-125), rather than fostering solidarity with the deceased and their families. Indeed, people are exposed to discrimination even when they die (Horsti 2017). Depending on who they are, people can be more or less grievable, and some are not grievable at all, because their bodies are never found or identified. Interestingly, local communities mourning unknown dead migrants may make up for the lack of mourning from the actual relatives, in what might be seen as an example of spontaneous, popular active solidarity (Mirto 2018).

Rights

When it comes to border deaths, rights are often confused with charity (Zerai 2018). Respectful engagement with bodies could be seen as the fulfilment of a legal obligation instead (Grant 2011; Jarvis et al 2018). 'The dead cannot be rights claimers, [but] they can be rights holders insofar as the living behave as if they have obligations towards the dead, treat them as if they have rights, and confer rights upon them in practice' (Moon 2018: 5). Importantly, these rights should be extended to the families of the dead, as well as to the families of the missing (Pando 2018; Zerguine 2018). Indeed, 'people are missing, because they are missed' (Robins 2018: 3).

   The relationship between rights and border deaths is no less problematic in the case of the rights of the living. From this perspective, the major issue is the relationship between the human right to mobility and the right of states to decide whom to deny and whom to allow entry into their territories, and according to which criteria. Should the aspiration of human beings to mobility or that of states to control their borders be taken 'as the constitutive phenomenon which does not need a legitimation in order to be legitimate' (Spijkerboer 2018: 20)? Even if one gives states priority, human rights law could be interpreted more creatively (Spijkerboer 2017) to trigger obligations for states to prevent border deaths (Spijkerboer 2007). For example, states may be legally obliged to issue humanitarian visas under certain conditions (Spijkerboer 2018).

Ideas

Ideas proposed to limit or put an end to border deaths often throw up other problems. Humanitarian corridors (Palm 2018), for example, create

new distinctions, new categories of people, new hierarchies. They end up representing an opportunity for rich destination countries to select migrants based on paternalistic or utilitarian criteria. Useful as they may be for the few beneficiaries, they fail to address the issue of border deaths for those who do not fall into the right categories, thus strengthening the principle that human beings are not equal in their right to mobility.

Cyrus (2018) and Bauder (2018) invite us to critically reflect on whether the right of states to restrict migration and control borders – only to protect their own privileges – is ethically justifiable, and whether open borders could be a feasible response. While open borders would prevent border deaths, they alone would not automatically put an end to human inequality, exploitation, and violence in general. More broadly, 'the right to freedom of movement is currently perceived as a utopian idea' (Cyrus 2018: 14). However, it could become reality if 'coordinated with corresponding developments' (Bauder 2018: 5) in the political sphere.

This may require – like in the case of human rights law – some creativeness. Redondo Ibarrondo (2018), for example, suggests that the EU principle of solidarity, enshrined in the Treaty on the Functioning of the European Union, should be externalized: it should be legally binding not only for member states among each other but also towards external partners of the EU, including states as well as refugees and migrants. Similarly, Squire (2018) and Zerai (2018) have stressed the need to foster solidarity not only between societies but also with individuals on the move, so that these are no longer seen as objects of concern (as objects of either suspicion or pity, as either victims or threats) but as subjects of rights, as subjects who can also speak themselves, rather than only being spoken about (Pando 2018; Zerguine 2018). This solidarity should extend to the dead, the missing, and their families.

Contradictions

Policymakers of the 'global North' put forward the idea that 'we should help them in their home countries' to 'tackle the root causes of migration', so people will not have to leave. In fact, rich destination countries seem to pursue the opposite course (Zerai 2018). Far from helping the populations of countries of origin, they often make themselves responsible for wars in these countries, either directly or indirectly (e.g. by exporting arms to armies and militias). In so doing, they cause large numbers of people to flee, while not allowing them to travel safely to safer territories.

Moreover, 'helping them in their home countries' and 'tackling the root causes' often means helping undemocratic regimes in controlling their borders and preventing their citizens from leaving. These deals only make it harder and more dangerous for people to travel, and expose them to higher risks.

Finally, 'helping them in their home countries' and 'tackling the root causes' often means funding schemes that end up feeding the border industry[1] in the first place, perpetuating the vicious cycle (Albahari 2006) that doesn't put an end to border deaths because migrants and smugglers will always find alternative (and possibly even more dangerous) ways.

Addressing these contradictions would mean re-politicizing the contemporary framing of migration issues in general, and that of border deaths in particular. It would also mean addressing the entire set of inequalities, unbalances and exploitations between rich and poor countries, and between the global elites and the global pariahs of the world – those whom Bauman (1998) called the tourists and the vagabonds of the age of globalization.

The challenge

In sum, the increasing attention devoted to border deaths in the last two decades should be welcomed, but with an important *caveat*. Border deaths are but the tip of the iceberg of violence and discrimination permeating the current global migration regime. Suffering and injustice do not only materialize in death; they can also be expressed in many other ways. Unjust and violent migration and border policies would remain unjust and violent even if border deaths decreased or zeroed.

Meanwhile, border deaths do not cease, nor do they stop migration. Instead, they keep contributing to the process of turning the act of moving from one place to another from something natural to something extraordinary; individual and collective tragedies from the exception to the norm; migrants from normal people to heroes or desperados, at best, or to ghosts who lost their bodies on the ocean's ground, at worst. The challenge for those working on and with border deaths – researchers, practitioners and policymakers alike – is exactly to counter this process.

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1   By 'border industry' I mean the entire range of activities related to the control and management of irregular migration: from the private security industry to the engagement of the military; from the smuggling industry to the provision of care for migrants through state and non-state actors – what Andersson (2014) calls the 'illegality industry'.

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About the author

Paolo Cuttitta is a Marie Curie fellow at the Centre de Recherche sur l'Action Locale, Université Paris 13. He previously worked at Vrije Universiteit Amsterdam and Palermo University. His current research looks at humanitarian border management and the changing roles of state and non-state actors in the EU/North African border regime.

Introduction: A State-of-the-Art Exposition on Border Deaths

Tamara Last

Abstract

This chapter introduces the edited volume, *Border Deaths: Causes, dynamics and consequences of migration-related mortality*, a timely state-of-the-art exposition of a field that emerged two decades ago but has grown exponentially in the last few years. After introducing the origins and aims of the edited volume, the author presents the emergent and interrelated themes of mobility politics, race and decolonization, data, positionality and centralizing the afflicted, which – she claims – offer direction for opening up and moving forward discussions on border deaths.

Keywords: Migrant deaths, irregularized migration, state-made boundaries, survivors, immigration policy, migration law

As the various chapters in this volume illustrate, there is no fixed definition of 'border deaths'. What groups definitions together are, firstly, that border deaths are associated with the political structures and legal rules that determine who is allowed to be where and, secondly, that they could have been avoided. In the broadest sense, 'border deaths' or 'migrant deaths' describe the premature deaths of persons whose movement or presence has been unauthorized and irregularized as they navigate or interact with state-made boundaries.

Much of the variation between definitions comes down to the interpretation of state-made boundaries: a narrow definition of border deaths includes only those deaths that occur during the crossing of borderlines that demarcate geographical perimeters of states or supranational territories such as the European Union (EU); a wide definition includes deaths that can be tied to any manifestation of state-made boundaries in any space.

Definitions also vary according to whether they include – in addition to dead bodies – persons who are missing, disappeared or who are believed to be dead (e.g. because they were reportedly on a boat that was shipwrecked) but their body is never recovered.

To reflect the variation in the field, this volume does not subscribe to a single definition. Different chapters adopt different understandings of border deaths depending on their choice of analytical lens, issues and the perspectives of the authors. As Gombeer, Ulusoy and Basilien-Gainche demonstrate in Chapter 7, differences in approaches to border deaths help to focus on particular challenges and to illuminate the phenomenon as a whole.

Knowledge production

The phenomenon of border deaths first appeared in academic scholarship in the late 1990s, when forensic anthropologists and migration experts began to document deaths taking place along the US-Mexican border in response to tightened border restrictions (Eschbach et al 1999; Cornelisse 2001). A few years later, the phenomenon was picked up in Europe by sociologists and lawyers concerned with race relations, peace studies and human rights (Fekete 2003, 2004; Webber 2004; Pugh 2004).[1] As is often the case, academic research followed in the trails of the advocacy, campaign and humanitarian work of civil society groups and NGOs such as UNITED for Intercultural Action, who began their list of 'deaths associated with Fortress Europe' in 1997.

Death has become increasingly relevant in the daily practices of border workers and in the discourses of policy makers. Over the last decade, as awareness of the global scope of the phenomenon and public interest in its effects have increased, research and reporting on border deaths has grown substantially, and diversified in terms of disciplinary, methodological and theoretical approaches as well as the actors involved in producing knowledge.

A collaborative approach is needed to bridge the myriad of insights about and perspectives on border deaths between researchers from across the disciplines, policymakers, international organizations, non-governmental organizations, activists and practitioners from around the world.

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1   For a detailed analysis of literature on EU border deaths until 2016 see Chapter 5 in Last (2018).

The Amsterdam border deaths conference

An opportunity for diverse engagement and collaboration materialized at a conference on 14-15 June 2018 held by Vrije Universiteit Amsterdam in collaboration with the International Organization for Migration (IOM), Medicins Sans Frontieres (MSF) and the United Nations (UN) Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions.[2]

The chapters of this volume are based on the rapports of the thematic working groups at the conference. In reflecting the ideas and perspectives of conference participants, as captured and represented by the authors, they demonstrate the coherence and richness that can be achieved through dialogue across different perspectives and approaches. Indeed, the Vrije Universiteit Amsterdam conference attracted participants from diverse institutions and organizations by inviting a wide spectrum of speakers and by collaborating with an intergovernmental organization, a humanitarian NGO and a UN Rapporteur.

As Thomas Spijkerboer points out in the Afterword to this volume, university-hosted conferences do not attract the same participants as other border death-related events (e.g. border security fairs), and vice-versa. Thus, some perspectives are missing or under-represented, most notably the private security industry, law enforcement, journalists and irregularized migrants themselves.

However, while the involvement of IOM, MSF and the UN Rapporteur as collaborating agencies surely helped reaching wider and more diversified audiences, it also discouraged potential participants. For example, given IOM's reputation for facilitating border violence and appropriating border deaths to increase their own influence in global migration governance (see e.g. Georgi 2010; Georgi and Schatral 2012; Lavenex 2016; Pécoud 2018, Al Tamimi et al forthcoming), their role in the conference reportedly dissuaded some experts from participating. While it can be difficult for critical migration scholars and activists to work with actors that are directly implicated in the migration and border regimes they critique, and practitioners, in turn, can be frustrated by academics' disregard for practical and political restraints, we believe that creating space for confrontation and exchange can be fruitful for either side. Expressing criticism not only towards the current state of things, but towards specific actors as well, as some authors

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2   The program for the conference can be found at: http://www.borderdeaths.org/wp-content/uploads/Border-Deaths-Conference-Program-final.pdf

do in this volume (among others, see Chapter 2 and Chapter 6), does not exclude – and, to some extent, even requires – contact and discussion.

A further limitation of this volume is that, despite our best efforts, it is Euro-centric, because the conference from which it derives was held in the Netherlands, enabling and attracting a greater participation from people working in Europe than those working elsewhere in the world, especially nationals subject to restrictive visa requirements and unaffordable travel costs (i.e. from the 'global South'). More broadly, the chapters inevitably reflect the fact that the overwhelming majority of research is conducted at institutions in the 'global North', mostly by researchers trained in the 'global North', and funded by institutions in the 'global North'. Nonetheless, scholars and practitioners from North and Central America, from North and Sub-Saharan Africa, and from South Asia and Australia contribute to the discussions presented, directly and indirectly. Moreover, we believe that the arguments and issues are largely relevant to any context in which border deaths occur, although they are positioned here from a 'global North' or 'Western' perspective.

In sum, the resulting compilation could benefit both researchers and practitioners situated in, or stepping into, the growing field of border deaths, and policymakers and members of the public who wish to be informed of current thinking on the subject. The dead, the missing and their families were at the forefront of many of the discussions presented in the volume and we hope that it will also benefit them in one way or another.

Overview of chapters

As a state-of-the-art exposition on border deaths, the volume scopes out the field through fundamental questions: Who is implicated in the border death regime? How many die and how do we gather that information? How are border deaths represented? In what ways do people engage with the dead? How are families affected? What are the politics of border deaths? Why do they happen? How do, and should, actors respond? The volume maps relevant actors and ways of measuring border deaths, reflects on representation of and engagement with the dead and the missing, and explores contrasting political perspectives surrounding the meaning, causes and viable solutions for the phenomenon.

All chapters in this volume introduce a multiplicity of actors who are engaged, in one way or another, with border deaths. Some are implicated in the causes of border deaths, others in contributing toward a solution; some

are involved in the lead up to and the act of dying itself, and others step in only at the post mortem stage. In Chapter 1, *Various Actors: The Border Death Regime*, Paolo Cuttitta, Jana Häberlein and Polly Pallister-Wilkins ask who these actors are, and what their role is vis-à-vis border deaths. The chapter provides an overview of the various actors, as well as of their intentions, ideas and actions or inactions. Altogether, as Cuttitta, Häberlein and Pallister-Wilkins argue, the emergence of the issue of border deaths has transformed 'the composition and dynamics of the border regime by creating the conditions for new actors to step in […] as well as by transforming the position of other actors and the way they relate their activities to border deaths'. Therefore, the authors propose the concept of a 'border death regime' to make sense of this multiplicity of subjects.

One of the actions that academics, NGOs and policymakers share an interest in is the demand for and generation of data on border deaths. Statistics on border deaths have permeated public discourse over the last few years, in part due to the increased efforts of academics, journalists, NGOs and international organizations to document these deaths. In Chapter 2, *Mortality and Border Deaths Data: Key Challenges and Ways Forward*, Kate Dearden, Tamara Last and Craig Spencer reflect on the pitfalls and limitations of statistics in this field and what kind of data they would like to see collected in the future, how and what for. The chapter is organized around the main challenges associated with quantitative border death data collection and dissemination, outlining both what is known and where there is space for innovation. For instance, there is a heavy dependence still on data sourced from news reports, whereas families and survivors are an under-appreciated source of information about border deaths and their impact. Impacts of the phenomenon of border deaths also need to diversify beyond aggregated death tolls and unreliable mortality rates, to demonstrate the variety of ways in which many different people are afflicted.

Dearden, Last and Spencer argue that quantitative researchers are 'motivated to use statistics to advocate an end to border deaths and to inform policy to this end', but that they are often not given the opportunity by disseminating actors (journalists, news agencies, social media) to disseminate their complex, nuanced findings. Research is often catered to policy-makers' interests, through funding and the time-sensitive demands of policy-makers, rather than the issues demonstrated by the data itself or people directly afflicted by border deaths. The authors call for researchers to 'take charge of how we produce and disseminate data', rather than catering to policy-makers' and news outlets' momentary interests. While the field is small, there has been good communication and exchange of information

between different researchers collecting border death data. However, the field is growing and such a cooperative approach will not always be possible. It becomes, therefore, more and more important for border death data to be produced along with a clear methodology and for border death statistics to be properly explained and contextualized.

In Chapter 3, *Representations of Border Deaths and the Making and Unmaking of Borders*, Giulia Sinatti and Renske Vos show that what is counted as a 'border death' reveals the counter's perspective and politics: an excellent point that should be borne in mind when reading any of the other chapters of this volume. Drawing on Rumford's (2008) concept of 'borderwork', Sinatti and Vos argue that representations of border deaths are expressions of borderwork by state and non-state actors. Representing border deaths in certain ways and different moments produces specific meanings that de-territorialize the space in which bordering processes are understood to occur. Certain issues and certain deaths are rendered (more) visible, while others are rendered invisible. Thus, as Chapter 3 convincingly shows, it is necessary to question who is representing what, why, how and for what audience. Sinatti and Vos argue that unveiling different underlying agendas of the multitude of actors engaged with border deaths that were outlined in Chapter 1, will lead to a deeper understanding of how borderwork contributes to producing, reproducing and transforming the border and its violence.

The variation in representations and knowledge production also reflect the different ways that actors engage with border deaths. In Chapter 4, *Engaging Bodies as Matters of Care: Accounting for Death During Migration*, Amade M'charek and Julia Black address counting and identification of the dead bodies of migrants as practices of accounting, proximity and care. Most bodies of people who die a border death are never found; even those whose bodies are found are often never identified or reunited with their families. Instead, data is mined from these bodies for advocacy and forensic purposes: They are counted in numbers, disaggregated by sex, their age and origins estimated from their appearance or medical examination. Depending on the practices adopted in the specific country or place where bodies are found, fingerprints and DNA samples may be taken from them and DNA profiles generated and stored. Descriptions and labels are assigned with dramatically varying detail. Extracted data are retained to varying degrees in various places – some public, some protected, some purely bureaucratic – and represented in different ways, such as through maps and lists. Meanwhile, the bodies are attended to according to layered practices involving local authorities and a range of initiatives that have emerged specifically to

address missing migrants to fill gaps in state care. M'charek and Black argue that attending to dead bodies, through practices of counting, recovering, registering, identifying and burying *with care*, elicits novel ways of knowing about and accounting for border deaths.

Engaging with families of missing migrants produces different knowledge and representations of border deaths. In Chapter 5, *Mourning Missing Migrants: Ambiguous Loss and the Grief of Strangers*, Giorgia Mirto, Simon Robins, Karina Horsti, Pamela Prickett, Deborah Ruiz Verduzco and Victor Toom reflect together on the theme of mourning, deconstructing its various components and illustrating the different ways in which border deaths are mourned by familiars and strangers. The chapter focuses on missing migrants, exploring the implications for mourning based on the fact that most people who die border deaths remain missing either because their bodies are never retrieved or because they are never identified. The authors employ the notion of 'ambiguous loss' and ethnographic fragments from the Central Mediterranean to demonstrate how missing migrants and their bodies are mourned in multiplicity.

In a similar vein to Chapter 4, the authors highlight the care and sense of brotherhood that border deaths have awakened among various communities, from residents of localities where the unknown border dead are buried to communities of migrants, their relatives and activists. As Chapter 5 reflects, the missing attract particular concern given the dehumanizing effects of very low recovery and identification rates and a growing recognition that this has added to the exclusion of families from debates around border deaths. The authors demonstrate that missing migrants are complicated deaths, although any border death is complicated owing to its political nature.

It is the political nature of border deaths, which encompasses the missing or *desaparecidos*, with which Chapter 6, *Enforced Disappearances and Border Deaths Along the Migrant Trail*, is preoccupied. As Emilio Distretti suggests, some border deaths may be framed as enforced disappearances, highlighting the political nature of such deaths and arguably triggering legal obligations of the states involved. The association of border deaths with enforced disappearances may provide a legal basis for claims against a state before the UN Working Group on Enforced or Involuntary Disappearances, the UN Committee on Enforced Disappearances, or against representatives of state authorities before the International Criminal Court. Politically, it could also be a powerful manoeuvre. As Distretti describes, there is an important history behind *desaparecidos*, especially in the Americas, that would lend weight to the campaigns of those who claim migration policies and border control are responsible for border deaths.

Much of the existing literature on border deaths has grappled with the question 'why are there border deaths?', and although there are definite commonalities in the multidisciplinary answers to variants of this question, the studies do not tend to speak to – or even acknowledge – one another (Last 2018: 77-86). In Chapter 7, *Understanding the Causes of Border Deaths: A Mapping Exercise*, Kristof Gombeer, Orçun Ulusoy and Marie-Laure Basilien-Gainche argue that some of the incomprehensiveness of the field is due to the fact that experts on border deaths are speaking from different perspectives across different dimensions without compensating for this. To help address coherence between the multiplicity of perspectives and analytical lenses, the authors offer a multi-dimensional model for thinking about all the different elements that explain border deaths and their effects. They identify five dimensions: effects (i.e. the kind of death/harm done), analytical lens, the actors involved, geo-spatial context and level of manifestation. The authors illustrate the use of this framework model with three examples, demonstrating how particular approaches from each dimension interact to form a particular perspective on border deaths.

In Chapter 8, *Moving Forward: Between Utopian and Dystopian Visions of Migration Politics*, Huub Dijstelbloem, Carolyn Horn and Catriona Jarvis present their assessment of politically feasible solutions inspired by pragmatic humanitarianism – 'pragmatic, not in the sense of some diminution of fundamental rights, but in the intellectual tradition of pragmatism, namely "oriented at action"'. They highlight some of the practical, legal and technological initiatives that have emerged to contribute to preventing border deaths or dealing respectfully with the effects of border deaths. For instance, the Last Rights Project has compiled relevant existing human rights and humanitarian law, which imposes obligations on states to, among other things, protect the right to life of all persons, including at sea, and respect the dead and their families. In the long term, Dijstelbloem, Horn and Jarvis recognize the need for the development of a new migration framework in which border deaths would not happen. While addressing some proposals put forward by practitioners and scholars alike (e.g. humanitarian corridors and open borders), the chapter does not articulate criteria for this alternative migration framework, reflecting the current lack of vision that they recognize is missing from migration politics. Instead, they claim the most viable option is to 'muddle through' toward an overarching vision, facilitated by more and better data that would enable the evaluation of competing migration policies.

Themes and directions

Several themes materialize in the chapters of this volume: Border deaths are inherently tied to *mobility politics* and ongoing processes of *decolonization*. The development of a de-colonized framework for trans-border movement is both enabled and stalled by demands for and production of (especially quantitative) border death *data*. This tension emerges in part from a very narrow understanding of 'data' that is severely lacking reflection on *positionality* and the inclusion of people who are directly *afflicted* by border deaths, including the families of the deceased and disappeared.

   The contributors to this volume are, in Cuttitta, Häberlein and Pallister-Wilkins' terms (Chapter 1), 'non-accidental actors' whose role is not to control or facilitate migration, but who are nonetheless engaged in the 'border death regime': the multiplicity of actors and interactions surrounding border deaths. One of the roles that emerges from the chapter is to illuminate the mobility politics in which border deaths occur. As a collection of representations of border deaths, this volume has itself become an 'instance for the contested politics of mobility' (Chapter 3). Several chapters seek to re-politicize the figure of the migrant who faces border death as a 'symbol of injustice' (Chapter 5), as *desaparecido* (Chapter 6) and as holder of rights (Chapters 4, 7 and 8). Moreover, most contributors are openly motivated to hold states responsible for past and future border deaths through legal (Chapter 6, Afterword) and practical initiatives (Chapters 2, 4 and 8). Mobility politics are evident in the way data is mobilized to 'normalize death as a "fact" of migration' (Preface, Chapter 2) and in the imbalance in perspectives and origins of participants of the workshops on which the chapters of this volume are based that resulted from (a) selectively restrictive access to an 'international' conference in the Netherlands and (b) the reputations and networks of the actors who organized the conference. As Sinatti and Vos (Chapter 3) remind us, our representations of border deaths themselves contribute to the political practices of enforcing, questioning and renegotiating the borders that determine access to resources through mobility.

   Building on Reineke's (2018) concept of the border as a 'racial filter' and taking a step further in his critique of mobility politics, Distretti (Chapter 6) frames his discussion of border deaths as enforced disappearances 'within the broader context (temporally and spatially) of colonial history and legacies'. The proliferation of such disappearances, he argues, is evidence of the inability of former colonizing states to deal with the collapse of their Empires and the global mobility, autonomy of migration, global inequality and ongoing displacement that followed. Reading international law through

insights from Mbembe and Perugini and Gordon, Distretti argues that racist discourses and policies turn migrants into 'necro-figures' and *desaparecidos* by placing them outside the protection of the law. By addressing migrant deaths as 'matters of care', M'Charek and Black (Chapter 4) also acknowledge the relation with colonial legacies and postcolonial conditions and aim to underline the 'entangled nature' of worlds that tend to be treated as distinct. The racialization of irregular migration and border deaths and the continuities between colonial and migration policies were raised and discussed at greater length during the conference, but did not materialize explicitly in most of the chapters of the volume. Nonetheless, in related literature (see e.g. Saucier and Woods 2014; Mbembe 2018; Perugini and Gordon 2018; Achiume 2019; Owen 2019), race and decolonization are emerging as critical lenses for understanding mobility politics, and further engagement with this theme is expected in future research, debate and initiatives around border deaths.

The third theme that emerges from the volume is data. As organizations and politicians seek solutions for border deaths, public calls for more and better data abound. For Dijstelbloem, Horn and Jarvis (Chapter 8), more and better data means filling 'fundamental gaps in knowledge in all areas relating to border deaths' through more comprehensive sources achieved through coordination between actors and the establishment of data collection and sharing protocols. As the chapters on mourning (Chapter 5) and enforced disappearances (Chapter 6) demonstrate, calls for information about the dead and missing also resonate at the individual/personal and community/social levels. M'charek and Black (Chapter 4) argue that engaging with dead bodies by counting and presenting numbers in maps and lists can be a practice of care and a means of accounting for border deaths. However, Sinatti and Vos (Chapter 3) argue that, although data has its uses in demonstrating scale and raising public awareness, data can also have the opposite effect of rendering certain information, processes and people invisible 'and so reduc[ing] a sense of urgency' or exceptionalism (Preface). Although their critique targets numbers in particular, their example of the story of Josefa demonstrates that qualitative data can be equally problematic. In their chapter dedicated specifically to 'mortality and border death data' (Chapter 2), Dearden, Last and Spencer posit that while more data is inevitable, data generated purely to respond to public calls is likely to be poor. Better data is about developing methods, transparency, empowering those directly affected to share what they know, innovative analysis, creative and reflective presentation and careful dissemination techniques. In other words, delivering on calls for better data is not as simple as it sounds.

Bringing together actors of the border death regime with confronting insights, and making time to discuss points of agreement and disagreement

and the state of knowledge and practice of various issues surrounding border deaths, apparently provided space for self-reflection among researchers and practitioners alike. The fourth emerging theme from many of the chapters concerns positionality, the position of participants in relation to the social and political context of border deaths. This materializes in making clear the motivations behind the choice of focus (Chapters 2, 5, 7 and 8). It also materializes in entire chapters dedicated to demonstrating the value of considering which actors are involved in a particular aspect of border deaths (Chapter 1) and questioning who is representing what, when, how, why and with what effects on that which is represented (Chapter 3). Inspired by the dynamic panels of the conference that challenged participants to consider issues from different perspectives and question or situate their own perspective, the volume demonstrates the insights and progress that can be achieved by becoming more aware of what influences our understanding of border deaths and how what we are looking at, and how we look at it, affects our own perspective and our understanding of others' perspectives (Chapter 7). Our positions are fluid, emotional and susceptible to change over time and with exposure to knowledge and diverging perspectives, which is why this volume has sought to address fundamental questions concerning border deaths, rather than report the latest statistics and maps of movements which are controversially simplistic and would quickly become outdated.

Many of the chapters propose to centre debates around all those who are afflicted by border deaths, including the dead, the missing, survivors and their families and friends. As Mirto et al (Chapter 5) point out, 'the number of victims of [...] death during migration goes far beyond the anonymous bodies that can be counted'. In current debates and practices, the afflicted are neglected (Chapters 4 and 5), inferiorized (Chapter 1), disenfranchised (Chapter 3) and under-appreciated as a source of information (Chapter 2). Initiatives by non-state actors to identify missing migrants are more likely to take a family-centric approach (Chapter 4 and 5). These initiatives demonstrate the need to recognise and empower the afflicted as agents and as holders of rights whose heterogeneous concerns and interests can and should inform any 'solution' to border deaths (Chapters 3 and 5). They also demonstrate that 'caring for the dead is a layered activity', including 'a humanitarian practice that involves both the dead and their relatives, as well as a political practice that attends to the rights of the dead but also aims at engaging us as witnesses' (Chapter 4). A family-centric or afflicted-centric approach forces researchers and practitioners to be innovative and considerate in their non-accidental roles in the border death regime, and (re-)humanizes irregularized migration and border deaths. As Distretti

(Chapter 6) argues, the dead and disappeared are named, present and connected to 'the memories and struggles of their families' and stand as 'political subject[s], striving against the deprivation of [...] identity, autonomy and subjectivity and, overall, for justice'.

Together, the chapters of this volume provide a timely state-of-the-art exposition of a field that emerged two decades ago but has grown exponentially in the last few years. While the volume consciously evades definitive conclusions, the emergent and interrelated themes of mobility politics, race and decolonization, data, positionality and centralizing the afflicted, offer direction for opening up and moving forward discussions on border deaths.

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About the author

Tamara Last was awarded her doctorate at Vrije Universiteit Amsterdam for her empirical research on EU border deaths. She designed and managed the Deaths at the Borders Database. Her postdoctoral research at ACMS (University of the Witwatersrand) focuses on decolonisation of migration governance in Africa.

1. Various Actors: The Border Death Regime

Paolo Cuttitta, Jana Häberlein and Polly Pallister-Wilkins[1]

Abstract

Behind border deaths there is a variegated multiplicity of actors, guided by different principles and motivations, which contribute in different ways and to different extents to create the conditions for deaths to be more or less likely to occur or be prevented. Moreover, distinctive public and private actors enter the stage in the post-mortem phase. This chapter provides a tentative overview of the main categories of actors, showing the relationship different actors have with death, as well as with what could be seen as its counterpart: survival (from the survivors' perspective) or rescue (from the rescuers' perspective). The concluding section also proposes the concept of a 'border death regime' to make sense of this multitude of subjects.

Keywords: accidental actors, migrants and refugees, state and supra-state authorities, smugglers, NGOs and activists, changing roles

Who are the different actors involved in the social phenomenon of border deaths? What role do they play in causing and preventing migrant mortality, in making border deaths more or less likely to occur and more or less dependent on different variables, in highlighting or obscuring them? How far do border deaths, in turn, contribute to the multiplication and diversification of the actors involved?

Borders are social constructs. Their demarcation lines, as well as the way they are regulated (by specific policies) and operate in time and space (through specific practices), are the result of complex relationships between

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different state and non-state actors. Some of these actors (e.g. parliaments, governments, border enforcement agencies, international organizations, the border security industry etc.) could be seen as actors of control, as opposed to the actors of mobility that they try to discipline (e.g. people on the move and those who help them in their migratory projects: smugglers, activists etc.). However, actors often change and shift in their roles depending on the context (see Chapter 7).

Moreover, accidental actors come across border deaths only by chance (e.g. commercial vessels that happen to be involved in rescue operations at sea). They are not institutionally tasked with border enforcement, nor are they aimed at aiding migrants to cross borders. Further actors, such as non-governmental organizations (NGOs), are not involved accidentally; however, they can't be easily categorized as supporting either border enforcement or border crossing. Finally, traffickers may not be seen as helping but rather as abusing migrants.

In sum, behind border deaths there is a variegated multiplicity of actors, guided by different principles and motivations, which contribute in different ways and to different extents to create the conditions for deaths to be more or less likely to occur or be prevented. Moreover, other public and private actors enter the stage in the post-mortem phase, when death has already occurred: coroners, civil servants, relatives and friends of dead or disappeared people, etc (see Chapters 2, 4 and 5).

This chapter provides a tentative overview of the main categories of actors, showing the relationship different actors have with death, as well as with what could be seen as its counterparts: survival (from the survivors' perspective) or rescue (from the rescuers' perspective). In the concluding section it also proposes the concept of a 'border death regime' to make sense of this multitude of subjects.

Migrants

Migrants who face the risk of border death are a complex category of people. They are individuals, but they often travel in groups; they rely to varying degrees on social support networks (relatives, friends, humanitarian aid providers, political activists, etc), as well as on professional service providers, such as smugglers and brokers (Alpes 2017); they make their own choices (to leave, when to do so, where to go, how), but these may be more or less autonomous, or more or less influenced by the choices and deeds of others, or by many human and non-human variables (e.g. wars, persecutions, natural

disasters, weather conditions and other environmental and geographical concerns), with some being able to shape their migratory projects more freely, while others may be even physically forced to move across borders against their will (e.g. by traffickers or state authorities deporting them).

At different stages of their journeys (Collyer 2007; Mainwaring and Brigden 2016) they become irregularized, and sometimes criminalized, by state authorities, and mostly they are also commodified by diverse actors such as smugglers and corrupted representatives of state authorities, who detain and then sell them to other actors, or release them only after a ransom is paid.

Along their journeys, migrants come across different legal regimes in the different territories they transit, as well as different physical manifestations of the border, materializing in objects (e.g. walls, fences, patrol boats, visa offices), geomorphological barriers (e.g. the Alps) or human beings (e.g. border guards).

While many people are arguably dissuaded from migrating by the risk of death, and others start their journeys without a clear picture of the dangers they will face, many keep risking their lives in full awareness of what may happen to them. This also relates to the understanding of life and death that every individual migrant may have. For a returnee from the United States to Mexico, deportation was like death, so he was willing to risk his life trying to cross again: 'it is dying here or dying on the road trying, because you are already dead' (Humanizando la Deportación 2018).

Importantly, the risk of death turns those who complete a journey successfully into 'survivors'. This term – unlike definitions such as 'irregular' or 'illegal' – evokes humanitarian feelings of compassion; however, it does not evoke the idea of a recognition of rights besides that to life. Therefore, pretty much like 'irregular' or 'illegal', it contributes to a symbolic inferiorization of migrants.

Migrants' relatives and friends

Families and friends can play a role in the decision of migrants whether to leave or not, and then in supporting them in their journeys, in connecting them with professional smugglers or other facilitators. This may indirectly impact on the migrants' chances of dying *en route* or surviving their journeys.

Families and friends are affected by the deaths and disappearances of their relatives (Kovras and Robins 2016) and can also play a role in making incidents of border deaths public (see Chapters 5 and 6). For example,

shipwrecks without survivors might remain unreported if the relatives do not announce the disappearance of their loved ones. Families can also advocate for justice, e.g. by asking state authorities to investigate the whereabouts of their relatives, or the causes of a specific death (Oliveri 2016).

News Media

The media is an important source of information on border deaths (see Chapter 2). Depending on a number of variables, some border deaths are hardly reported, if at all, while others make headlines worldwide. An important variable is *where* border deaths take place. Different degrees of freedom of the press, as well as the greater or more limited importance of migration in public debate, can result in border deaths being reported more in some countries and historical contexts while being obscured in others. Deciding which border death stories are newsworthy and which are not may also depend on *who* reports them (e.g. on their political motivations) (see Chapter 3).

Some border deaths remain unreported because the corpses were never found. Border deaths can also be deliberately hidden by the actors directly or indirectly responsible.[2] Media investigations can unveil these unreported deaths. Media can also investigate into the responsibilities for specific border death cases. Finally, media plays a crucial role in how border deaths are represented (see Chapter 3) and thus perceived by the public.

Researchers, artists, religious ministers etc.

Like the media, other categories of actors can play a role in how border deaths are represented. Some examples are researchers (e.g. the authors of this book), artists (e.g. Ai Weiwei or the Center for Political Beauty), writers (e.g. Elfriede Jelinek or Erri De Luca) and religious ministers (e.g. father Mussie Zerai, Pope Francis) all of whom have expressly engaged with the issue of border deaths. Their work represents border deaths from specific (esthetical, moral, political) perspectives (see Chapter 3), foregrounding certain issues more (or rather) than others, and it may have differential impacts on policymakers and the wider public alike.

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2   Dead bodies can be abandoned at sea (e.g. in the Mediterranean) or buried in mass graves (e.g. Rohingyas in Thailand) by smugglers or representatives of state authorities.

State authorities

Representatives of different state bodies (also including supra-state entities such as the EU) may be involved in border deaths in different ways.

Policymakers – e.g. representatives of political parties, parliamentary assemblies and governments – make rules at the national level (e.g. by legislating laws and adopting administrative regulations) as well as at the international level (e.g. by signing and ratifying agreements and conventions), which can have different impacts on border deaths.

The imposition by governments of visa obligations is what creates irregular migration in the first place (Bigo and Guild 2003), and thus the conditions for people to risk their lives. More specifically, by imposing visa obligations on the citizens of given countries while exempting those of other countries, governments contribute to determining the national composition of the border dead population. Particular criteria for granting visas (e.g. a minimum income level for a tourist visa) further impacts on the composition of the border dead population from the perspective of social conditions, with the poor and the unemployed being by far more exposed to the risk of dying a border death.

Parliaments and governments are also responsible for the establishment of border walls and fences, which may directly cause border deaths or divert migrants to alternative – and more or less deadly – routes. Policymakers also establish detention centres and other border-related facilities, and they introduce and regulate legal institutions (e.g. expulsions and forced returns), which may happen to cause border deaths, either directly (e.g. people dying because of a disproportionate use of force while being deported) or indirectly (e.g. people committing suicide for fear of being deported).

Governments of countries of destination, origin and transit make international agreements on police and judiciary cooperation aimed at preventing unauthorized departures. The resulting increased surveillance and repression may discourage migrants from leaving or continuing their journeys, or push them to take other, more dangerous routes. The same considerations apply to the laws passed by parliaments to criminalize activities facilitating irregular migration. These measures address service providers such as carriers and smugglers, and sometimes even NGOs and individuals providing search and rescue (SAR) services or other forms of humanitarian support (Fekete, Webber and Edmond-Pettitt 2017, 2019; Vosyliūtė and Conte 2018).

The judiciary has the task of determining which actors should be held responsible for specific border death cases. More generally, court decisions – at

both national and international level[3] – may decide whether specific practices of border control or SAR are lawful or unlawful. Thus, they can impact on the choices of migrants and smugglers regarding the routes and logistics of the journeys, and, indirectly, on the travellers' chances of dying or surviving.

State authorities are increasingly involved in activities aimed at preventing border deaths, directly or indirectly.

Indirectly, they promote information campaigns for (would-be) migrants in countries of transit and origin. By informing the beneficiaries about the relevant risks (including death), these campaigns aim to discourage them from embarking on irregular journeys.[4] Furthermore, the national and international legislative, police and judiciary activity against smuggling and trafficking is increasingly presented and justified as being aimed at preventing deaths (Cusumano 2018; Cuttitta 2018b; Pallister-Wilkins 2015).

Directly, state authorities can engage in proactive humanitarian operations tasked with SAR (as Italy, Germany and Ireland did in the Central Mediterranean in different periods between 2013 and 2017) or schemes aimed at tracing missing migrants and identifying bodies (as Honduras has been doing since 2015).

Moreover, coastal states run Maritime Rescue Coordination Centres (MRCC) which are responsible for coordinating SAR operations in the relevant state's SAR region in international waters. However, some MRCCs have been accused of putting migrants in danger by ignoring distress cases or by not informing private rescue vessels of a distress case (Tonacci 2018).

Similarly, while state authorities engaged in border control can be agents of rescue, they can also be directly responsible for specific cases of death (e.g. people shot dead by border guards at the Spanish-Moroccan or Egyptian-Israeli border) or pave the way for deaths to occur as a result of their conduct (La Coalición de Derechos Humanos and No More Deaths 2016). The way border enforcement agencies[5] are trained and equipped, as well as the decisions about how many assets and staff to deploy, and where, may significantly contribute to causing or preventing border deaths. As street-level bureaucrats, border guards may exercise considerable discretion when taking decisions (Häberlein 2019; Lipsky 1969). While they often end up rescuing people who would lose their lives if not intercepted, they sometimes fail to respond to emergency situations (La Coalición de Derechos Humanos and No More Deaths forthcoming) or to

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3   An example of an international court is the European Court of Human Rights.

4   Research has questioned the effectiveness of these schemes (Rodriguez 2019).

5   Border enforcement may be delegated to specific agencies of border guards or to the police, the military, the coast guard and/or other security agencies.

intervene when they spot migrants in distress (Strik 2012). In some cases, border enforcement agencies also interfere with humanitarian organizations aimed at rescuing people, e.g. by destroying water canisters placed in the desert (La Coalición de Derechos Humanos and No More Deaths 2018) or intimidating and harassing humanitarian volunteers (Cuttitta 2018a).

Processes of neglect or violence by state authorities may also contribute to border deaths in detention centres and other border facilities. Finally, some representatives of some state authorities, such as the Libyan Coast Guard, are directly involved in smuggling activities (UN 2017) and thus contribute to making potentially deadly journeys possible.

In the post-mortem phase, public authorities (police, the public health system, coroners, municipal registrars, courts, cemetery attendants, etc) are involved in identifying dead bodies, determining the cause of death, doing autopsies, taking DNA samples, collecting and registering data, contacting the relatives, organizing the burial or the repatriation of the corpse, or assisting injured and traumatized survivors (Chapter 4; see also Last et al 2017). The consular authorities of origin countries can also become involved in these processes.

The border security industry

The security industry creates the conditions for border controls to evolve and be carried out with the support of the most updated and effective technologies (Gammeltoft-Hansen and Nyberg-Sørensen 2012; Sontowski 2016). The border security industry does not only respond to the demand from policymakers by offering solutions for specific problems: its offer may also contribute to shaping the demand (Baird 2018), and thus to design border control policies. It thus plays an indirect role in the deadly effects of the latter. However, its technologies can also be used to enhance SAR capacities of both state and non-state actors.

International and intergovernmental organizations

International organizations (IOs) and intergovernmental organizations (IGOs) cooperate with governments of countries of destination, transit and origin as both advisors and implementing partners. As the substantive part of their budget comes from rich destination countries (through state-funded projects or donations), they have only limited autonomy and leverage towards

them, and are often regarded as instruments for the implementation of their policies, most notably within the process of externalization to countries of origin and transit (Lavenex 2016).

The United Nations High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM) are the main migration-related IO and IGO, respectively.

UNHCR promotes humanitarian corridors, complementary pathways, and resettlement schemes which provide alternatives to irregular journeys for refugees. It also tries to pressure governments not to adopt border policies that may put lives at risk. Finally, it can be involved in assisting refugees in post-mortem issues.

IOM is particularly involved in awareness campaigns in countries of origin and transit, informing people about the risks of irregular migration. IOM also carries out so-called search and rescue missions in the Sahara, in cooperation with the Nigerian authorities, which are at the same time diffused border patrol operations (IOM 2017). Finally, IOM is engaged in collecting data about border deaths through its Missing Migrants Project (Al Tamimi et al forthcoming; see also Chapters 2 and 4).

Other IOs and IGOs, while not having migration or asylum as their primary fields of action, may also be involved in activities directly or indirectly related to border deaths.[6]

In some regions of the world, IOs and IGOs have to make up for the insufficient capacities of state authorities and the lack or scarcity of other actors. There, they are often confronted with issues that go beyond their mandate, also including issues related to border deaths.[7]

NGOs/CSOs

The categories 'NGO' (non-governmental organization) and 'CSO' (civil society organization) are not easily distinguishable from one another. They are also far from homogeneous in terms of their activities, aims, ethical and political positionings, funding sources, and degree of independence from public authorities.

6   Examples are Interpol, the International Commission on Missing Persons (ICMP), as well as diverse UN agencies such as the United Nations Children's Fund (UNICEF), the Office of the United Nations High Commissioner for Human Rights (OHCHR), and the United Nations Office on Drugs and Crime (UNODC). For various initiatives see Chapters 2, 3, 4, 5 and 8.
7   In Egypt, for example, UNHCR has been involved in the identification of unknown dead bodies that were presumed to be of migrants.

Large NGOs that have been traditionally close to public authorities are the International Red Cross and the Red Crescent movement. The National Red Cross and Red Crescent Societies are often involved in processes of identification, burial and contact with the relatives of the deceased. By definition, they have an auxiliary role to state authorities. The International Committee of the Red Cross has promoted the project Restoring Family Links, to help relatives of missing migrants find out whether their loved ones are still alive and to re-establish contact with them. Other activities by ICRC and national societies are aimed at preventing border deaths, e.g. by offering courses on SAR, providing medical aid at points of disembarkation of migrants or even on the high seas.[8]

Similarly, many international and local, large and small NGOs/CSOs limit themselves to mere humanitarian assistance, and act in close cooperation with states, often within state-funded projects.

More politically motivated NGOs and CSOs and activist networks define their activities related to border deaths as going beyond the provision of humanitarian aid and as a means to contest state policies and practices. While SAR NGOs carrying out rescue operations at sea or supporting these are primarily concerned with rescuing people, some of them (e.g. Sea-Watch and Watch the Med Alarm Phone) also use the issue of border deaths to criticise current migration policies and practices, in an attempt to repoliticize the border (Cuttitta 2018a; Stierl 2018). Their (mostly privately funded) activities are understood to be a form of counter-surveillance (Dijstelbloem 2017; Stierl 2016). Meanwhile right-wing, xenophobic campaigns step in precisely to harass SAR NGOs: for instance, in 2017, the Generation Identity movement's 'Defend Europe' mission in the Mediterranean, supported the defamation and criminalization campaign against NGOs which led to the overall reduction of SAR capacities in the Central Mediterranean. Other CSOs (e.g. the Minutemen at the US-Mexico border) engage in reporting and denouncing migrants trying to cross the border, which can result in migrants taking alternative, more dangerous routes, or dying while attempting to escape from interception by border guards alerted by citizens.

More generally, and regardless of their political attitude, a wide and diverse range of NGOs/CSOs are formally or informally involved in activities related to border deaths, e.g. collecting data, helping survivors recovering from facing border deaths, reporting and locating missing persons, ensuring that the dead get appropriate burials, etc.[9]

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8   In support of the Italian Navy in 2013-2014 and of the Maritime Offshore Aid Station (MOAS) in 2016.

9   For various initiatives see Chapters 2, 3, 4, 5 and 8.

Carriers

The companies providing passenger transportation services over land, sea and air have long been subject to specific laws which impose sanctions on them if they carry undocumented or improperly documented passengers. To avoid sanctions, carriers refuse to take people on board who do not comply with the rules about entry in the countries of transit and destination. As a consequence, those who cannot or do not want to give up their migratory project have to travel irregularly. Although refugees have the right to enter any country, and carriers are exempted from sanctions if the undocumented persons they carry are then recognized as refugees, carriers generally refuse to take on board asylum seekers at the point of embarkation because they don't know whether asylum will be granted or not (Feller 1989). Even those who have the right to cross borders are thus prevented from reaching those very borders regularly, and have no other choice but to risk their lives. This is possibly the most vivid example of how (the risk of) death may be caused indirectly by the combination and intersection of interests, legal regimes and actions of different agents, rather than directly by the action or inaction of a specific actor.

Smugglers

The irregularization of migration through restrictive legislation by a growing number of countries worldwide has resulted in the global rise of the migrant smuggling industry.

Smugglers are known to the wider public for the violence and abuses inflicted on migrants during all stages of the journeys. Many, indeed, abandon people in the desert, let them starve in detention (in so-called 'connection houses') while waiting for the next stage of their journey, shoot them dead if they try to escape, force them to board unseaworthy boats, throw them into the water if they don't obey their orders or are believed to bring bad luck during sea crossings, etc.[10]

However, border deaths also occur as a result of the changed tactics of smugglers regarding travel logistics, which are made in response to changes in policies and practices by state authorities aimed at trying to stop them

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10   In so doing, they challenge the distinction between smugglers and traffickers made by the Palermo protocols supplementing the United Nations Convention against Transnational Organized Crime. For a reflection on the uncritical use of this distinction see Baird (2016).

(Brachet 2018). For example, in 2015 smugglers operating on the Libya-Italy route replaced the safer (but more expensive) wooden boats with cheaper and unseaworthy dinghies when the EU mission EUNAVFOR Med started destroying all vessels (thus making their reuse impossible) after each rescue operation. Consequently, a measure that was aimed at deterring smugglers, ended up only harming the migrants, who were forced to travel less safely.

Smuggling doesn't necessarily imply a high risk of death. Good smugglers, providing reliable travel services, can even be seen as saviours of lives, insofar as they protect their customers from the death risks associated with alternative travel solutions.

Like state authorities, smugglers can also contribute to making the likelihood of dying a border death dependent on the migrants' social status. For those who can afford higher fees, they sell falsified or forged documents, and organize journeys with regular – and safe – carriers. For the poor, smugglers offer riskier solutions, which may be more or less dangerous depending on the financial status or ethnic origin of travellers: for sea crossings to Europe on fishing boats, for example, Arabs typically have to pay the full price and travel on the deck, while Sub-Saharan Africans pay less to be transported in the hold (Ciavoni 2015), thus running the additional risk of dying of suffocation or being unable to escape in case of a shipwreck (Viviano and Ziniti 2016).

Other private actors

Unlike SAR NGOs, which have the explicit aim of assisting migrants, other civilians (individuals or groups) may come across migrants in distress just by accident. For example, commercial vessels have often been involved in rescue operations. Some of these operations end up as tragedies because cargo ships are not specifically equipped or trained for SAR (Heller and Pezzani 2016). Furthermore, since rescue operations require a lot of time, they result in heavy economic losses for ship owners. Therefore, some commercial vessels take alternative routes or turn off their automatic identification systems, thus becoming invisible to the authorities coordinating SAR. This results in a reduction of SAR capacities, and an increased risk for migrants.

Local people can also be involved in a range of ways. Some happen to participate in rescue operations because they witness a shipwreck on the coast (Candito 2019). In border regions, some provide basic needs for people transiting there, or even help them to find the safest way to cross the border (Papataxiarchis 2016a and 2016b). Others engage in anti-migration activities instead, such as destroying water canisters placed by humanitarian

volunteers in the desert along the US-Mexico border (La Coalición de Derechos Humanos and No More Deaths 2018). In Egypt, criminal organizations have bought migrants from smugglers and killed them after extracting and selling their organs (Moore 2016).

The Border Death Regime

Scholars have used the notion of 'regime' (Horvath et al 2017; Pott et al 2018) to conceptualize a 'migration and border regime'. In this sense, regime refers to 'a social, conflictual process of negotiation on diverse scales and with a multitude of involved actors' (Hess 2012: 430) whose practices, 'while related, are not organized in terms of a central logic, but are multiply over-determined' (Papadopoulos et al 2008: 164). Importantly, these practices always keep the regime in a process of transformation: 'the life of a regime is the result of continuous repair work through practices' (Sciortino 2004: 32-33). Adopting the regime perspective allows for the investigation of 'the set of heterogeneous social practices and structures, of discourses, actors, and rationalities that intervene in processes of governmentalization of the border' (Mezzadra and Neilson 2013: 179).

The multiplicity and heterogeneity of the actors described in this chapter could be seen as the human (and living) component of what could be called a 'border death regime'. Indeed, border deaths occur in highly complex and contested contexts, in which a panoply of actors interact through diverse policies, practices, and discourses, and the diversity of aims, motivations and roles between the different actors is visible not only across the different categories of actors listed above but also within each of them.

This chapter has shown that death has transformed the composition and dynamics of the border regime by creating the conditions for new actors to step in (SAR NGOs, private individuals, etc) as well as by transforming the position of other actors and the way they relate their activities to border deaths (e.g. state authorities launching SAR operations and presenting their migration and border policies as being aimed at preventing deaths).

While it generates a form of systemic violence 'that is diffused and dispersed among many actors' (Heller and Pezzani 2014: 659), the border death regime seems to perpetuate itself:[11] on the one hand, different border

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11   Spijkerboer (Afterword) and Dijstelbloem, Horn and Jarvis (Chapter 8) propose solutions for breaking this self-perpetuating cycle between policy and deaths. Holding states to account (Chapters 4 and 6) may also disrupt the regime enough to end this form of structural violence.

actors create new opportunities for death and rescue to occur and take centre stage; on the other hand, death and rescue contribute to multiplying and diversifying the actors involved, as well as to transforming their policies, practices and discourses.

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About the authors

Paolo Cuttitta is a Marie Curie fellow at the Centre de Recherche sur l'Action Locale, Université Paris 13. He previously worked at Vrije Universiteit Amsterdam and Palermo University. His current research looks at humanitarian border management and the changing roles of state and non-state actors in the EU/North African border regime.

Jana Häberlein is a sociologist and an associated researcher in the SNIS-project, Infrastructure Space and the Future of Migration Management: The EU Hotspots in the Mediterranean Borderscape, at Basel University. Previously, she was a visiting scholar at the University of California, Davis (2017) and a postdoc at Neuchâtel University (2014-2017).

Polly Pallister-Wilkins is an Assistant Professor in political science at the University of Amsterdam. Her research looks at the intersection of border controls and humanitarianism, something she calls humanitarian border-work. She is a principal researcher in the Horizon 2020 project, ADMIGOV: Advancing Alternative Migration Governance, looking at humanitarian protection issues.

2. Mortality and Border Deaths Data

Key Challenges and Ways Forward

Kate Dearden, Tamara Last and Craig Spencer[1]

Abstract
Statistics on border deaths have permeated public discourse over the last few years in Europe, in part due to the increased effort by academics, journalists, NGOs and international organizations to document these deaths. For researchers and policy makers, these quantitative data help indicate the severity of the phenomenon of people dying while trying to reach other countries in an irregularized manner. Such figures can also raise awareness and concern within the general public. This chapter is organized around the main challenges associated with quantitative border deaths data collection and dissemination. The chapter suggests strategies for improvement of the current context as well as directions for research and work on border deaths in the future.

Keywords: data analysis, news reports, irregularized migration, statistics, counting, numbers

The phenomenon of people dying along borders has been ongoing for decades but in recent years has escalated, both in terms of the scale of the phenomenon and in terms of awareness and surveillance. Border deaths tend to be analyzed and presented in quantities. Absolute numbers of deaths and mortality rates are used to measure the severity of the problem and to support arguments about causes and effects (see Chapter 7). Numbers and percentages are calculated per month or year, per route or country or region, per age group or sex, providing a digestible picture of the phenomenon of border deaths around the world.

Quantitative approaches to border deaths raise political concerns (Tazzioli 2016; Dickson 2018; see also Preface and Chapter 3) and pose a number of practical and theoretical challenges, which will be addressed in this chapter. Yet despite their shortcomings, mortality statistics are considered important, even necessary, for raising public awareness and developing policy (see Chapters 4 and 8).

A growing number of actors (see Chapter 1) collect and produce border deaths data, and share this data publicly. They use their data to demonstrate the scale of the phenomenon, in terms of magnitude, geographical scope and/or its chronic nature. They are filling a gap: no governmental office produces mortality statistics for transnational, migrating populations. The deaths and disappearances of irregularized[2] migrants are often unreported and rarely investigated compared to other populations (Brian and Laczko 2014, 2016; Laczko et al 2017). Indeed, data collection in Southern EU Member States for the Deaths at the Borders Database[3] showed a varying commitment to official procedures and dignified practices specifically vis-à-vis bodies presumed to be migrants (Last 2016).

This chapter explores the current and potential roles that quantitative analysis plays in demonstrating and exploring the causes and effects of border deaths. The following sections interrogate existing border death data, outline its limitations and explore whether more or better data are needed or feasible to produce. The authors draw on their extensive and diverse experiences as data collectors, analysts and communication specialists. Despite different positions (as practitioners and researchers of academic, intergovernmental or civil society projects, we have different constraints, contributions and powers; see Chapter 1) and divergence in opinions (especially regarding priorities and what is realistic), the authors share a common starting point: the motivation to use statistics to advocate for an end to border deaths and to inform policy to this end. The chapter demonstrates that differences in perspective are usually only a question of degree and that there is consensus on many issues relating to mortality and border death data.

The similarities and variances in perspectives on border deaths data are presented through an overview of mortality statistics and where research on this issue is headed. The chapter is structured around two themes: our roles and experiences as data collectors, and the role of data in the public sphere.

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2   We use the term 'irregularized' to emphasise that it is a status imposed by law and policy and to reflect that even when certain forms of migration are not criminalized (or 'illegalized', see Bauder 2014), they are regulated as exceptional, contrary to the normal or natural state of things (see Preface).

3   www.borderdeaths.org

Struggles with data sources and interpretation

Each source of data on border deaths has its own advantages and limitations regarding coverage and quality.[4] Even taken together, the various sources do not – arguably, cannot – provide a complete picture (Grant 2011; Weber and Pickering 2011). Strengths and weaknesses of the main data sources used to count border deaths can be summarized as follows.

News media: News reports are the dominant source of border death data because they are readily available online, cover an unlimited geography and are often very timely. They can also include information on both dead bodies and the missing as they tend to take an incident-based approach (as opposed to forensic sources, which only document physical remains; see Chapter 4). News reports usually derive their information from informants: witnesses, survivors, authorities and civil society groups. Exactly who these informants are, and what information they provide, depends on the angle of the story the journalist has decided to tell. As a result, it can be difficult to tell if two news stories cover the same incident. Whether a story about border deaths is published has nothing to do with keeping track of deaths, but depends on what the story is, whether a journalist is notified and available to report on it, and what else might be considered more newsworthy at that moment (Webber 2004; Spijkerboer 2007; Oliveri 2016; Wijnberg 2018). The demands of news cycles also mean that there is often no follow-up reporting on people who are reported as missing or have serious injuries. Therefore, relying only on news reports may result in under-counting, over-counting and huge variation between recorded incidents in the type of information available (Last and Harte 2018).

States: Official documentation pertaining to dead bodies (such as medical examiner reports, death records, body retrieval reports by coast guards or police, death certificates, burial permits and repatriation permits) are a useful source of information on border deaths because they deal directly with the bodies (Last et al 2017; see also Chapter 4). Unfortunately, no state has yet produced mortality statistics for border deaths using this official documentation.[5]

Some law enforcement authorities[6] publish annual aggregated death counts for irregularized border crossings (Last and Spijkerboer 2014).

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4   Chapter 3 also shows that these different sources represent border deaths in different ways with varying implications.

5   There are, arguably, strong political reasons for states not to publish such statistics (Chapters 6 and 8; Preface).

6   The US Customs and Border Agency, certain Greek coast guard bases, and occasionally also Algerian coast guards and Italian police.

While broadly based on the number of human remains dealt with by those authorities (Basaran 2015), it can be unclear exactly how these numbers are collected and they can differ from other sources. National and international systems exist to generate official reports on missing persons,[7] but these systems are rarely employed in cases of missing migrants (Last 2016). Origin countries have a role to play in this regard, although what this role should and could be has yet to be explored in detail. The International Commission of Missing Persons (ICMP) is currently mapping state capacities and practices vis-à-vis dead and missing migrants in Italy, Greece, Malta and Cyprus (ICMP 2018; see Chapter 4 and 8).

Afflicted persons: The direct or indirect testimonies of friends and family of irregularized migrants are an under-appreciated source of information on deaths and missing persons (Comité International de la Croix-Rouge (CICR) 2013; Schwartz-Marin 2016; The Mediterranean Missing Project 2016). Just because information about someone's death never reaches a database does not mean that their social networks are not aware that they are missing or dead (see Chapter 5). People search for their missing loved ones first through social networks and/or the smugglers they employed; going to the media or an international organization is often the last resort. In Latin America and North Africa, some families have publicized their searches and mobilized to demand political attention for their missing loved ones (Chapter 6; see also Sánchez Dionis 2018). Information on deaths is also being gathered systematically from migrants via surveys, in particular those of the Mixed Migration Centre's 4Mi project in parts of Africa, Europe and Asia.[8] While this is an important development because it offers access to information that may otherwise not have been documented, combining information from afflicted persons with other sources of information on deaths raises new challenges (Chapter 8). Sample sizes are small and limited, in part because survivors of dangerous journeys, who were eye witnesses to fatalities along the way, tend to be in precarious and vulnerable positions and segregated from wider society (including researchers) through humanitarian and law enforcement mechanisms (Zagaria 2011).

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7   For instance, Interpol issues notices for international cooperation on particular cases: Yellow Notices are global police alerts for missing persons, and Black Notices are alerts for unidentified bodies (https://www.interpol.int/en/How-we-work/Notices/About-Notices). The Government of Mexico's Comisión Nacional de Búsqueda has the mandate to carry out searches for migrants reported as missing in Mexico, often at the request of their families.

8   www.mixedmigration.org/4mi

The various data collection projects are invaluable advocacy tools, but they are also riddled with problems for producing reliable mortality statistics. For instance,[9]

1. Many, if not most, deceased migrants are never identified (Reineke 2013; Last et al 2017; Olivieri et al 2018; Hinnant and Janssen 2018). Unidentified bodies are missing persons. Any count that covers both recovered, unidentified bodies and missing persons reports, therefore carries an immeasurable risk of double-counting (Last and Harte 2018). However, as many bodies disappear, especially at sea or in the desert, any database that covers only bodies will always be an under-count.[10]

2. There is very limited personal information about deceased and missing migrants (Grant 2011; Pickering and Cochrane 2013; Oliveri 2016; Last et al 2017); and the information that is available is difficult to verify. It is also a major challenge to follow up on missing persons reports and dead bodies to confirm if they are 'border deaths' or to add further information about individuals' identities.[11] The identities of migrants who go missing are rarely reported. Even when remains are found, not always are autopsies performed, the remains identified, families notified and bodies buried and recorded properly (Brian and Laczko 2016; Last 2016). Therefore, different kinds of information are available to record for each deceased or missing person, depending on the moment at which their data was collected and what the procedures are in the particular locality.[12]

3. Different data collectors record different things. Some datasets record by incident (e.g. IOM's Missing Migrants Project, UNITED's List of Deaths[13]), whereas others record by individual deaths (e.g. Deaths at the Borders

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9   Detailed discussions of the problems of existing border deaths data and challenges of collecting better data can be found in: Brian and Laczko 2014; Laczko et al 2017; Singleton, Lazcko and Black 2017; Last et al 2017; Last and Harte 2018.

10   IOM's Missing Migrants Project count migrants who have died (where their remains were found) as well as those who are missing after a shipwreck at sea because they are presumed to be dead. So far, the project has not included missing persons reports in its database.

11   It can be difficult to determine if a non-national was settled in a country for a long time, or if they died or went missing in the process of migrating. For example, the ICRC's Missing and Deceased Migrants Pilot Project in South Africa and Zimbabwe sought to identify thousands of unidentified remains, many thought to be migrants who had lived in South Africa for years: https://www.icrc.org/en/document/missing-and-deceased-migrants-pilot-project-south-africa-and-zimbabwe-2016-2018

12   As seen in the results of the Mediterranean Missing Project for Greece and Italy: http://www.mediterraneanmissing.eu/data/

13   http://unitedagainstrefugeedeaths.eu/about-the-campaign/about-the-united-list-of-deaths/

Database, Humane Borders[14]). Moreover, there are many definitions of border deaths and missing migrants, and different assumptions about who to count (Weber and Pickering 2011; see also Chapter 3). For instance, whether an unidentified body is a migrant, and under what circumstances a missing migrant should be counted as dead. Another point of divergence is how to designate and define the border, and therefore, in which spaces and situations a death can be described as a *border* death.[15] While these differences prompt necessary debates about border deaths and the migration regimes in which they occur, they also pose practical challenges for initiatives such as IOM's Missing Migrants' Project, which builds its global database by compiling information from diverse sources such as official records (police, coast guards, medical examiners), media reports, NGOs, surveys and interviews of migrants and information from IOM country staff.

4. Available data sources change. Changes in surveillance and legal categories as well as the general availability and access to data sources can increase the number of migrant deaths recorded although this may not necessarily reflect an actual increase (Carling 2007). This issue, common to most migration data (Takle 2017; Singleton 2017), makes comparisons of data on migrant deaths over time problematic. For instance, an increase in personnel deployed to a given border region can increase the chances of bodies being recovered and recorded. The more actors involved in patrolling and rescue in a given border region can increase the number of sources and variety of data available regarding border deaths. For example, the US Border Patrol only report dead bodies they come across during their patrols; the fact that Humane Borders also maps deaths in partnership with the Pima County Medical Examiner's Office leads to a more comprehensive understanding of the official border death data.

There are further challenges when it comes to analysis and interpretation of border death data. As an illustration, calculating mortality rates is problematic because, in addition to using imprecise deaths data as the numerator, it requires a denominator of the number of people (population) who are exposed to the risk of border death (see Carling 2007; De Bruycker, Di Bartolomeo and Fargues 2013; Heller and Pezzani 2016; Steinhilper and Gruijters 2018).

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14   https://humaneborders.org/migrant-death-mapping/
15   See, among many others, the special issue on Critical Border Studies in *Geopolitics* (2012) 17 (4), 727-979.

So-called 'flows data' are only available for a very few migration corridors globally and are riddled with their own problems, such as incompatible definitions of categories of migrants and the fact that undetected crossings remain by definition uncounted (see Carling 2007; Takle 2017; Singleton 2017). Publishing mortality rates and interpretations of border death data based on incomplete datasets might be more damaging than not publishing border death statistics at all. For instance, indicating that mortality is decreasing when absolute numbers drop, when in fact the rate of death may have increased or a higher number of deaths went unreported (Laczko, Singleton and Black 2019). Finally, more than other border death data, migrant mortality rates arguably normalize death as a 'fact' of migration.

Progress in data quality

Improving border deaths data and analysis requires the development of methodologies tailored to the context and locations of where border deaths occur, as well as becoming more transparent and accountable for data produced.

Data protocols: Border deaths are inherently transnational. But sharing data between distinct systems is challenging, especially when it concerns the personal data of individuals who may not wish to make themselves known to the authorities in their own or another country (Chapter 8). Identification, for example, can only happen through recognition of the body or through successful matching of ante-mortem and post-mortem data; sharing their respective data to enable comparative analysis is one of the major challenges facing police and organizations supporting families (Chapter 4). In 2018, the ICRC started a standard-setting initiative to resolve some of these issues (discussed in Chapters 4 and 8), which may also benefit researchers who compile datasets on border deaths.

Methodologies: Among researchers, a clear methodology is vital to assessing the analytical value and validity of the data or analysis produced, as well as its compatibility with other research. Although sharing methodologies is becoming more common, there is room for improvement in terms of developing sound methodologies and how they should be written and evaluated. Researchers can take advantage of a growing market in generating migration data to foster exchange of information and methodologies, resulting in innovative approaches and more reliable data.

Transparency and traceability: As researchers counting and collecting information on deaths have developed more expertise and attracted funding

for their projects, progress has been made in terms of the transparency and traceability of border death data. More researchers and organizations are sharing the methodologies behind their databases and how they calculate mortality rates,[16] revealing their data's strengths and limitations.[17] Uncertainties can also be integrated into the data itself. Those working on IOM's Missing Migrants Project are constantly working to improve the mechanisms by which they verify news reports via partners on the ground, but there are limitations. Since 2017, each record is tagged with its 'source quality' (based on a scale of 1 to 5).[18] The validity of each record varies based on the different types and number of independent sources used for each record. The Deaths at the Borders Database also rated each case for the degree of certainty regarding whether the record concerned a border death.[19] These examples demonstrate how databases can incorporate their uncertainties in a measured and transparent way. Furthermore, information compiled in databases should be traceable to its original source, or at least to the source from where it was collected. Traceability of information regarding a border death or disappearance is especially important given that the majority of bodies found are never identified and missing persons are not properly registered.

Dissemination and the role of data

Border death data are frequently collected and produced because they are understood to have a high impact in the media and policy making (see Chapter 4 and 8). Ideally, those involved in compiling and producing data on border deaths would disseminate their own expert interpretations of the data, while also sharing the data itself to enable others to test theories and develop new research. Realistically, dissemination of research is a matter of negotiation between researchers and media (see Chapter 1 on interactions between actors). IOM holds relative power in this regard: it

16   Arguably, the interactions of the limitations of death and population datasets also create more, unknowable limitations.

17   For example, for the Deaths at the Borders Database, see Last et al 2017; for the Mixed Migration Centre's 4mi surveys, see http://www.mixedmigration.org/4mi/; and for IOM's MMP, see https://missingmigrants.iom.int/methodology

18   For information about what is included in the scale see: https://missingmigrants.iom.int/methodology

19   For information about how records were categorized see: http://www.borderdeaths.org/?page_id=7#_Toc418879229

carries the weight and legitimacy of a large intergovernmental organization and UN agency and has a dedicated media and communications department, making the output of the Missing Migrants Project difficult for other researchers to nuance or counter. Nevertheless, the challenges of disseminating data and findings through the media are familiar to IOM staff. In addition, news outlets have published their own data without any expert reviews (e.g. Hinnant and Janssen 2018; Hernandez and Stylianou 2016).

One strategy is to shift reliance away from large news agencies to alternative media and journalism that will cover the detail and complexity of research findings.[20] Meanwhile, the following good practices may aide the researcher in negotiating with large news outlets to reach their broad audiences, including policy makers:

1. Humanize and contextualize border deaths. Taken alone, mortality statistics dehumanize the people behind the numbers,[21] and they can be easily misinterpreted or misused. Figures and counting obscure the politics of rescue (Tazzioli 2016) and fail to represent the disorder of border deaths (Saucier and Woods 2014). Hence, researchers and practitioners should diversify the kind and form of data disseminated to encourage more complex, evidence-based and humanizing debates on migration policy more generally.

2. Stress the limitations and engage with misinterpretations. Due to the imprecision of border death data, it is important to emphasize that the statistics we produce are always incomplete. In the experience of the IOM's Missing Migrants Project, this point is often lost in the media.[22] While researchers have limited control on how their data is disseminated by other actors, the use of careful language such as 'likely' and 'indicate' communicates the limitations of quantitative findings. One of the challenges for researchers is to find accessible ways to explain statistical terms and methods, such as confidence intervals. Wherever researchers engage with other actors to disseminate their acquired

20   Some positive examples include https://www.pri.org/stories/2018-03-01/forty-seven-people-died-crossing-mediterranean-wooden-boat-earlier-month-their, https://www.reuters.com/investigates/special-report/migration/#story/60

21   For example, aggregated numbers reduce individuals to a tally and mortality rates completely obscure the people who die border deaths behind a percentage that has no relevant frame of reference in people's minds. See Preface and Chapter 3 for further critique of quantitative border death data.

22   For a longer discussion on the ethics and challenges of reporting on migrant deaths in the media, please see Part I, chapter 3 of Laczko et al 2017.

knowledge, misinterpretations and over-simplifications are bound to occur. The best practice for dealing with this problem is to engage in public discussion about the misinterpretation, explain the nuance and the limitations; if needed, again and again. This is even more important when it comes to statistics, which are less familiar to a broader public. Repeated and uncritical use of data normalizes border deaths (Tazzioli 2016; Preface and Chapter 3 of this volume) and gives the false impression that border deaths are properly monitored. This is especially the case with mortality rates because they tell nothing of the volume of deaths and the percentage (usually somewhere between 2-9%) can depreciate the gravity of the situation. Researchers and practitioners familiar with the flaws in existing data have a responsibility to correct misconceptions about border deaths, especially those derived from the data which they produce.

3. Resist catering to the media at the cost of accuracy. Regardless of the accuracy of border death statistics, they communicate easily the severity of the phenomenon and where it occurs, they indicate shifts in response to external events, and they make good sound bites for headlines, tweets and policy briefs, which means they circulate well. However, it is not clear whether wider circulation of mortality statistics improves general knowledge of border deaths. Moreover, succumbing to headline-grabbing language can be counter-productive (Bjarnesen 2018). 'Deadliest', for instance, is not a sustainable trend; inevitably, at some point, there will be a (temporary) decrease in the number of dead, which might reduce the news-worthiness of the phenomenon or lead to erroneous evaluations of policy decisions, even though there are still hundreds dying.

The direction of future research

Having highlighted the limitations of and challenges associated with border death data, this section reflects on the kind of research the authors would like to have the freedom and funding to do and the areas in which research is sorely needed. The following list is not in any way exhaustive but rather a showcase of ideas in which the authors found inspiration.

Empowering families and friends of missing migrants to provide information on deceased and missing persons. Relations of those who die and go missing crossing borders collect their own information that could improve the accuracy of border death data. There are examples of such 'citizen

forensics' led by families searching for their missing relatives in Mexico.[23] Another effort is the Argentine Forensic Anthropology Team's Proyecto Frontera, which brings together families, civil society and governments to manage DNA banks to help clarify the fate of the missing in Central America, Mexico and the United States.[24] Treating families as a source of data has important ethical and practical implications (see Chapters 5 and 6) and may lead to a shift in the kind of data that is disseminated. A participatory approach to the collection of data could challenge dominant perceptions of the agency and whereabouts of missing migrants and their relations.

Making use of the variety of available sources and building on existing research. For instance, the Deaths at the Borders Database has demonstrated that official data does exist and is accessible at the municipal level. It has a methodology that could easily be: (a) adapted to regularly update the database for Southern EU Member States, and (b) replicated in countries with comparable death management systems (Last et al 2017). In 2018, the International Committee of the Red Cross (ICRC) adapted the methodology to conduct a forensic needs assessment in Southern Italy, and in 2019 they expanded this initiative to Greece. Existing and emerging migration data collection mechanisms might also be adapted to collect information about border deaths, as the Mixed Migration Centre's 4Mi survey was adapted to include questions on fatalities. Frontex conducts interviews with people who recently arrived in the EU to compile information on irregularized migration routes and smuggling networks; these interviews could gather information on border deaths.

Improving state and non-state capacities for properly registering and tracing dead bodies, to improve the chances of identification and to prevent post-mortem disappearance. The mapping exercises and standard-setting evaluations currently underway by ICMP and ICRC should shed some light in this area (see Chapters 4 and 8).

Adopting innovative methods of analysis and data presentation. Integrating datasets to achieve the most comprehensive (highest) total figure of deaths or the latest mortality rate trends is only one of many ways of evidencing border deaths for the public and policy-makers. There is space for creativity to develop new, or to repurpose old, methods for analyzing and presenting evidence about border deaths (see Chapters 4 and 6). Studies on other issues, such as war or development or poverty, could inspire the generation of new statistics. For instance, rather than displaying the number of dead, a billboard

23 https://gtr.ukri.org/projects?ref=ES%2FS011307%2F1
24 https://forensicbordercoalition.org/fbc-partners/

in New York showed the number of days that the US Army had been deployed in Iraq since March 2003. Could we adjust data collection to produce the number of days since border deaths became a regular phenomenon along different borders? Or the number of families still searching for missing relatives who embarked on a journey? Or the number of citizens and residents of EU Member States who have lost someone this way?

Thinking long-term. Border deaths have been recorded in the Mediterranean Sea for over 30 years (Last et al 2017). They are increasingly monitored around the world and likely to continue into the foreseeable future (Chapter 8, Afterword). There is value in taking time to collect data in a sustainable and participatory way and to present data that is of the highest possible quality, rather than settling for what can be produced by a convenient deadline. Reactive, unsubstantiated statistics can feed misconceptions about border deaths, leading to harmful policy decisions or compassion fatigue (Chapter 3). Moreover, analysis that takes the history of border deaths (regionally and globally) into account will recognize standard fluctuations and patterns specific to the geography of interest and, therefore, make more reliable observations of trends in the present day. A long-term perspective is particularly important during emergency or crisis situations. Researchers might consider focusing less on the ups and downs, and more on the on-going nature of border deaths and the continuity of the policies meant to address them.

Introducing qualitative data to provide detail, context and humanity to quantitative data. We are preoccupied with numbers because we deem them to be the most efficient form of communicating the most important facts, but this is not necessarily true. As Weber (2010: 50) points out, 'there are reasons to doubt that obtaining more accurate body counts (Spijkerboer 2007) or developing more sophisticated quantitative measures of risk (Carling 2007) would be sufficient to force a serious re-think of European border policies'. Thus, linked to the call for creative approaches to quantitative data analysis is a call to utilize other ways of summarizing problems, their scale, causes and potential solutions that are not so heavily dependent on numbers. For instance, using images, video and audio could be employed to communicate the full range of researchers' findings about border deaths.[25] In this way, knowledge production can point policymakers and society towards different actions to address suffering associated with irregularized

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25   E.g. Europa Dreaming: http://www.europadreaming.eu/en/; Devuélvanlos. Bring them back (Colibri Centre for Human Rights): https://www.bringthembackcampaign.org/names; Missing on the Road (ICRC): http://www.missingmigrants.icrc.org/

migration, beyond simply reducing the death count through politicized rescue efforts (Tazzioli 2016).

Contextualizing border deaths by evidencing the multiple forms of suffering associated with irregularized migration. Death and disappearance are straightforward evidence of harm and suffering associated with a particular phenomenon or policy. But the focus on death rates is too narrow to portray the long list of physical and psychological harms associated with irregularization of migration (see e.g. MSF 2013, 2017; Tsapopoulou et al 2012; Wood 2018) and its relation to statelessness (for instance, the Rohingya) and economic exploitation (Webber 2004; Dines et al 2015; Cheliotis 2017). Recent attention to the struggle of and long-term impact on children only scratches the surface of the suffering faced by migrants, their family and friends, and the impact on communities that witness this suffering.

Expanding knowledge beyond the EU/US borders and what we consider to be border deaths. The US-Mexico and external EU borders dominate international attention on border deaths and overshadow the phenomenon in other parts of the world. Even global databases such as those of IOM's Missing Migrants Project or the Associated Press tally released in 2018 (Hinnant and Janssen 2018), build their methodologies and definitions and contextualize their data from an EU/US perspective, with a focus on people crossing borders *into* the 'global North'. While there are certainly parallels between border deaths all around the world, there is insufficient knowledge of border deaths in other regions to assume that what is true for the EU and US border regions is true for border deaths worldwide. Moreover, because researchers monitoring deaths are predominantly concerned with death tolls and trends in mortality rates, many data, including reports of missing persons, are excluded as they are difficult to incorporate and follow up on. Western-centrism limits our questioning, and therefore our understanding, of this inherently transnational phenomenon, its causes and consequences and potential solutions.

Conclusions

This chapter has centred its discussion of border deaths around two main themes, data production and data dissemination, and provides ideas for future research on border deaths, including the role that we – as quantitative researchers – think mortality statistics should play in research and debates that can advocate for an end to border deaths.

Border deaths data has many flaws; however, it will certainly continue to be produced. Therefore, we should focus on improving the collection and analysis of it. The multiplicity and diversity of actors involved in producing data on border deaths (Chapter 1) is an advantage, as there is not yet consensus on the definition of border deaths, and the differences in the data produced demonstrate the challenges of data collection, the limitations of all datasets and the position of actors (Chapter 3). However, we could all afford to diversify our sources of information, innovate our methods of analysis and data production, and to expand our focus to include forms of non-fatal suffering that also demonstrate the harms of irregularized migration.

As quantitative researchers on border deaths, we are motivated to use statistics to advocate an end to border deaths and to inform policy to this end. As researchers, we are pressured to produce simplified, hard-hitting evidence and explanations from our, always more complex, findings. When policy-makers take an interest in border deaths, they demand more information (see Chapter 8) and a surge in research production follows, often catered to policy-makers' interests in the moment, rather than the issues demonstrated by the data itself. Such experiences have negatively impacted the way we conduct and present our research. If we are to make an impact that represents the knowledge we have gained, we must take charge of how we produce and disseminate data (see Chapter 3).

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About the authors

Kate Dearden works as a Data Analyst on the International Organization for Migration's (IOM) Missing Migrants Project, which is based at IOM's Global Migration Data Analysis Centre (GMDAC).

Tamara Last was awarded her doctorate at Vrije Universiteit Amsterdam for her empirical research on EU border deaths. She designed and managed the Deaths at the Borders Database. Her postdoctoral research at ACMS (University of the Witwatersrand) focuses on decolonisation of migration governance in Africa.

Craig Spencer MD MPH is the director of Global Health in Emergency Medicine and an Assistant Professor in the Program on Forced Migration and Health at Columbia University Medical Center.

3. Representations of Border Deaths and the Making and Unmaking of Borders

Giulia Sinatti and Renske Vos

Abstract

In this chapter, we focus on representations of border deaths as expressions of 'borderwork' by state and non-state actors. Through (non-) representations, illustrations of border deaths produce specific meanings that extend the physical space in which bordering processes occur to a de-territorialized space. This chapter asks how different actors see and present border deaths. Who represents whom or what? Why, how and for which audience? Why are some deaths presented as border deaths, whilst others are not? The chapter highlights how every representation is partial and positioned. By unveiling the different underlying agendas of different actors, we conclude that the study of border death representations may contribute to a deeper understanding of how 'borderwork' contributes to producing, reproducing and transforming the border.

Keywords: irregular migration, politics of representation, counting, dead, knowing, visibility

In this chapter we deal with the representations of border deaths produced by various actors. Specifically, we consider such representations to be part of the work that constantly produces, reproduces and transforms the border, work that we refer to as 'borderwork'. The term 'borderwork' indicates the increasing involvement of ordinary people in 'processes of bordering and de-bordering', which are traditionally carried out by nation-states and their institutions (Rumford 2008: 10). Besides state bodies and agencies, how do supranational organizations, NGOs, the media, artists, researchers, the general public, and migrants themselves see and represent border deaths? Following other authors who suggest that illegality is not produced by nation-states

alone, but through 'the creation of a transnational field of professionals in the management of unease' (Bigo 2002: 64), we suggest that these questions bring to light the fact that representing border deaths constitutes a form of borderwork and that it is imbued with political normativity.

The victims of border deaths belong to a group of irregular border crossers – a distinct group within the broader category of irregular migrants – who die crossing a state border without authorization (Last 2018: 33). Crossing a border for irregularized migrants requires crossing an extended border space, which often involves a lengthy and perilous journey (Pickering and Cochrane 2012). State borders thus expand beyond the lines separating one state from its neighbour, not only in a strictly geographic sense, but also in an abstract sense, through their representations.

Following a thesis suggested by Balibar (1998), borders are everywhere: they increasingly shift away from the external borders of states to become widespread not only across territories, but also across societies. We argue that while border deaths occur in diverse border spaces, their representations also contribute to producing, reproducing and transforming the border: one that further extends the sphere of influence of a spatial border. Border death representations, moreover, may be generated not only by state institutions, but also by various other actors (see Chapter 1). The relevant question here, therefore, is not where border deaths occur physically, but rather how bordering is further exercised through their representations and who by. Put differently, how do different state and non-state actors contribute to the making and unmaking of borders through representations of border deaths?

Border death representations are unsolicited by those being represented. Yet the question here is not whether the lives and deaths of people irregularly crossing borders should be represented and by whom (for various arguments around how border deaths should be represented see Chapters 2, 4, 5, and 6). Rather, the question here is to explore what kind of borderwork those representations produce. Concretely, we venture to do so around a set of sub-questions: Who or what is represented and who or what is not? Who or what is rendered (in)visible? What are the ways of representing? Why are certain deaths presented as border deaths, whilst others are not? Which narratives are produced through these (non-)representations? Who is representing and for which audience? For what cause?

In this chapter, we do not provide extensive answers to these questions. Instead, we highlight that every representation is partial and positioned. As such, we argue, representations of border deaths are expressions of borderwork: they constitute veritable practices of the making and unmaking of borders. Through (non-)representations, illustrations of border deaths create

specific narratives that extend the physical space of the territorial border to an abstract, deterritorialized space. Representations are, by definition, 'an essential part of the process by which meaning is produced and exchanged' (Hall 1997: 15). Writing, describing, documenting, speaking, photographing, publishing, exhibiting, performing are all forms of representing (other) people. As such, border death representations are an expression of the position of who is doing the representing and, thus, also politically laden (Vargas-Cetina 2013).

We have organized our argument as follows. In the next section, we illustrate the diversity of border death representations. Specifically, we showcase the diversity of voices in which certain deaths become more representative of border deaths than others. In the subsequent section, we look beyond this diversity of voices and elaborate on the multiplicity of actors – from state to non-state – involved in the representations of border deaths. We point to the different agendas of these actors and discuss how representations implicitly carry a political dimension. In a concluding section, we return to our main point that border death representations are part of the borderwork performed by multiple state and non-state actors.

Who or what is represented and how?

A representation focuses attention on something and, through implicit or explicit choices, it renders some things visible and others invisible. Who or what is represented is intimately connected with how someone or something is perceived by who is doing the representing. Furthermore, a representation shapes who or what is seen by its audience. The diversity of representations of border deaths, of borders, of people attempting to cross them and of their experiences in doing so is enormous.[1] In this section, we illustrate some of that diversity.

In our inquiry of representations of border deaths, our gaze turned firstly to deaths suffered by migrants themselves. Migrant deaths occur in diverse physical spaces: in the Sahel or Horn of Africa, where first contact with smugglers takes place or in the heart of Europe, after entering local reception systems. Deaths also occur in the places in-between: for example, in the Mediterranean Sea, on the island of Lampedusa, or at the French-Italian border in Ventimiglia. The place where migrant deaths occur is a significant

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1   See Chapter 7 for a model framework for comparing the many different perspectives behind such representations.

factor in determining whether or not they are represented as border deaths and whether or not they are represented at all (see Chapters 1, 7 and 8). In Europe, deaths at sea are portrayed as particularly representative of border deaths, whereas less emphasis is accorded to deaths occurring in the proximity of internal borders or inside the European space. As Mainwaring (2016: 290) observes: 'In the Mediterranean, migrants are rendered victims at sea, during rescues, and in death, where they can be pitied, rescued, and mourned as 'good' migrants; however, once ashore on EU territory, they quickly become risky, securitized bodies, possible villains, who must be detained'. As we discuss in this chapter, whether deaths are portrayed as border deaths or not, is reflective of implicit understandings of the messenger and evokes different meanings in the listener.

Some places where border deaths occur are considered as more 'representative' than others (see Chapter 5). Places gaining more attention than others through representations are more likely to attract humanitarian infrastructure, policing and monitoring and knowledge generation in all its forms, which end up in turn reproducing the asymmetry between more and less 'representative' places.

The means of representation also has a strong impact on the nature of the message. Representations through maps typically show the geography of a terrain void of the people in it (see Chapter 8). Numbers are another means of representing border deaths and are crucial for illustrating, for instance, the scale of the phenomenon of border deaths (see Chapters 4, 5 and 7). Quantifications of migrant deaths in the Mediterranean, however, do more than just report the numbers of people involved. On the one hand, they often appear in news articles and NGO reports and updates. Used in these contexts, they evoke a sense of a huge disaster unfolding at Europe's frontier (Dickson 2018): they voice public outcry. On the other hand, numbers may also have the opposite effect: by glossing over the personal stories of migrants and refugees and depicting them as a mere figure, they may render *people* invisible and so reduce a sense of urgency.

Andonea Dickson (2018) articulates how much information is lost by representing border deaths merely through numbers. Besides the fact that the figures are often inaccurate (Last et al 2017), the exercise of counting erases the processes that lead to death and overlooks the embodied nature of loss and suffering (Hyndman 2017). People disappear in numbers: as we further illustrate in the next section, criteria for counting border deaths may generate different figures when not all deaths are included in statistics. Most importantly, border deaths are recursively constructed as the deaths of 'others' suffered far away. Dickson (2018: 5) argues that these erasures

produce a distance from both space and bodies that eliminates a sense of responsibility. 'Out of sight, out of mind' in common parlance: it is hard to evoke a felt sense of responsibility for something that happens far away. Some rare accounts advance such careful analysis of quantitative data that they do articulate valuable insights into the human experience behind abstract figures, precisely through their productive use of empirics (e.g. Last 2018). More often though, recursive distancing practices ignore geographies of logic in favour of specific representations. 'The Mediterranean is increasingly constituted as a European frontier: not *without* European power, but nonetheless not *within* Europe' (Dickson 2018: 20). Bringing this space closer means 'to generate a more human and embodied understanding of this liquid terrain', as opposed to further abstracting it with numbers (*ibid*: 20). Indeed, this also challenges the tendency, pointed out by some, to 'naturalize' border deaths or to present them as caused by the natural environment such as the sea or weather conditions (Stierl 2016; Schindel 2016).

Numbers are central in discussions about the island of Lampedusa. This Mediterranean island has become a symbol of the European border and the 'migrant crisis'. It is one of the best-known border islands in Europe (Cuttitta 2014) and, by extension, it is central in discourses about migration in Italy. Based on an analysis of Italian newspaper articles (2009-2016) published in *La Repubblica* and *Il Corriere della Sera* (the two most widely sold newspapers in Italy), Giovanna Di Matteo (2018: 14) reveals a mismatch between the political rhetoric about irregular migration and official figures about border deaths. She notes that border-related death was at the core of media narratives about Lampedusa only in 2013. That year, while the overall number of recorded deaths was lower, 366 people drowned in a single shipwreck just half a mile off the Italian island on 3 October. Again, this suggests that where border deaths occur has an impact on whether and how they are represented. Politics of externalization, pushing borders far away from the physical boundary lines of destination countries, result in making border deaths invisible, since these mostly occur out of public view. However, when hundreds of corpses arrive at one time on European territory, obscuring them becomes impossible and different actors provide different interpretations and representations of the tragedy, as shown in the next section.

Large shipwrecks such as occurred off Lampedusa, mostly do not help to challenge the trend of making individual identities invisible: again, people tend to disappear in numbers. Some incidents however, make individual faces stand out amidst the 'countless images, both impressive and deeply disturbing, [that] reach us daily' (Ataç et al 2015: 1), as with the story of Josefa. In July 2018, Josefa was found barely alive at the scene of a shipwreck

by the rescue vessel of the Spanish NGO, Open Arms. Together with two other bodies that were found dead, she had been abandoned there by the Libyan coast guard that had carried out the 'rescue' operation that brought the other survivors back to Libya[2]. In this and other stories that hit the headlines, one individual unexpectedly stood out from the abstract group of migrants and gave this group a face.

Interestingly, Josefa's story emphasised her as a survivor.[3] By foregrounding Josefa, the story portrayed European humanitarians as rescuers, Libyans as perpetrators and sub-Saharan African women (and children) as victims. The representations significantly centred *around* Josefa, not *on* her. The Spanish humanitarians saving Josefa were the protagonists of the tale. Like many other stories of this kind (notably the one of Alan Kurdi, the Kurdish boy found dead on a Turkish beach in the summer of 2015), Josefa's story became popular because it enabled some readers to relieve themselves of any guilt associated with their awareness of borderwork, directing them to affiliate with the rescuers rather than the perpetrators. The story ends without us knowing anything about who Josefa is or what her life is like. What became visible of her individuality was only a stereotyped and anonymized image that (re)affirmed how certain roles are allocated. Migrants themselves, in fact, rarely have the opportunity to make their versions of their stories visible.

Josefa's example shows that besides migrants, in border death representations, attention may also be paid to other actors. Rescuers for instance, become the main protagonists of representations in the case of humanitarian boats saving migrants in the Mediterranean Sea (Stierl 2018). Smugglers by comparison, are much less visible in the media and other representations and yet are prominently talked about in official policies. In official documents, state actors 'blame' smugglers for border deaths, arguably as a means to shift responsibility away from themselves for 'causing' border deaths as an outcome of their own securitization policies. Jackson Oldfield (2018) points out how, through the Protocol against the Smuggling of Migrants,[4] people

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2   See articles published in Internazionale (https://www.internazionale.it/reportage/annalisa-camilli/2018/07/24/open-arms-josefa-guardia-costiera-libica) and Euronews (https://it.euronews.com/2018/07/18/lei-e-josefa-ed-e-l-unica-sopravvissuta-all-ultimo-naufragio-in-libia and https://www.euronews.com/2018/07/18/libyan-coast-guard-deny-the-accusation-they-abandoned-migrants)

3   See Chapter 1 for a critique of the term 'survivor'.

4   Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime. Available on: https://www.unodc.org/documents/middleeastandnorthafrica/organised-crime/UNITED_NATIONS_CONVENTION_AGAINST_TRANSNATIONAL_ORGANIZED_CRIME_AND_THE_PROTOCOLS_THERETO.pdf

smuggling has become associated with the United Nations Convention on Transnational Organized Crime. By adding this Protocol to the Convention, a legal link between people smuggling and transnational organized crime was established (*ibid*). Such a link may influence perceptions of migrant smugglers as subjects carrying out criminal activities that, in turn, may become connected to people's deaths.

In this section, we have accounted for a great diversity in border death representations.[5] What the examples highlight is that this diversity is the outcome of active choices about who is placed in the spotlight (migrants, rescuers, smugglers), how (through reference to aggregate numbers, or insight into individual stories), where (at the external gate of Europe or within it), and by whom (media outlets, state actors, migrants themselves). This diversity testifies that border death representations are a direct expression of how borders are conceived. In the next section, we link representations of border deaths and the particular form they take to the (political) agendas of the many state and non-state actors producing them. By so doing, we show that border death representations are a form of borderwork that contribute to the construction, contestation and renegotiations of borders.

Who is representing to which audience, for what cause

Who, how, and what is represented is primarily shaped by who is speaking about border deaths, to whom and why. This raises additional questions: Who is doing the representing, for which audience and in pursuit of what particular cause? In discussions about border deaths, migrants and refugees are represented in a plurality of ways by a multiplicity of actors. Bordering, as we have pointed out above, is not a mere prerogative of states, but sees also non-state actors engaging in borderwork (see Chapters 1 and 4).

Migration is a highly politicised issue and border death representations reflect the underlying understandings and aims of those representing. Some (including the authors contributing to this volume) represent border deaths in order to focus attention on humanitarian needs to avoid further deaths; others wish to invoke the adoption of restrictive measures against migrants. Daniela Trucco (2018) notes how people and organizations active along the Ventimiglia-Menton border between Italy and France talk about border

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5   Dearden, Last and Spencer (Chapter 2) argue that the multiplicity of sources and actors involved in monitoring (and, also, representing) border deaths is an advantage as the differences between them demonstrate their limitations and assumptions.

deaths in an attempt to call to action public powers at the local, national and European scale. Based on long-term fieldwork, she finds that various actors invoke border deaths to advance political arguments and she shows how varied these arguments can be. For example, the same border death may be evoked by some to argue for more humanitarian aid, and by others to argue in favour of migrant expulsions from the town (see Chapter 7).

The same border death can thus advance multiple meanings and agendas. Paolo Cuttitta (2018) further demonstrates that humanitarianism in the Mediterranean can be representative of both inclusionary and exclusionary mechanisms. It is invoked by institutional actors in support of policies to prevent migrants from risking their lives when embarking for Europe – thus excluding them from rights they would enjoy once there – as well as by civil society actors such as NGO and pro-migrant activist networks to enhance search and rescue operations that disembark migrants on European soil (Cuttitta 2018: 784). Along the same lines, Stierl (2016) shows how search and rescue NGOs use the argument of (preventing) border deaths to criticise restrictive border policies, while state actors working on the same Mediterranean border use the very same argument in their favour. Emblematic of the latter argument is the naval operation EUNAVFOR MED. This European Union Naval Force is tasked with the core mandate to 'identify, capture and dispose of vessels and enabling assets used or suspected of being used by migrant smugglers or traffickers, in order to contribute to wider EU efforts to disrupt the business model of human smuggling and trafficking networks in the Southern Central Mediterranean and prevent the further loss of life at sea.'[6] The whole operation was re-named 'Sophia' after the name of a baby born on one of its ships to a mother who had just been rescued, showing how new life (and not just migrant deaths) at the border can also be used to carry a strong political message.[7]

Another example of different actors providing different interpretations of border deaths is provided by the aforementioned 3 October 2013 shipwreck near Lampedusa. Ritaine (2015) shows how media outlets, political actors and activist groups interpreted those deaths. Depending on who was representing them and for what cause, the dead were represented as anonymous bodies to be treated materially and symbolically, as public policy issues, caught up in political controversies, or as individuals with fundamental rights, to be respected and remembered.[8]

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6   See https://www.operationsophia.eu/
7   See Renske Vos' PhD research at the Vrije Universiteit Amsterdam, entitled *Europe and the Sea of Stories*: https://ceptl.org/index.php/people/faculty-staff/10-people/62-renske-vos
8   For the forensic response to the 3 October 2013 shipwreck, see Chapter 4.

In the previous section, we noted that borders can be seen as occupying an extended zone. Representations therefore also involve defining where the borders of the border are located. It thus becomes an active choice whether to circumscribe the border to clear-cut territorial lines between states, or to further extend it (see Chapter 6). Representations of border crossings and deaths may be staged far away from the physical border, during the longer journey of irregularized travellers. What is represented as a 'border' is determined in each instance, by what is seen as the site of contestation and representations of border deaths, which thus reflect the politics of the actors doing the representing. For example, is the state of being in limbo in a host country also an extension of the border? If so, the border space can stretch (e.g. in the case of the EU-Africa border) from Agadez to Amsterdam. The criteria for the definition of border deaths adopted for different databases are a noteworthy illustration of this point. In its list of deaths by migrants trying to enter the EU, the Dutch organization UNITED for Intercultural Action[9] includes deaths occurring in detention centres, as well as other deaths that are only indirectly related to the act of border crossing. Conversely, the Missing Migrants Project of the International Organization for Migration (IOM)[10], only includes deaths occurring while trying to cross a state-border (Al Tamimi et al forthcoming). The former initiative, driven by civil society activists, aims to 'wake up Europe's conscience' and points the finger at state authorities and their border policies. The latter, a state-sponsored project run by an intergovernmental organization with an interest in orderly and managed migration, calls on the world's governments to address 'an epidemic of crime and abuse', suggesting that the responsibility for border deaths lies on smugglers. Despite both pursuing denunciations, how different actors see the border is both shaped by and shapes their discussions about it.

We have just illustrated how representations of border deaths may differ on the basis of the actor doing the representing. So far, we have largely taken into account state-related actors and the non-state actors such as NGOs, the media, and pro-migrant networks engaging in borderwork. Yet, what about representations by migrants themselves? Their voices are largely absent from many platforms in the public domain. Migrants mostly rely on their own, often informal, channels of communication. An extensive survey documenting migratory journeys and experiences, for example, reports the 'importance of information-sharing through networks of people on

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9   See http://www.unitedagainstracism.org/campaigns/refugee-campaign/fortress-europe/ and https://uploads.guim.co.uk/2018/06/19/TheList.pdf [last accessed 20 December 2018].
10   See http://missingmigrants.iom.int/

the move, as well as through family members' that often relies on private communication via mobile phones, social media and word of mouth, particularly along the central Mediterranean route (Stevens et al 2017: 69). Not all migrant-initiated communications are targeted at migrants on the move: some aim to reach broader audiences. Federico Oliveri (2016), for instance, has shown how families of Tunisian missing migrants demand truth and justice for their missing or disappeared relatives. Likewise, the Missing at the Borders[11] project provides a platform to give a voice to the families of missing migrants from different countries, offering them the opportunity not only to publicly express their sorrow but also to make political claims. These examples show the potential for border deaths to be represented as political and legal issues for which states can be held accountable (see Chapters 1 and 8).

In this section, we have illustrated how representations of border deaths may differ on the basis of the actor doing the representing. We have shown that state actors are by no way the only ones engaging in the representation of border deaths. Examples mentioned in this section include EU operations such as EUNAVFOR MED, inter-governmental organizations such as the IOM, as well as NGOs involved in search and rescue operations, pro- and anti-migrant activist networks along intra-European borders, the media, as well as migrants themselves, through informal networks or more organized advocacy initiatives. What we argue here is that, despite pursuing very different agendas, all these actors generate a cacophony of migrant death representations, which in itself is a form of borderwork: a constant, fluid attempt to enforce, question and renegotiate the border.

Conclusion

Representations of border deaths direct our gaze to particular aspects, or locations, or actors. We are all, in different professional and private capacities, touched by these processes of representation. In this chapter, we do not wish to reconcile any of the dilemmas that arise from representations of border deaths. Nor do we suggest that a given representation can be inclusive of all aspects of border deaths. Instead, we illustrate how state institutions and agencies, supranational organizations, NGOs, the media, artists, researchers, the general public and migrants themselves see and represent border deaths. Specifically, we seek to emphasize that every

11   See https://missingattheborders.org

representation is partial and positioned, and we point to some of the resulting implications.

In the sections above, we have first shown that every representation of border death is different. Who is representing, who or what is represented, who or what is left out of the representation and how those elements are presented are the outcome of specific choices. We have then argued that different state and non-state actors base these choices on their audience and the cause they intend to pursue: border death representations, in short, are politically loaded. And while this chapter has largely drawn on examples from Europe, we eagerly underline that border deaths are not unique to this region (Popescu 2011; Khosravi 2010; Anzaldúa 1987; Stierl 2017). Following Andersson (2014: 2) '[g]ruesome tales of migrant deaths abound at the gates of the West, whether at the southern frontiers of Europe, at the US-Mexican border, or along Australia's Pacific shores.' Beyond the Europe-centred perspective presented here, we hope that this chapter can kick-start a discussion about the role of representation in border deaths as an issue of global relevance.

Based on these premises, we argue that, in Europe and elsewhere, representations of border deaths constitute a form of bordering that is exercised beyond the physical space of the territorial border. Most often, bordering is conceived as the prerogative of States. Yet the diversity of actors involved in the representation of border deaths illustrated in this chapter, testifies to the fact that people and organizations outside the state also engage in this process (described as the 'border death regime' in Chapter 1). While pursuing varied political agendas, all these actors engage in borderwork by contributing to 'envisioning, constructing, maintaining and erasing borders' (Rumford 2008: 2).

As such, representations of border deaths become abstract, de-territorialized sites in which state and non-state actors all contribute to the creation and contestation of borders. Representations of border deaths are an extension of territorial borders, in the sense that they are 'places where the people interface with the state. The state imposes itself upon a territory and its population, whose cultural values and local activities may give legitimacy to the border or, alternatively, may erode that legitimacy' (Rumford 2008: 5).

In the sense that borders are barriers for some and entryways for others, border death representations may also carry a differentiated message. In the previous section, we have shown that border deaths may be equally evoked to call for the need to intensify humanitarian assistance, and to justify the very restrictive policies that are causing border casualties. Border deaths

and their representations have thus become a locus around which debates take place about irregular migration. For multiple actors, representations of border deaths become instances for the contested politics of mobility. The politics of control and the politics of migration (Squire 2012) are based on representations of the same deaths hinging on different underlying meanings as well as in pursuit of different political agendas. Representations of border deaths are used to confirm and contest the filtering function of state-borders. They are used to condemn unwanted outsiders who are standing at the doorstep, and to evoke unjust treatment of excluded victims. As Rumford (2008: 2) asks: 'who is doing the enclosing and who is in a position to create a border?'. To which we may add the reverse: who is doing the including and who is in a position to erase a border? How, in the interplay of different representations of border deaths, are bridges built and walls erected? These questions all call for a deeper understanding of underlying power-relations when states and their societies engage with the wider world. We argue that the systematic study of border death representations – of which we have only scratched the surface in these pages – may indeed contribute to such an understanding.

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About the authors

Giulia Sinatti is Assistant Professor at Vrije Universiteit Amsterdam, Department of Social and Cultural Anthropology. As a migration scholar, her research focuses on migration between Africa and Europe from both a migrant perspective and from the perspective of institutions and organisations trying to govern it.

Renske Vos is PhD candidate at Vrije Universiteit Amsterdam, Faculty of Law, and fellow at the Centre for the Politics of Transnational Law (CePTL). She studies how EU officials make (no)sense of the counter migrant smuggling operation EUNAVFOR MED Sophia. Broader research interests involve ways of visualising international law.

4. Engaging Bodies as Matters of Care

Counting and Accounting for Death During Migration

Amade M'charek and Julia Black[1]

Abstract

This chapter attends to the often-neglected bodies of migrants who do not make it to their destination alive. It addresses initiatives where the bodies are attended to at the population level, i.e. practices of counting, as well as at the individual level, i.e. the burial, registration and potential forensic identification of individual deceased bodies. We introduce the notion 'matters of care' to analyse modes of knowing. We argue that caring for these bodies with dignity and respect – through counting, listing and mapping the dead as well as through attempts at identifying the individual bodies – produces proximity with the dead and accountability for deadly border management regimes.

Keywords: body management, DNA profiling, missing, families, representation

Narratives of migration 'crises' are pervasive but problematic: the high numbers of people seeking refuge from situations of war, violence and poverty have been referred to as 'tsunamis' and 'floods' of migrants. This rendering not only dehumanizes people on the move, but it also produces distances between us versus them and here versus there. While numbers about those who migrate to Western countries dominate the media and policy documents, those who do

not make it to their destination alive do not seem to merit much attention. As Last and Spijkerboer (2014) have argued, the paucity of proper documentation of deaths during migration has led to a lack of accountability on behalf of politicians. The more than 30,000 fatalities documented by the International Organization for Migration (IOM 2018) in the last five years – likely a gross undercount of the true number – testify to the failure of border management regimes worldwide, a 'governing of migration through death' (Squire 2017).

Across the world, particularly during crises in which many hundreds, if not thousands, die in a short period of time, migrant bodies have a real, tangible presence. Moreover, these bodies are often found in irregular spaces. For instance, they are recovered by the nets of Libyan fishermen, called in by tourists on the beaches of Spain and Turkey, and discovered – sometimes long after decomposition – by crew in the stowage of ships and by ranchers in the desert between the US and Mexico. Those bodies not found are interred in deserts, seas and rivers across the world.

In this chapter, we attend to the often-neglected bodies of those who do not make it to their destination alive. We do so by addressing initiatives where the bodies are cared for at the individual level, i.e. the burial, registration and identification of individual bodies. Introducing the notion of 'matters of care' (Puig de la Bella Casa 2011), we argue that caring for these bodies with dignity and respect – through attempts at identifying the individual bodies – produces proximity with the dead and accountability for deadly border management regimes.

Addressing migrant deaths as 'matters of care' can help us address humanitarian issues simultaneously as political issues. Issues such as accounting for migrant bodies are not infrequently related to colonial legacies, postcolonial conditions as well as militarized borders (see Chapter 6). Approaching migrant bodies as matters of care thus helps us not to reproduce separations between worlds (the proverbial 'the West and the rest') and to underline their entangled nature. Moreover, how we deal with the dead is one of the attributes distinguishing humans from other animals. Thus caring for the dead is one way to maintain our humanity amidst the human dramas that are so easily clustered under the heading 'crisis'. Finally, and closer to the practice of managing and identifying dead bodies, caring is not merely about an affective relation, but also about a mode of knowing. Caring as a mode of knowing is methodologically open-ended and works with the contingencies found on the ground, rather than (idealized) laboratory settings (Puig de la Bella Casa 2011).

Caring as a mode of knowing and relating *in practice* is simultaneously a mode of *accounting*. Engaging the bodies of dead migrants is, first of all, taking care of these bodies as human remains, remains that belong to specific

individuals whose identities can be uncovered. Secondly, given the manner and quantities of death, engaging these bodies implies accounting for the origins of and reasons of these dramas, reasons such as deadly border management regimes (see Chapter 1). Thirdly, taking care of bodies also entails their representation in numbers. Accounting – to stay closer to its etymology of counting – is then about the affective qualities of numbers and their representations.

In what follows we will address only two modes of accounting. We will start with the visualization of numbers of death, and their affective qualities, and then discuss the issue of management and identification of bodies.

Attending to numbers as a mode of accounting for deaths

Numbers are key actors in debates and policy about migration as well as in accounting for migrant bodies. While in the case of living migrants, numbers have often been accompanied by words such as 'floods,' 'waves' or 'tsunamis,' as if to indicate a life-threatening situation, attempts to count migrant bodies often come by themselves, without further classification. In this way, numbers objectify, produce a distance and may even trivialize what they represent (see Chapters 2 and 3). Yet we contend that counting is in fact a crucial and important practice of care and of accounting.

Through counting a record is made bearing witness to the dead, and the way numbers are represented can encourage the audience to care about the dead (Sontag 2003). Thus, while counting is an important bureaucratic procedure it may also produce a relation of care.

The production of numbers is key to state policy, lending to statistics, stemming from 'state' (Desrosières 2002). It is thus an important step for policymaking in general and might, in the case of migrant death, produce an incentive for states to act, and produce an obligation to prevent deaths (see Chapter 8). But does the measuring of death also produce accountability? Do numbers produce an affective response with a wider public, a proximity to those who lost their lives and a responsibility for 'our' policies? We want to suggest that numbers are, potentially, capable of such a response. To be sure, the kind of response depends both on the subjective disposition of the addressee and the way numbers are presented.

Migrant bodies and their numbers are predominantly represented through maps or lists. Here we present an image for each of the two categories. Figure 4.1 is a map from the IOM's Missing Migrants Project (MMP); Figure 4.2 is a screenshot from UNITED for Intercultural Action's 'List of Deaths'. The MMP began publishing its database in 2014 and is the only initiative aimed

at regularly documenting deaths in the process of international migration worldwide. The List of Deaths is an ongoing initiative that since 1993 has documented 34,361 'deaths related to Fortress Europe' from a variety of sources, including primarily media and NGO reports but also, in the latest update, incidents recorded in the MMP database (UNITED 2018).[2]

Figure 4.1   IOM's Missing Migrants Project homepage

Source: http://missingmigrants.iom.int

The landing page of the MMP website (Figure 4.1) represents the numbers of recorded deaths and disappearances during migration over the past four years – encapsulating both documented bodies and an estimation of those migrants who are lost and presumed dead. But it does more: it disaggregates the numbers, not only by visually representing them through bars that compare the numbers of migrant bodies across years, it also situates the dramas in specific regions on a physical map, thereby demarcating certain political borders. Smaller and larger bulbs visualize the proportions. By clicking on the bulbs, the map zooms in and visualizes the breakdown of the numbers and the places of the incidents in the relevant region. By further clicking on the flagged locations, the map provides detailed information for each incident (number of dead and missing, sex, country of origin, cause of death, location, information source, etc.). In sum, the MMP map goes beyond the mere presentation of numbers, providing a human and geographical context which allows the public to identify with the dead and the missing. Thus, it represents what we call an affective geography.[3]

2   For a discussion of sources of border death data see Chapter 2.
3   We borrow the definition from Giaccardi and Fogli (2008) with a *caveat*: While these authors theorize affective geography as a means of both visualizing and eliciting affective meaning

The List of Deaths (Figure 4.2) might, at first glance, produce a distance. It lists 34,361 deaths since 1993 according to date found, name, gender and age, region found, cause of death, etc. Once downloaded as a PDF, however, the list is immediately overwhelming: even such an unadorned list demonstrates the sheer quantity of deaths related only to migrants' deaths in Europe. Reading the information it records is even more arresting: 'died off coast of Tripoli after Libyan coast guard banned NGO ships from approaching', 'electrocuted when he climbed on roof of freight train in depot outside Thessaloniki', 'strangled by desperate mother who hanged herself afterwards in Eckolstädt asylum centre'. The name column emphasizes the hundreds of unidentified bodies and the limitations of border death data. It invites the viewer to explore and interpret the data in their own way, but forces viewers to engage directly with morbid details. Reading these, it is hard to maintain distance from the suffering and hardships.

Figure 4.2   UNITED's List of Deaths

Source: http://unitedagainstrefugeedeaths.eu/about-the-campaign/
about-the-united-list-of-deaths/

('We have defined affective geographies as web maps that reveal how we are "affected" by environmental settings, and that in turn "affect" the way in which we experience and interpret the environmental setting mapped'), we use this term to define mapping methods aimed just at eliciting affective meaning.

Both maps and lists, we argue, may produce affective responses, moving the viewer to situate the bodies beyond their numerical representation. The bodies and their counts in the above examples do not only *represent* death, but also *evoke* narratives about lives envisioned and dreams crushed, or journeys taken and hardship encountered. In this way the dead bodies become matters of care for they initiate a response in the viewer. Moreover, the above examples make clear that counting may well go hand in hand with accounting, in the sense that they make visible the scale and details of migrant deaths and migrant bodies. Numbers are capable of producing a profound proximity and of doing the political work of accountability (see Chapter 8). To be sure, as we indicated at the very beginning of this chapter, the use of numbers does not always produce proximity (see Chapter 3). Numbers couched in a dull policy report and stripped of any context will lose their affective power. Data on mortality in humanitarian emergencies generally, sometimes produce political interest or attract aid to a crisis; however, such an intervention is not guaranteed, and has not prevented further deaths (Checchi and Roberts 2005). Whether numbers produce proximity to the problem of migrant death, or distance, whether they produce accountability or indifference is dependent on the form in which they are presented, and the willingness of the viewer to engage and interact.

Managing and identifying bodies as a mode of accounting

Initiatives to count migrant deaths usually centre on incidents, and numbers are determined based on information other than the bodies found. The Deaths at the Borders Database is one of just a few body-based databases, as it is compiled from official death certificates (Last et al 2017). Another example is the Arizona OpenGIS Initiative for Deceased Migrants, a database which lists all migrant bodies found in Arizona through collaboration with the Pima County Office of the Medical Examiner and Humane Borders, Inc. (Humane Borders 2018). These datasets cannot capture the many migrant bodies that are not found. Instead, a body-based approach is typically adopted for identification procedures which are only triggered when a body is found (see Chapter 2).

The identification of bodies in the context of migration presents many challenges (see e.g. Olivieri et al 2018). The first challenge concerning identification is that bodies of those who died on route are difficult to identify as belonging to migrants. In many cases bodies may not be recovered

until long after the time of death, if at all. For example, nearly one-third of the 2,999 migrant bodies recorded in Arizona since 2000 were skeletal remains (Arizona OpenGIS Initiative for Deceased Migrants 2018). This means that unless a person dies on a well-known migratory route, it is difficult to determine whether the body belongs to a migrant or not. This designation is important because without it, authorities may not be able to assist families who are searching for their loved ones who went missing during a transnational journey (see Chapter 5).

Secondly, it is difficult to clarify the identity of a migrant body based on documents or on visual identification (Tidball-Binz 2007). Those who migrate irregularly might do so without identifying documents or while carrying false documents or their identifying documents might get lost along the way. Similarly, in practice, visual identification by family members is difficult.[4] First, because local forensic authorities and records are largely inaccessible for relatives, or because relatives face difficulties retrieving a visa to travel to the countries where their beloved ones might have been found. Second, when possible and based on viewing a relative's body or personal effects, identification can be unreliable due to the condition of the body, the lack of consistent retrieval and recovery of the deceased's belongings, not to mention the stress on the family. This means that the identity of victims can only be verified through verbal accounts of fellow travellers, personal effects, or DNA and other forensic matching techniques by comparison with existing records.

In the criminal justice system, particularly in the context of crime-solving, forensics has become a potent field, with powerful technologies such as fingerprint comparisons, DNA profiling, biometrics, etc. Equally, in the context of mass disasters, such as terrorist attacks, tsunamis or airplane crashes, particularly in cases involving many victims from the global North, disaster victim identification (DVI) protocols are well-developed. These protocols have spurred standardized DVI forensic methods to be used even under disheartening and hectic circumstances. Typical identification methods in DVI are dental records comparisons, identifying bodily markers such as specific scars, physical traumas, or tattoos, DNA comparisons or personal effects such as clothing (labels, etc).

Despite these well-established forensic practices, identifying the bodies of migrants is extremely difficult and requires additional 'infrastructural

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4   For example, Central American migrants may use false documents identifying themselves as Mexican nationals, so that if they are apprehended by the United States Border Patrol, they would be deported back to Mexico rather than to their home country (Gill et al 2013).

work' (M'charek 2018). For example, people who die in the desert will lose all characteristics within just a few days, rendering migrant bodies into skeletal remains, often highly dispersed by animals or weather conditions. Even though skeletal material is a good starting point for identification, without any additional information or personal effects it is extremely hard to individualize. Those who wash ashore after drifting in the water for long periods of time will be visually unrecognizable and, even if they arrive intact, will lose their fingerprints as the skin comes loose. Most profoundly, the usual DVI protocol, based on comparisons to medical or dental records, often loses relevance as it is very hard to determine the country of origin of a deceased migrant and, correspondingly, to find the relevant records (Olivieri et al 2018). Even DNA is of little help in identifying migrant bodies: unless there is an immediate family member to whom the profile of the deceased person can be compared, DNA will be of little help because of the lack of DNA reference populations[5] from regions such as Sub-Saharan Africa or the Middle East (M'charek and Casartelli 2019). Next to survivors' accounts,[6] the only chance of identification in such challenging, yet increasingly common cases will be when family members start to look for their relatives and inter alia submit their DNA to look for a possible match or recognize catalogued personal effects of their missing relative.

The International Committee of the Red Cross (ICRC) has developed several initiates to actively engage family members in the tracing of their missing or deceased relatives. Since 2013, the ICRC's Trace the Face programme allows those searching for missing relatives to upload a photo of themselves and describe the person they are looking for through their nearest Red Cross, Red Crescent or ICRC office. Since 2017, the Missing Migrants in the Mediterranean Transregional Pilot Project liaises, where possible, with families of missing migrants potentially affected by the shipwreck on 18 April 2015 off the coast of Libya which claimed approximately 800 lives. Most recently, the ICRC has carried out the Missing and Deceased Migrants Pilot Project, aimed at the collaboration of family members in South Africa and Zimbabwe (Singleton et al forthcoming).

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5   In this case, 'reference population' refers to a group of DNA samples defined by geographic data which can aid in identifying the location of origin of the deceased.

6   Survivors can provide a useful starting point, but they are rarely consulted and information volunteered is often ignored or not transmitted to the relevant authorities (see Tsapopoulou et al 2012). The live bodies are separated from the dead bodies as soon as possible, after which they are managed by very different authorities and interact with different actors (Zagaria 2011, see also Chapter 1).

Collecting ante mortem data for DNA matching requires access to family members of the deceased, who may not have the resources or mobility necessary, or might be hesitant to provide a DNA sample as they might fear repercussions from state authorities (Olivieri et al 2018; ICRC 2018a). Also, medical records may not be available in countries of origin, especially if the deceased were not economically well-off. Finally, the authorities of countries of origin may not be willing to collaborate and help in the collection of ante mortem data. Most states – countries of origin, transit and destination – lack programs for the reporting of persons missing abroad and none provide assistance to families who seek to travel to the potential site of death or burial of their lost loved ones. In Tunisia, under pressure of the relatives of young men who went missing since 2011 and the Tunisian Forum for Economic and Social Rights (FTDES), a governmental commission of inquiry was created in 2015 to help families find clues about the destiny of their children in Italy. This committee was, however, heavily critiqued for a lack of serious interest in the issue.[7] Thus while state-led identification of migrant bodies is rare there are several NGOs and international governmental organizations working towards improving the situation.

One example can be found in Arizona, where the Pima County Office of the Medical Examiner (PCOME) has partnered with the NGO Colibrí Center for Human Rights to identify 65 per cent of migrant bodies since 2000 (PCOME 2018), one of the highest success rates reported. However, the PCOME covers only those migrant bodies recovered in Arizona, while identification of migrant bodies in the other three US states remains highly fragmented.

Less successful but nonetheless admirable is an investigation into the shipwreck of 3 October 2013 led by the Italian National Commission for Missing Persons, which identified 31 out of 53 missing persons sought by family members, all of whom resided in Europe (Robins forthcoming). However, those identified represent less than 10 per cent of the 366 individuals who died in the shipwreck (Olivieri et al 2018). More recently, the same Italian team has started forensic identification work on hundreds of deceased bodies who were trapped in the aforementioned shipwreck of 18 April 2015. While the remarkable infrastructure for boarding the ship, examining, documenting, sampling and burying the bodies was successful, the identification thereof will be largely dependent on the collection of ante

7   See e.g. https://www.alaraby.co.uk/english/indepth/2018/12/5/tunisian-families-push-for-truth-over-missing-mediterranean-youth

mortem samples (M'charek and Casartelli 2019). While both investigations are a step in the right direction, such a case-by-case approach represents only a small fraction of the thousands of migrants who have died in shipwrecks on the Central Mediterranean route in recent years.

A final important example is the Hellenic DNA database established in 2015 in Athens. This DNA database is precisely aimed at compiling a registry of deceased migrants in Greece in the hope of identifying them. It has compiled hundreds of profiles of deceased persons and of reference samples from relatives looking for beloved ones. Reports about the identification of migrant bodies have been made in several publications.[8] The success of the DNA database should be viewed in the light of the Hellenic DVI, the first national DVI unit which is committed to dealing with migrant fatalities and ensuring that DNA samples are taken during autopsy and passed to the DNA laboratory.[9]

The initiatives described here generally take either a family-led or state-oriented approach. Only the Argentine Forensic Anthropology Teams' (EAAF) Border Project brings together both sets of actors, which has created a regional mechanism to exchange forensic identification on migrant bodies and missing persons across several Central American states (Doretti et al 2017).

Family-oriented initiatives are the approach most often used by non-state actors, likely due to issues of access (see Chapters 1, 2 and 6). Such initiatives are emblematic of the care migrant bodies deserve: the involvement with those most affected by the death of a relative produces not only a better chance of identification but also profoundly affective stories from those dealing with 'ambiguous loss' (Ben Attia et al 2015; see Chapter 5). Globally, the ICRC and national Red Cross and Red Crescent Societies collaborate on the Restoring Family Links programme, which collects missing persons reports from families separated by conflict, disaster and migration (ICRC 2018a). The aforementioned Colibrí Center is based in Arizona, but has collected missing persons reports – including free DNA collection – from thousands of families from across the United States and Latin America. Their database contains more than 3,000 open missing persons cases, which are compared with the forensic records from the PCOME (Colibrí Center 2018). These and related initiatives have developed in varied contexts, where states did not

8   See e.g. https://www.unhcr.org/gr/en/2999-athens-dna-lab-helps-trace-those-lost-at-sea-on-aegean-crossing.html
9   See e.g. https://gmdac.iom.int/sites/default/files/medmissing/dr._penelope_miniati_-_dna_analysis_centralized_dna_database._useful_tools_in_identification_of.pdf

adequately assume their responsibility to care for the bodies of deceased people, let alone to identify them. Related to the lack of comprehensive state initiatives to identify migrant bodies, there is hardly any coordination *between* states on this issue. Because migrant deaths are inherently transnational, international collaboration to link ante- and post-mortem data is required for the scientific identification of migrants (see Chapter 8).

One state-oriented approach to identification began recently in the European context.[10] The International Commission on Missing Persons (ICMP), an intergovernmental organization, is conducting an assessment of state capacities to identify missing persons in Italy, Greece, Malta and Cyprus, which is aimed at a capacity-building and standardization programme for identification across European states bordering the Mediterranean, though it is notable that Spain is omitted.[11] The project ultimately aims to build the capacities of states to manage bodies in the interest of identification, and to foster international data exchange through standard-setting. Given its long-standing experience with DVIs, the ICMP has expertise on how to protect the privacy of deceased persons and their relatives, a crucial component when dealing with migrant bodies and families who may fear retribution from states (see also ICRC 2018b). The ICMP's state-based approach, while in its infancy, is a crucial first step towards improving transnational coordination in the interest of the identification of migrant bodies.

While there is not space here to address the genealogies of these various initiatives in depth, they have not developed solely in laboratories or meeting rooms, but rather in a process of encountering deceased migrants and their families (see e.g. Kovras and Robins 2015). As the success of the EAAF's Border Project and the collaboration between the PCOME and Colibrí Center shows, any attempt to identify missing migrants must involve both states and families themselves – for both practical and moral reasons.

Managing migrant bodies: a neglected form of care

The identification of deceased migrants is contingent upon the management of bodies, including their recovery, storage, and burial. It is precisely here that the work of identification is usually halted. Studies focusing on the

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10   Although this initiative is currently focused on Europe, there is an interest and hope that in the future it can also include Northern African Mediterranean countries.
11   See, https://www.icmp.int/press-releases/developing-a-joint-process-on-the-issue-of-missing-migrants-in-the-mediterranean-region/ (accessed 14 June 2019).

management of migrant bodies in the Mediterranean and US-Mexico border context indicate that current efforts are far from adequate (Ben Attia et al 2015; Last 2016; Ochoa O'Leary and Soto 2018).

Ideally, though this is far from reality, the process of managing bodies consists of three temporally ordered steps: recovery, storage and burial, leading ultimately to identification.[12] Recovery does not only involve making all reasonable efforts to find bodies, but to retrieve the personal effects of the dead, and wherever possible, to interview eyewitnesses about the deceased person and the circumstances of their death (Ben Attia et al 2015). Storage consists of the storage of data, samples and personal effects. At this stage, an autopsy needs to be performed to determine the circumstances of death. The police and the public prosecutor need to exclude the possibility of a crime, in which case a criminal investigation is at issue. Storage implies the registration of the body and personal effects both verbally and by means of photography, by photographing the body and identifying markers (tattoos, scars, moles, etc), as well as clothing and other personal belongings. At this stage, biological samples are taken for future identification. The body receives a unique identification number, indicating, for instance, the date and location where the body was found, that should accompany the body, the samples and all data throughout subsequent stages (see e.g. Tapella et al 2016). Storage of bodies, data and personal effects needs to be organized in such a way that they are easily retrievable, identifiable and, ideally, in accordance with international standards such as those set out by the ICRC (2017). After examining the body and storing the data, a death certificate should be issued and the body buried.

In order to ensure the retrieval of bodily remains in case of post-burial identification, a unique identification code should be assigned to the body from its recovery, and used on all data retrieved from it, as well as the grave. For example in Europe, since 2016, there is an official process of identification used by EU countries around the Mediterranean Sea. Bodies receive a unique identifying number that starts with the telephone country code (in accordance with the Dublin Regulation to register migrants in the first country entered). While this official process is based on the management of bodies described above, in practice the situation is far from standardized and even where procedures do exist, they are not always followed. For

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12   In practice the process is more erratic, see Introna, Di Vella , and Campobasso 2013; M'charek and Casartelli, forthcoming.

example, Tapella et al (2016) show how, in the case of Sicily, due to the increased number of casualties, the bodies of dead migrants have been buried across municipalities, depending on where space was found. This fact, combined with irretrievable data about the deceased, has contributed to severe difficulties in locating the persons buried.

Conclusion: caring for migrant bodies

In this chapter, we have focussed on the neglected bodies of those who do not make it to their destinations alive. While these bodies have been attended to by attempts to count and measure the magnitude of migrant death, even less care and attention has been given to the proper management of these bodies or the identification thereof.

We have introduced the concept of 'matters of care' to call attention to the bodies of dead migrants. Attending to these bodies with care elicits novel ways of knowing and caring for the dead. Both mapping the magnitude of death and attempting to identify the dead bodies come with many challenges and require inventive methods (see M'charek and Casartelli 2019). While care relates to the moral obligation to view the dead as human beings (Moon 2018; Last Rights Project 2018), it is also about the material relation to grant them the right to not be forgotten. It is a way of attending to the principle stipulated by the Interpol General Assembly of 1996, namely, that 'human beings have the right not to lose their identities after death' (Resolution No. AGN/65/RES/13, preamble). The question is how to do that in practice where standard procedures do not work, or where a crisis (e.g. high number of casualties) is chronic.

To be sure, as this chapter makes clear, there has generally been little interest by state authorities to know the dead and to properly manage their bodies. Yet, internationally a variety of initiatives have been developed, mostly by NGOs, in which new ways of caring for the dead are emerging. These initiatives make clear that caring for the dead is a layered activity; it is an administrative practice, a forensic practice, an international collaborative practice, a humanitarian practice that involves both the dead and their relatives, as well as a political practice that attends to the rights of the dead but also aims at engaging us as witnesses. Counting, mapping, registering and burying make us accountable for those who die in search of a better life. They allow for the 're-membering' of those who die, as part of a human community.

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About the authors

Amade M'charek is Professor of Anthropology of Science at the department of Anthropology, University of Amsterdam. Her research interests are in forensics, forensic anthropology and race in the criminal justice and the humanitarian setting. M'charek is the Principal Investigator of the ERC-Consolidator Project RaceFaceID on forensic identification, face and race.

Julia Black coordinates the Missing Migrants Project for IOM's Global Migration Data Analysis Centre in Berlin. She is a co-editor of IOM's global report series on migrant deaths and identification, Fatal Journeys, and has authored several other publications on the topic.

5.   Mourning Missing Migrants

Ambiguous Loss and the Grief of Strangers

Giorgia Mirto, Simon Robins, Karina Horsti, Pamela J. Prickett, Deborah Ruiz Verduzco[1] and Victor Toom[2]

Abstract

While the term *missing* refers to various instances and practices, we focus on the bodies of deceased migrants that remain unidentified, and on the inability of families to mourn someone when there is no body to grieve for. We deploy some ethnographic fragments of how Italian communities sometimes mourn those who are buried without a name and we describe the many problems of mourning someone whose fate is unknown through a discussion of the notion of 'ambiguous loss'. Our contribution articulates some of the politics around deaths in migration by considering how missing migrants and their bodies are mourned in multiplicity.

Keywords: commemoration, memorial, politics, Mediterranean, implications of missing persons, lost

In case my son is dead, I'd like to bury him here and, at least, I'll be fixed and I'd have a place where I pray. Even bones, I'll bury them. The cemetery is in front of my house. Every morning, I wake up in front of it. I recite the *Fatihah*, I do this daily. I don't have any hostility towards death. At least, if he's brought back to me, I'd look through the window to see his grave and I'd say that he's there. (Ben Attia 2016: 17)

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1   The views expressed in this chapter are those of Deborah Ruiz Verduzco and her co-authors and do not necessarily reflect those of ICMP.
2   Corresponding author: toomvictor@gmail.com.

Funerals are solemn occasions where both personal and social meanings are constructed about the position of the dead person in family and society. They are rituals where mourning is organized in a formalized way, and where someone's body, her past life and her family are at the centre of attention. They represent a significant moment, a marker of a transition, where one can see that a body is without life; it is cold, does not breathe, and descends into the soil or moves into flame, silent and still. Such rituals accompany bereavement and facilitate mourning. Psychologists define the mourning of someone who is interred or cremated and to whom farewells can be said as 'uncomplicated bereavement' (DSM-5 2013). A funeral with a body is in contrast to mourning someone without one. In the absence of a body, mourning becomes extremely difficult if not impossible (Boss 2004; Wagner 2008; Rosenblatt 2015; Perl 2016).

While attempting to cross the Mediterranean and other borders globally, thousands of migrants have died in recent years. Their bodies are often lost; they are lost because their bodies sink to the ocean floor, or because they remain unidentified after washing ashore on Mediterranean coasts or being found as desiccated skeletons in the desert (Alonso and Nienass 2016; M'charek 2018). Although the task of mourning someone is never easy, it becomes even more difficult when there is no certainty and no closure (ICRC 2010; Berns 2011). The reality for family members whose kin have disappeared – who are missing their child, sibling, spouse or parent – is that there is both no certainty about their fate, and no body to bury or gravesite to visit.

The question then becomes how to mourn someone when there is no *body,* not even confirmation of death? We discuss this question by, first, providing ethnographic glimpses of work conducted in Italy. We demonstrate that anonymous strangers are sometimes mourned by local populations, and that migrants' bodies acquire a post-mortal political life that engages with the humanitarian tragedy witnessed in the Mediterranean and other border zones every day (see Chapter 4 and 6). For every unidentified or unrecovered body in some border region of the world there is a family somewhere else looking for news about their missing relative (Schwartz-Marin and Cruz-Santiago 2016). In the next section, we focus on family members who are missing loved ones and have no knowledge of their fate or whereabouts, using 'ambiguous loss' as a conceptual lens to understand the unique challenges of mourning without a body (Boss 2004, 2018; Edkins 2011). In the concluding section, we ask if there are interventions that could address the unique challenges to mourning migrants who are lost in the Mediterranean.

Mourning dead, unidentified migrants

Thousands have drowned in the Mediterranean, many ending up dead on the territories they hoped to reach alive. Because two of us did ethnographic work in southern Italy, the section's focus is also related to the developed practices of dealing with the many dead in that region. Because there is no national law stipulating how migrant dead bodies must be managed, recorded and buried, there is great diversity in handling the dead between Italian municipalities.[3] While some approaches focus on embracing the bodies and humanizing them again, in other places the attitudes and practices of authorities responsible for the identification of unknown bodies and their burial have devalued human dignity (Tapella, Mirto and Last 2016; Albahari 2016; Robins, Kovras and Vallianatou 2014; see also Chapter 4). Through these different practices of burial and honouring of the unidentified bodies of migrants, different understandings of 'us' and 'them,' of 'our community' and of the 'other' are rendered (see Green 2012; Rygiel 2016). Some authors of this contribution have extensively and ethnographically attended to the practices of recovery, burial, mourning and memorialization of unidentified dead migrants by communities where bodies are found, and recorded a wide variety of responses, including private and public memorialization, neglect, and intense engagement (Horsti 2017; Mirto 2017). One locus of engagement is the cemeteries, which we regard as collective sacred places (Laqueur 2015). They are not only sites of complex cultural, civic and religious performances, but can also be regarded as archives where bodies often (but not always) become objects and subjects of meticulous record-keeping. Such archives are where relatives and friends who miss their kin and community members go to look for traces of them, to find them again (see also Kovras and Robins 2016). We discuss two types of engagement with the unknown graves of people who died attempting to enter the EU: individual/private practices; and collective/public practices.

When Giorgia Mirto conducted research at the Porto Empedocle Cemetery in Sicily, she recorded a migrant's grave containing the remains of a victim who became known as 'IT043/052'.[4] According to the *Deaths at the Borders*

3   Italian law entrusts the management of the dead to the jurisdiction of local city councils, but it doesn't state any relevant detail for border deaths bodies. See Decreto del Presidente della Repubblica 10 Settembre 1990, n. 285 Approvazione del Regolamento di Polizia Mortuaria. Electronic document, http://www.softwareparadiso.it/studio/lex-dpr285del90mortuaria.htm (accessed 10 December 2018).
4   For further information, see the series of intense photos about dead migrants and their post-mortal journeys recorded by Max Hirzel. His work, *Migrant Bodies*, is accessible at https://maxhirzel.photoshelter.com/index.

Database,[5] her body was found at the location 34.359 N 12.3568 E, 53 nautical miles off Lampedusa on 18 June 2007, and it was forensically examined and subsequently buried on 19 June 2007. From the forensic investigation, the level of decomposition indicated that she died approximately fifteen days before she was found. Authorities established that she drowned, that her height was 1.65 meters, and that she was of African ethnicity. Horrified by how the woman had died – her body decomposed and unidentified, missing any official recognition of death (such as a death certificate) – the cemetery caretaker kept telling Giorgia 'she's alone' and had planted roses on the grave (see Figure 5.1). Although she was a stranger, he cared for her body and grave.

Figure 5.1   Roses planted by the cemetery caretaker on an unknown migrant woman's grave. Porto Empedocle, Sicily

Photo: Max Hirzel

Mourning strangers is not uncommon in Sicily. Two local widows came to the cemetery not only to visit the graves of their late husbands but also to cry at the grave of the woman we know as IT043/052. They complained to Giorgia that the woman – and the other unidentified drowned migrants in the cemetery – was left alone. The widows felt a moral obligation to pray for

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5   The *Deaths at the Borders Database* can be accessed here: http://www.borderdeaths. org/?page_id=425 (accessed 22 November 2018).

Figure 5.2   La speranza naufragata (Wrecked Hope), memorial created in 2015 for the memory of unknown migrants who died at sea. Catania cemetery, Sicily
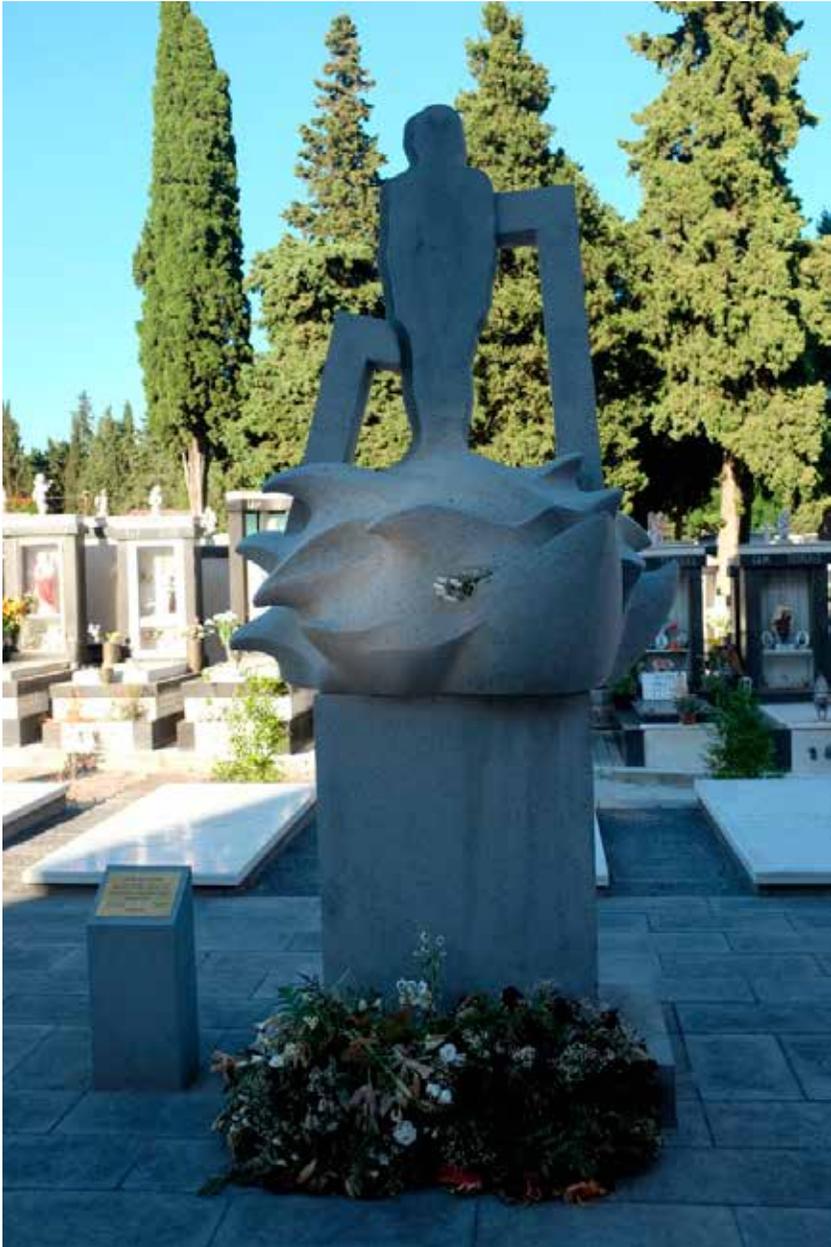
Photo: Karina Horsti

the dead woman's soul. The widows referred to the migrants using Sicilian terms normally used for relatives: *sangumeo* and *ciato di lu me cori*, meaning 'my blood' or 'breath of my heart'. The rose planted by the cemetery caretaker and the prayers of the widows demonstrate that local residents adopt and integrate unidentified, unknown migrants, thereby effectively bridging the dualism of 'us' and 'other.' Their care for the dead reveals a profound appropriation of mourning and the subsumption of deceased migrants within their own community of deceased. Beyond this, the appropriation of mourning allows the application of the ritual practices for overcoming grief.

In addition to these examples of rather personal and private means of mourning, we also observed more publicly visible, communal practices of engagement with the unknown dead and their graves in Italy. One can witness many lasting memorials for the anonymous migrant dead that guide others about how to mourn border deaths, and they are located in for example Lampedusa and Catania (Horsti 2016, 2017; Horsti and Neumann 2017). One of those memorials is *Speranza naufragata*, or Wrecked Hope, located in the main cemetery of Catania and serving at least two purposes (see Figure 5.2). First, the memorial critiques the EU as not taking responsibility for irregular migration and thus leaving the nations and communities in the border zone to recover, process, manage, bury and mourn border fatalities on their own. Second, the memorial serves to demonstrate – under the spotlight of international media attention – Sicilian communities as a caring society (Horsti 2017). But more is going on as the many graves without a name also stimulate people to act.

In Italy, as well as in other global border zones (see e.g. De León 2015; Boudreaux 2016; Gibbings 2010), there is widespread public engagement and numerous interventions aimed at expressing solidarity with dead migrants. These collective actions articulate 'grief activism' that aims at transforming political practices from creating division and necropolitical violence into fostering communities and relationalities (Stierl 2016). Another form of intervention, coined 'cemetery activism' or 'grave activism' attempts to render dignity and visibility to the unknown dead and make apparent the phenomenon of fatal borders (Stierl 2016). Such interventionist performances produce materials and other traces that acknowledge the dead as individuals, confirming that they are publicly grievable (cf. Butler 2004). But there is another, darker side to this. Cemeteries, such as that in Lampedusa, have become tourist destinations: they attract visitors with many different objectives, including paying respect, taking selfies to be posted on Instagram and other digital platforms, or for educational purposes. Such 'dark tourism' has been associated with exploitation and objectification of the dead (Lennon

and Foley 2000). Making more public the anonymous dead – a development that has accelerated since the 3 October 2013 disaster in Lampedusa – places them back in the *polis* and at the same time furthers their status as mute objects servicing wealthy European consumer or humanitarian desires.

Ambiguous loss

The woman with record number IT043/052 is not exceptional in the Mediterranean. Between 2014 and late 2018, close to 18,000 deaths were reported in the Mediterranean.[6] Most recovered bodies remain unidentified; *whose body it is* is impossible to determine (Toom 2016). In such cases those persons are understood to be missing by their families; they don't know if they are dead or alive, only that they are gone (Edkins 2011). Ambiguous loss is 'a situation of unclear loss resulting from not knowing whether a loved one is dead or alive, absent or present' (Boss 2004: 554). Ambiguous loss occurs where a family member is psychologically present but physically absent. As a result, families of the missing are trapped between hope and despair, seeking an answer but fearing it will be the worst answer and consumed by not knowing; not knowing whether to await a phone call or a letter, or to presume their loved one is gone for ever (Boss 2004; Robins 2010). Whilst the missing can be remembered and commemorated, as long as their fate is not known they cannot be mourned and their relatives may struggle to go on with life (Perl 2016). Border deaths are a tragedy amplified by the social relations in which those who die are embedded. The family members of a missing person will experience the additional trauma of ambiguous loss and, as a result, the number of victims of an unidentified death during migration goes far beyond the anonymous bodies that can be counted. Families' agony is further magnified by the many legal and bureaucratic problems they encounter. These include not receiving a death certificate, not being able to claim pensions and property, not being able to remarry or adopt children, and not earning sufficient money to maintain the household (Petrović-Šteger 2009; Parker, London and Aronson 2013).

While one understanding of mourning refers to a set of rituals and practices that creates both personal and collective meaning around death, the trauma of ambiguous loss is precisely the inability to mourn. Lack of knowledge about the loved one gives rise to a challenge to transform

6   See www.missingmigrants.iom.int (accessed 21 November 2018). For a discussion of border death data see Chapters 2, 3 and 4.

the experience into one with which the family can live. Cognition and rationality often demand a body or another confirmation of death; in its absence, families cannot grieve or make decisions and cannot emotionally accept the permanent absence of a loved one (Wagner 2008; Toom 2018). Situations of ambiguous loss predict symptoms of depression, anxiety and family conflict; the literature also reveals the need of families of the missing to end the ambiguity of loss (Boss 2004, 2018). If surviving family members do not receive official notification and corporeal confirmation of their kin's death, it remains unclear whether someone is dead or alive. The ambiguity of someone's status as absent or present persists. Formal proof of death through identification, burial or repatriation of the body may offer an end to the ambiguity of loss. Informal news of presumed death or shipwreck via known acquaintances can also enable intellectual acceptance of death, 'permitting' families to create space for mourning without feeling they are being unfaithful to the pursuit of their loved one alive (Blaauw and Lähteenmäki 2002). Where the fate of the missing remains ambiguous, some families find their own ways to remember and commemorate the missing in ways that avoid the rituals of mourning that are associated with a death.

As a result of both ambiguous loss and the emergence of digital technologies, new forms of commemoration and memorialization have arisen around the missing. Digital social platforms and mobile media technologies have come to play a new, innovative role in remembering missing persons and in connecting mourners across long distances. Digital images, verses from the Bible and the Qur'an, memories, poems, images and videos of individual commemorative rituals, and YouTube video collages of news images and family photographs are examples of transcontinental mediated commemoration (Horsti 2017). These digital shrines are intended to comfort friends and family in dealing with the impossibility of whispering farewells to missing persons. Yet many of these shrines are accessible around the world and thus become visited by a wider audience that is not related to the dead. Digital shrines act as a proxy for the unknown location where a missing and missed person is, whether or not she is dead or alive. But assuming that many family members will experience moments where someone's death is acknowledged, these online or digital shrines become 'mobile sepulchres' (Petrović-Šteger 2012). A mobile sepulchre instantiates an implosion of boundaries between public and private, local and global, and planned and spontaneous memorialization and commemoration. Digitally mediated routes to memorializing and commemorating those who are 'lost' (i.e. someone who cannot yet be dead), fundamentally transform cultures of remembering, commemorating, re-enacting and, therewith, also mourning those who are missing and are missed.

Concluding thoughts

There are a number of different realities involved in the tragedy of drowned migrants. First, there is the tragedy of a migrant who drowns while attempting to cross the Mediterranean. Second, the emotional realities experienced by many family members who never receive any corporeal confirmation about the family member's death. We started this contribution with a quote from a report from the Mediterranean Missing research project. Its published reports express the yearning of family members to get back their kin, to be able to bury bones, to have a place to go to, to say prayers at a gravesite, to obtain certainty about someone's place and status, to finally have proof again that a child or parent, sibling or cousin, existed. In another case from the same report, a man longs for his brother: 'We would like his body [...]. Even a part of him, it would relieve us to bury him here in his country among people who know him and love him.' Without a body this man cannot let go of the haunting hope that his brother is still alive. 'A person whom you didn't bury and about whom there's no proof concerning his death, we can't consider him as such. I hate any person who admits that my brother is dead!' (quoted in Ben Attia 2016: 14).

When there is a body, it may be unidentified or unknown to the people who receive it on their territory. Such is the case in Italy, where strangers mourn the victims of irregular border crossings. In this situation, we may then think of the migrant's body as one that can be mourned in multiplicity: mourned by those who loved and lost their child, sibling, spouse, or parent; mourned by those who did not know the migrant but see their death as a symbol of injustice; mourned too by believers who feel every person deserves memorializing. Bodies are political objects that can be exploited (Verdery 1999), but they also are cultural subjects and objects, which bring meaning to the living (Laqueur 2015).

A full account of the impact of border deaths on a society must include mourning, for that is the process that shows the emotional consequences of fatal border crossings. While most drowned migrants remain unknown because their bodies are not found, not identified, or buried without a name, we focus on mourning strangers and the impossibility of mourning those who are missing. As discussed, there are varied ways in which the living make meaning around border deaths, including public and private, personal and societal, physical and digital displays of grief and longing. The cemetery, theorized as both a physical and digital space, serves as a primary site for this meaning-making. For the families of missing migrants – potentially, but not confirmed, dead – mourning may be impossible. With further research, we may better understand the trauma this kind of longing to mourn creates.

We urge researchers to expand the cultural and political cartography of mourning presented here. We urge policymakers and other stakeholders to acknowledge the tragedies triggered by the enormity of not knowing or not being able to mourn in a way that is appropriate for the relatives.

Without a body to say goodbye to, without corporeal certainty of death, the needs, or rights, of families to mourn cannot apply (see Chapter 6). Thus, apart from our abovementioned appeals, we end this contribution by arguing for increased and intensified efforts to locate, recover, examine and administer migrant bodies to facilitate future identification. It is in this context that we welcome initiatives aimed at improving domestic forensic capacities and supporting the further standardization of data related to missing persons (see Chapter 4). While several of such initiatives are developed locally, the problem of missing persons and efforts to identify and repatriate them require an international commitment by individual countries, EU, NGOs and international organizations. With respect to the latter, we applaud a recent initiative from the International Commission on Missing Persons (ICMP) to develop, together with the governments of Cyprus, Greece, Italy and Malta as well as several international organizations,[7] a joint, standardized and permanent process to account for migrants who are lost on their way to the EU.[8]

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7   The international organizations are: International Organization for Migration (IOM), Frontex, Interpol, Europol, the United Nations Office of the High Commissioner for Human Rights (OHCHR), the European Network of Forensic Science Institutes (ENFSI), and the International Committee of the Red Cross (ICRC).

8   https://www.icmp.int/press-releases/developing-a-joint-process-on-the-issue-of-missing-migrants-in-the-mediterranean-region/ (accessed 20 December 2018).

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About the authors

Giorgia Mirto is an independent researcher with a background in peace studies and a consultant for the ICRC. Since 2011, she has developed expertise on issues relating to missing migrants and border deaths in Italy through her empirical contributions to several prominent research projects.

Simon Robins combines academic research with a humanitarian consulting practice focusing on policy and programme support with international agencies and NGOs, with an emphasis on states emerging from conflict and violence. He is Senior Research Fellow at the Centre for Applied Human Rights at the University of York.

Karina Horsti is Senior Lecturer and Academy of Finland Fellow at the University of Jyväskylä. She has a background in media studies and has developed a multidisciplinary profile in transnational migration research. Her current research examines public remembering of forced migration and the commemoration of deaths at Europe's borders.

Pamela Prickett is an urban ethnographer and Assistant Professor of Sociology at Universiteit van Amsterdam. She completed her doctorate at UCLA and postdoctoral research at Rice University, where she serves as a Fellow in the Religion and Public Life Program. Previously, she worked as a journalist and media professional.

Deborah Ruiz Verduzco is Head of Civil Society Initiatives at the International Commission for Missing Persons. She holds a PhD in international law and has previously worked with the Assembly of States Parties of the International Criminal Court, Parliamentarians for Global Action, and several state institutions in Mexico.

Victor Toom works at the Dutch Health Council. Previously, he was a Marie Curie Fellow at the Institute of Sociology, Goethe-Universität Frankfurt a.M., and a Leverhulme Trust Early Career Researcher at the Centre for Forensic Science, Northumbria University. His research addresses forensic identification practices after mass human fatality incidents.

6.   Enforced Disappearances and Border Deaths Along the Migrant Trail

Emilio Distretti[1]

Abstract

Following an emerging theoretical approach towards border deaths as 'enforced disappearances', this chapter explores the question of disappearance in the context of global migration. By placing the disappeared at the intersection of different historical settings and legal and political discourses, the chapter questions how 'enforced disappearance' operates as strategy of power, deterrence and control over migrant populations. By learning from experiences from other historical and political contexts it intends to offer a conceptual toolbox that can enable us to study the relationship between 'disappearance' and border deaths, the evolution of state violence across time and space, and the way counter-practices have reacted by pointing at state responsibility and impunity.

Keywords: *desaparecido*, International Law, necropolitics, decolonization, colonial legacy, missing

Since the autumn of 2018, a large group of migrants – also known as the Migrant Caravan – has been travelling through South and Central American countries towards the US southern border. The caravan gained a lot of

attention by the media and was attacked by US President Trump who first associated the migrants with security threats, terrorism, disease and criminality, and then sent the army to the Mexican border to push them back. The people in the caravan – who are escaping political violence or seeking a better life – move in a compact group as a way to avoid the risk of being abducted by traffickers and drug gangs during their journey (Perugini and Gordon 2018) and under the complicit eye of corrupted local state officials. Travelling in groups is indeed a tactic of self-protection from the threat of what in legal terms could be categorized as an enforced or involuntary disappearance.

As different uses and contexts may prove, the concept of 'enforced disappearances' is commensurate with state violence. It addresses people who have 'disappeared' following displacements, arrests, arbitrary deprivation of liberty, or torture and killings (or any other wrongful act) committed by state officials or third parties who act on behalf of or with the complicit silence of the state. This is followed by state authorities' lack of accountability and their refusal to acknowledge a 'disappearance' and hence deliberately denying information to the families and the communities about the fate of those who have 'vanished'.

In a nutshell, 'enforced disappearances' tell us about the condition of victimhood and human rights violations, but they also address the way in which state violence is perpetrated with impunity, and how this operates as a strategy of power, deterrence and control over individuals and whole populations, going far beyond the most directly affected – the disappeared. Indeed, this strategy of power is also based on the infliction of fear and terror on the victims' communities and families (see Chapter 5).

The notion of 'enforced disappearances' has recently entered the public debate on global migration and border deaths. There is mounting interest among critical scholars in legal studies and migration studies, humanitarian practitioners, NGO workers, activists and, most of all, among the families and relatives of the disappeared, who struggle for truth and justice and demand accountability for such crimes (see Chapter 4). Within this context, this chapter suggests that (at least some) border deaths can be interpreted as enforced disappearances. Arguably, the notion of enforced disappearances has both political and legal implications, as it helps make (representatives of) state authorities accountable, not just smugglers and traffickers.

Following an emerging theoretical approach towards border deaths as 'enforced disappearances', the chapter poses a series of questions inspired by different streams of thought, scholarship, multidisciplinary approaches, histories and the testimonies of political activism and struggles. By providing

a tentative genealogy of the legal framework of customary international law – from International Humanitarian Law (IHL) to International Human Rights Law (IHRL) – the chapter looks at the legal instruments and bodies available to identify and tackle 'disappearances' along the migrant trail. Then, by reading into the case of an 'enforced disappearance' the figure of the *desaparecido*, which across the second half of the 20th century has been tragically central to the implementation of state violence in Latin America, the chapter looks at the 'disappeared' as a cross-national category that combines similar forms of political struggle across history (Schindel forthcoming). Finally, by referring to both the Mediterranean and the US/Mexico border, it suggests framing 'enforced disappearances' within the broader context (temporally and spatially) of colonial history and legacies. By considering it as part of the legacy of colonialism's history of violence, this chapter puts the concept of 'enforced disappearance' among those rationalities and practices that despite the end of formal colonial rule, have survived and remain operational.

The Legal Framework

As different legal scholars and human rights practitioners have pointed out (Callamard 2017; Duhaime and A. Thibault 2018; Nyberg Sørensen 2019; Sarkin 2017) the relationship between 'enforced disappearances' and border deaths needs to be analysed and framed within the sphere of international law. Specifically, this needs to distinguish between two legal concepts: the one of the 'missing', and that of 'enforced' or 'involuntary disappearance'. While the former predominantly applies to war and armed conflict under IHL, 'enforced disappearances' is governed by IHRL. According to IHL, the concept of the missing person refers to an individual 'whose whereabouts are unknown as a result of armed conflict'.[2] In contrast, 'disappearances' – as stated by Article 2 of the International Convention for the Protection of All Persons from Enforced Disappearance – refers to:

> 'the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate

2   Protocol Additional (I) to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts, 1125 UNTS 3, 8 June 1977, (AP I), Art. 33.

or whereabouts of the disappeared person, which place such a person outside the protection of the law'.[3]

The convention historically builds on different international and regional treaties, customary international law and domestic legal systems, which are set generally around the protection of the right to life, and also secured by the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol. Regional agreements such as the Inter-American Convention on the Forced Disappearance of Persons and the Rome Statute of the International Criminal Court represent other strong points of reference. Together with the convention, the Declaration on the Protection of all Persons from Enforced Disappearance also establishes state duties in terms of prevention, sanction, investigation and compensation. The core of these statutes and conventions is the protection of life without discrimination, the prevention of unlawful disappearances and killing, and the proper investigation of all wrongful acts.

However, despite the boundaries set by these legal apparatuses, scholars have agreed that there are no specific international legal instruments that deal directly with the enforced disappearances of migrants (Duhaime and Thibault 2018), and that these crimes are very difficult to prosecute. This happens for two main reasons: firstly, investigations focus solely on the criminal activities of smugglers and traffickers and rarely lead to trials, and leave out state agents and representatives (see Preface, Chapter 1 and Afterword). Secondly, with the disappearance of the body or the impossibility of identifying the victim, such crimes are hardly prosecuted, even if jurisdiction would exist.

As a way to tackle these voids and impasses, since 2010 new human rights bodies and treaties have been created: the International Convention for the Protection of all Persons from Enforced Disappearances, the Committee on Enforced Disappearances together with the Working Group on Enforced or Involuntary Disappearances – both of which are operating under the aegis of the United Nations. Since then, the Committee and the Working Group coexist side by side, allowing the legal representatives of the families of victims to issue complaints alleging violations of state parties – which often materialize under the guise of urgent appeals and communications to the Working Group, and in parallel, as communications to the United Nations Human Rights Committee. Specifically, by adopting the notion

3   International Convention for the Protection of All Persons from Enforced Disappearance, 2716 UNTS 3, 20 December, (ICPPED), Art. 2.

of 'enforced disappearance', the Working Group has increased the state's obligation to investigate. However, all those actions are limited by structural limitations and the reluctance of governments, state representatives and parties: lack of transparency in immigration detentions and deportations, the militarization of borders and the lack of inter-state cooperation in prevention (Duhaime and Thibault 2018).

However, for a better understanding of enforced disappearance and its relationship to the proliferation of deaths on border crossings, this chapter claims that we should understand the genealogy of 'enforced disappearances' as a legal notion, as part of a complex political and historical process, which is grounded in the intersection between different political and historical contexts.

The Genealogy of 'enforced disappearances'

During the 1970s 'enforced disappearances' became infamously associated with *desaparecidos* in the era of Latin America's military dictatorships (Argentina, Chile and Guatemala). There, 'disappearance' was a technique to eliminate political dissidents and opposition movements: carried out by secret abduction and detention, then torture, execution and secret disposal of the bodies. 'Disappearance' was also a method of deterrence to inflict fear and terror among the population. Afterwards, during the 1990s the question of 'disappearances' became a useful category (together with that of the 'missing') and central to the principles of universal jurisdiction and the statutes of the international tribunals for the Balkans and Rwanda that were afflicted by civil war and genocides in the first half of that decade. While not being governed under IHL, article 7 of the Statute of the emerging International Criminal Court (1998-1999) has considered 'disappearances' – together with other crimes such as extermination, torture, enslavement, rape – to be a crime against humanity, as part of the 'widespread or systematic attack directed against any civilian population, with knowledge of the attack[4]. Once truth commissions, 'transitional justice' programmes and (heavily contested) paths of the elaboration of gross human rights violations began in Latin America, the Balkans and Rwanda, the concept of disappearances became ever more present in the grassroots struggles for truth and justice for the families and communities of the victims. In this way, the effectiveness of

4   Rome Statute of International Criminal Court, Part 2. Jurisdiction, Admissibility and Applicable Law, Article 7, Crimes against humanity, (1998-1999).

the concept was tested in court as well as in the public arena, as an outcome of contested political transition following violent conflict.[5]

Overall, these experiences show that by building on previous historical/political experiences, there seems to be a legal ramification around the use of the notion of 'enforced disappearance' which is based on the principle of universal jurisdiction, namely that any court of any country can prosecute any individual (including representatives of state authorities of any country) responsible for serious crimes such as enforced disappearances. Furthermore, the crime of enforced disappearances may trigger the competence of the International Criminal Court.

Because of these possibilities, as well as of those offered by the Committee on Enforced Disappearances and the Working Group on Enforced or Involuntary Disappearances, legal scholars and human rights lawyers are now using the concept of 'enforced disappearances' to explore – on a large scale – the phenomenon of border deaths in the context of migration governance. Possible factors that contribute to the conflation of the 'disappearance' and the death of migrants, include the following: trafficking and abductions of migrants by armed groups who buy the complicity of corrupted state officials, arrests and detention of migrants in transit, and deportation and pushbacks. (For a framework for modelling these various dimensions, see Chapter 7).

The study of the phenomenon of enforced disappearance allows us to concentrate attention on the intersection between border deaths and disappearances, by combining questions of the militarization of borders, the externalization of frontiers (that rely on the cooperation of third parties or states), the use of force (i.e. 'push backs' and 'pull-backs'), and the criminalization of assistance, which defy and often openly violate the principle of *non-refoulement* in International Law (from the case of Rohingyas in Bangladesh, to the US/Mexico border, Australia and the Mediterranean) as well as the civilian technologies of deterrence of migration, i.e. restrictions on visa regulations.

However, beyond this discussion on the relationship between death and disappearance, we should bear in mind that this debate has deeper political considerations. In fact, as part of the study of such policies of deterrence, it should be noted that the disappearance of a person is a process that starts

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5   While being aware that in conflict-resolution theories the notion of transitional justice has been widely in use (more or less successfully from South America to South Africa and the North of Ireland), it is important to specify that the transitional framing is also heavily disputed – especially within a (post)colonial frame – as it is more linked to globalized discourses mobilized from the North than to local struggles and vocabularies.

earlier than actual travel (Grant 2011). As an event that does not strictly depend on death for its own realization, disappearance is generated by the process of illegalization of the migrant, where the illegality manifests itself as 'an erasure of legal personhood – a space of forced invisibility, exclusion, subjugation and repression' (De Genova 2002: 427). Disappearance is both a result of policies and laws, but also a tactic that has its roots in the restrictions on visa regulations, the criminalization of assistance, the decreasing incidents of rescue operations and the subsequent use of the 'environment argument', where bare nature and its 'hostile conditions' (in the shape of open seas and deserts, for instance) are presented by official state narratives as the causes of disappearance and death (De Leon 2015; Heller and Pezzani 2017; see also Preface). Disappearances, before death, can also start when migrants move without identity documents because of the fear of detection, denied entry, refusal of asylum, and the threat of immediate forced repatriation to their country of origin or non-safe areas. Disappearance materializes, indeed, as a political issue that exists before death.

The Disappeared as a Cross-national Category

The distinction between disappearance and death is also grounded in multiple historical experiences of grassroots struggles for justice. The case of the *desaparecidos* offers important insights, explaining specific mechanisms of state violence, and the way political activism and resistance react to it. The terror inflicted by the military juntas in Argentina, Chile and Guatemala relied on a shared strategy: forcing the family, comrades and beloved of the 'disappeared' into a state of collective fear and a permanent social and existential limbo with no hope of seeking justice before the courts. Counting on impunity, it inflicted a sense of never-ending (or unachievable) mourning to the families of the disappeared (Gatti 2014; Riquelme 1994; Schindel forthcoming). Such a scheme of terror was brought to an end by the political activism of the Argentinian Mothers and Grandmothers of Plaza de Mayo, who developed their political campaign around the refusal to accept the death of their beloved before the state. In this regard, Schindel stresses the importance of framing disappearances as matters that need to be marked as different from deaths.[6] By refusing to acknowledge death, the mothers

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6   In the context of migration, specifically to the question of the difference between the fear of dying and the fear of disappearing as felt by African migrants en route to Europe, please see Kobelinsky (2017).

strengthened their political demand to the state to respond to its crimes, take responsibility for the search of the missing and explain and certify the death of the disappeared. In the context of migrant disappearances, a comparable campaign, 'From One Shore to the Other: Lives that Matter', was started in 2011 by the relatives of 300 disappeared Tunisian migrants together with the Italian feminist collective *Le Venticinqueundici*. As with the Plaza de Mayo scheme, the mothers of the disappeared migrants (who have formed the collective *La Terre pur Tous*) refuse to acknowledge the deaths of their sons before the Italian and Tunisian governments as there is no evidence yet proving them. The initiative is aimed at making the Tunisian and Italian governments responsible for the search of the missing and accountable for the disappearances and the border deaths, by pointing at the overall role played by the EU visa system and migration policies (Tazzioli 2017). In so doing, this has become a transnational campaign that de facto re-politicized the question of border deaths in the Mediterranean (Oliveri 2016).

However, as the cases from Latin America prove, the search for the bodies of those who disappeared did not bring the struggle to an end. Although systematic violence ceased, the struggle continued as the post-junta government opened programs of search and exhumations. In fact, the Argentinian mothers refused a process that was limited to documenting crimes without punishing the perpetrators. The political lesson learned from the Plaza de Mayo political activism is a tactic of resistance and politics that put under scrutiny state accountability *vis-à-vis* the 'absent' body of the victim.

Interestingly, the cross-national nature of the disappearances ties together experiences, forms of resistance, solidarity and activism that would look spatially and temporally distant. It is possible to see that the obstacles encountered by the families of the disappeared in exercising their right to truth and justice, share similarities across different paradigms. The cross-national role played by the disappeared is also determined by the technologies and tools that have been applied in support of the struggles of the families of the victims throughout history and across continents.

Over the years, from Latin America to the Balkans and Rwanda, forensic anthropology and exhumations increasingly became essential tools for humanitarian practices at a global level. In the context of border deaths, the role of forensics in the search for the disappeared along migrant routes has become more central (see Chapter 4). This draws inspiration from the use of DNA identification by the EAAF – The Argentine team of Forensic Anthropologists. In the 1980s, the team, together with its founder, the US American scientist Clyde Snow, pioneered the methods

for forensic identification of victims of state violence. The huge expertise they have accumulated since then has proved productive for dealing with enforced disappearances in Latin America and may extend to these other modes of disappearance related to migration. The methods and technical possibilities for identifying corpses have been improving in the last few decades under this strategy (Dziuban 2017: 12; Chapter 4). This scheme has offered a model for scientists and anthropologists working on behalf of justice and human rights, with the search for the disappeared at the core of the struggle.

However, the post-dictatorship Latin American context also shows obstacles and contradictions of such processes: in cases of state-driven exhumation, to what extent are states willing to investigate the crimes they could be indicted for? Keeping in mind this dilemma and the example of Argentina, today human rights practitioners, grassroots activism and the families of the disappeared migrants share modes of investigation and inquiry – as the case of the Colibri Centre for Human Rights in Arizona, US, shows (Reineke 2016) – that take into consideration the risks and complexities of the search – under harsh conditions of 'hostile environments' created by state policies and officials – and the difficulties of creating DNA databases to help with the storing, cross-referencing of data and hopefully identifying the disappeared or the dead.

The Disappeared in the (Post)colonial Present

We relate 'enforced disappearances' to the question of historical and political continuities, at the intersection of colonial and postcolonial politics and histories. In the context of the so-called 'migration crisis', the proliferation of 'enforced disappearances' directly addresses the inability of former colonizing societies to deal with centuries of colonial history: from the global mobility and the autonomy of migration that started with the collapse of empires to contemporary global economic inequality, and the ongoing displacements caused by regional conflicts and the long arm of the global War on Terror.

The category of the disappeared exposes the relationship between death, state policies and impunity. Perugini and Gordon recognise that, because of racist discourses and policies, migrants too often become 'people who can be injured or killed with impunity. Indeed, they are portrayed as necro-figures' (Perugini and Gordon 2018). Accordingly, we should read the category of the 'disappeared' within the framework of *necropolitics* as described by Achille

Mbembe. *Necropolitics* constrains colonial subjects within 'lawless' spaces, that could justify a large-scale fabrication of death. According to Mbembe, 'the colony represents the site where sovereignty fundamentally consists of the exercise of a power outside the law' (Mbembe 2003: 23). Not surprisingly, if we look back at the definition provided by the UN convention, we see that 'disappearances' similarly consist of placing an individual 'outside the protection of the law'.

By juxtaposing the rationalities of *necropolitics* and the UN definition of 'enforced disappearance', we confirm that disappearances are a complex phenomenon that should be discussed across histories[7]: not necessarily as the outcome of 'shoot to kill' politics, but also as the product of a techno/military/legal apparatus that forces subjects 'outside the protection of the law'. This informs a larger process of forced invisibility and historical erasure that has a clear colonial resonance – from slavery to the (post) colonial present. On the one hand, in the American context, this addresses questions around its genocidal and settler colonial nature, where non-white migrants (together with African Americans and Native Americans) are doomed to exclusion and made disposable. As proven by the recent case of the migrant Caravan, their very existence is perceived as a threat to the nation-state, and as the breach of the North/South divide, which more and more operates as a racial filter and boundary. On the other hand, in the context of EU border policies (from the Mediterranean area to the East of Europe up to the Scandinavian countries) we witness the *longue durée* of colonial history through discourses and policies of illegalization that foster invisibility among migrants, de-humanize, exclude and erase 'otherness' from the narrative of civilization. Therefore, disappearance, before death, brings to completion the de-identification process, around which colonial politics has built its relationship to the colonized other: not only are names, faces and families vanishing, but also the testimonies, tales and memories of colonization, transnational migration and global economic inequality.

For these reasons, the disappeared migrant stands here as a cross-figure and category around which seemingly distant and different struggles, testimonies and experiences gather. In so doing it poses a clear political question rather than simply a humanitarian one, and it can serve as a key to fostering new frameworks of global justice by agitating for investigation,

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7   Specific to the context of occupied Algeria (1954-1962), 'disappearances' became infamously known as 'Crevettes Bigeard'. This expression refers to the practice introduced by French General Marcel Bigeard which consisted of the executions of at least 4000 Algerian prisoners, whose bodies were then secretly disposed of in the Mediterranean Sea.

prosecution of crimes and, when it occurs, repatriations of the dead and compensation plans.

Conclusions

Overall, this chapter is an attempt to bring into conversation the various debates, disciplines and practices across histories and spaces that have revolved around the 'disappeared' as a cross-national category. It aims to show possible directions for further study, debate, analysis and action for justice. Specifically, the chapter indicates that it would be legally and politically useful to use the notion of 'enforced disappearance' to include border deaths along the migrant trail, as a way of making states and governments (and not only smugglers and traffickers) politically and legally accountable for disappearances. In so doing it offers a conceptual toolbox that can enable us to study the evolution of state violence across time and space, and the way counter-practices have reacted by pointing at state responsibility.

Moreover, by placing the disappeared at the intersection of seemingly distant historical settings and of different legal and political discourses, this chapter suggests an additional point of reflection: the disappeared should not be looked at as a 'definitive' or 'ultimate' category. On the contrary, it must be considered to be a 'temporary' category for subjects who are not nameless, absent, anonymous nor isolated. By existing in the memories and struggles of their families, the disappeared does not exist solely as a liminal legal category, but also as a political subject 'striving' against the deprivation of his/her identity, autonomy and subjectivity, and overall for justice.

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About the author

Emilio Distretti is Postdoctoral Fellow in History and Theory of Architecture and Urbanism, at the University of Basel (Switzerland). Emilio's research takes on interrelated avenues on architecture, material culture, human rights, migration in the colonial and post-colonial Mediterranean (Italy, North Africa and the Levant).

7. Understanding the Causes of Border Deaths

A Mapping Exercise

Kristof Gombeer, Orçun Ulusoy and Marie-Laure Basilien-Gainche

Abstract

'What causes border deaths?' triggers a large variety of views and – often opposing – explanatory arguments. Is it the fault of individuals taking risks? Is it the reckless migrant smugglers who wreak havoc? Or should administrations in the Global North express *mea culpa* for the detrimental effects of their border policies? Rather than arguing in favour of one explanation, this chapter asserts that how border deaths are understood depends on a wide range of interacting factors. We map these factors through five dimensions, which we visualize in an integrated model and illustrate through examples. The five identified dimensions converge towards pathways for analysis of the phenomenon of border deaths without necessarily detracting from other relevant factors and arguments.

Keywords: borders, violence, power, physical death, legal death, social death

> Because night has fallen and the barbarians haven't come.
> And some of our men just in from the border say
> there are no barbarians any longer.
> Now what's going to happen to us without barbarians?
> Those people were a kind of solution.
> (Cavafy 1975: 18-19)

While the violence associated with the borders of the Global North has become more salient and visible (Jones 2017), studies on its causes and effects remain scattered. What is clear, however (also from the chapters of this volume) is that the phenomenon of border deaths cannot be analysed and understood through single concepts, arguments or points of view. Not only are there several ways in which one can understand the respective roles of actors, policies, practices and geographies in causing border deaths, but also the very meaning of the word 'border death' raises a variety of issues (see Chapters 3 and 6).

Do people die because of the methods employed by smugglers? Do people die because they take too much of a risk when embarking upon their journey? Are deaths at the border the result of policies made in the capitals of the Global North? Furthermore, what do we mean by the term 'border death'? And does it only cover people 'at' the border, or can borders also cause violence before and after the border?

In light of these questions, we propose to map certain dimensions of the phenomenon of border deaths, its causes and effects, and how one can understand them: 1) the (violent) effects of borders; 2) how knowledge about the phenomenon is produced and by whom; 3) the different actors involved; 4) the geo-temporal context; and 5) the level of analysis of border violence. The combination of these five dimensions can be used to situate the large variety of issues and arguments that circulate in the field. It is not the ambition of our mapping tool to be exhaustive or to provide an extensive literature review. Its practical target is to situate diverging analyses of the border deaths phenomenon *vis-à-vis* each other in a comprehensive way.

The next section provides a description of the five dimensions. Through three examples, we subsequently show how the combination of the identified dimensions converges towards pathways for analysis into the phenomenon under scrutiny, without detracting from other relevant aspects.

Five dimensions of the causes and effects of border deaths

Effects

A first dimension that affects how one understands the phenomenon of border deaths concerns what one considers to be the negative externalities of borders and the extent to which they relate to border death: what are the violence-producing effects of borders in general, and what falls under the notion of the effect called 'border death' in particular? At first glance, the

answer to the latter question 'what is a border death?' seems straightforward: the effect of physical death of a person crossing a border, who drowned, suffocated, fell, froze to death, was struck by a vehicle, was shot or got dehydrated, at the border. But the notion of 'border death' can be problematic and connotes many more things. What the word 'border death' signifies for someone will depend on a lot of factors (see below on the 'Analytical Lens' dimension). Someone with a legal world view or a certain philosophical approach will read different things into the word 'border death'. The same goes for the medical or social scientist. In addition to physical death then, there are at least two other ways of understanding the term 'border death': 'legal death' and 'social death'.

Traditionally, the 'legal death' concept is used for persons who are either lost after an accident at sea or in uncertain circumstances (e.g. in a very remote area or in a war zone). While the definition of legal death may differ from one domestic legal system to another, there are two important elements of the term: firstly, the person must be lost in a clearly dangerous event and secondly, a certain period must pass without any information transpiring that the person is alive. In border death cases, a legal border death is a migrant who is missing during the border crossing and whose body is never found or identified, a situation which is then post-factum reified (see Chapter 5). This notion of border death can of course coincide with physical border death.

'Social death' in the border context can refer to a person not having access to a social contract or to minimum protection offered by law as a result of how borders manifest themselves *vis-à-vis* a person. Social death can refer to people not accepted as fully human by society in general (Card 2005; Bauman 2007) and take the shape of a lack of protection in particular circumstances: not being protected by law against abuses and violence from different actors while *en route*, or not having any real meaningful access to protection by the government when, for instance, a person has already arrived in the destination country (see Chapter 6). The non-recognition as a person by society, within the violent borders context, reduces them to numbers (or barbarians at the gates) and provides states with arguments to elude their responsibilities to protect lives at their borders. The examples above show that people may encounter physical, legal and/or social death not only at the border, but also *before* or *after* (and because of) the border imposed upon them (see below on the 'Geo-temporal context' dimension).

The power and violence inherent to borders can thus give rise to a different kind of 'death': physical, legal and social. How one understands the concept of 'border death' is *inter alia* affected by the one producing

knowledge about it (for a detailed discussion on representation, see Chapter 3). This, in turn, affects how one produces knowledge of it and where one will look for answers and methods when trying to understand and explain how borders give rise to violence and border deaths.

Analytical Lens

The second dimension concerns those that are doing the thinking about the causes and effects of border deaths. The group of people contributing to knowledge about border deaths is highly diverse. It consists *inter alia* of academics, people who work(ed) for NGOs or who work(ed) for IGOs, as well as politicians and policy makers. There is also – and not to be overlooked – the migrant him- or herself.

All sorts of factors are at play when these different actors produce knowledge on the subject (Chapter 3). For instance, and to name just one, the educational or vocational background of a person plays a role in shaping how one makes sense of certain concepts (as discussed above under the 'Effects' dimension). For example, the term 'death' will trigger a different meaning for a medical doctor (e.g. head trauma or suffocation caused death) than for a social scientist (e.g. restrictive border controls make border crossings deadlier). It moreover goes without saying that within certain epistemic approaches, such as social science, heavy debates may exist about how one can know things in the first place (Jackson 2011).

Whichever way one puts it, the analytical lens will differ depending on who is doing the thinking and what the person will want to focus on, when trying to unearth the dynamics behind border deaths. At least four different lenses circulate through which one can understand border death: the scientific (e.g. life sciences, forensic sciences or social sciences), the ethical, the legal, and the experience-based view. Each perspective produces different insights on how to grasp the concept of border deaths and what its drivers are (e.g. pathological factors, bad policies, smugglers who force people into their predicament, legally liable states, morally flawed decisions made by polities in the Global North, etc).

Take for example the lawyer who uses a legal lens to scan for and pick up different elements and uses different terminology and methodologies in order to understand and analyse instances of border deaths. The lawyer sees legal borders and entities which can be given all sorts of legal labels. For the lawyer, a certain actor can for instance be said to be liable for the loss of life at the border if certain legal criteria are met. The epistemic potential of lawyers is not limited to determining what the law has to say about this or that border incident: they can contribute to social science, for instance by

helping to gain insights on how border policies and practices can undermine rights claims. Compare this to the social scientist (scientific lens) who may look for statistically significant relationships between certain variables (e.g. EU migration and border control policies) and border deaths and who will use qualitative methods to further understand the causes and effects. We could similarly produce examples from search and rescue professionals, forensic pathologists, political economists, criminologists, etc.

The epistemic background of the person doing the analysis will not only influence what he or she qualifies as a border death, but also *where* and at *what level of analysis* one should look for the driving forces behind border deaths (see below on the 'Geo-temporal context' and 'Level of manifestation' dimensions) or on *which actors* to focus on in order to understand the causes of border deaths. This brings us to the following dimension.

Actors

The third dimension of our map addresses who we consider as a subject of analysis when trying to understand the border deaths phenomenon. In other words: who causes border deaths or should (at least partly) be included in the equation? A long and non-homogenous list of individuals and public and private bodies are involved in the border deaths phenomenon (see Chapter 1 for a detailed outline of actors in the 'border death regime'). These actors have different roles in causing border deaths and are differentially, directly or indirectly, affected by them.

In broad terms and with the necessary nuances, one can distinguish between migrants, migrant social networks, smugglers, humanitarians, and official actors in the state of origin, transit or arrival. Studying each of these in the chain of events can lead to valuable insights; studying different actors invites different claims about the causes of border deaths. The latter underscores the importance of allowing different analytical lenses to illuminate the issues at stake (see above): for instance, people with different disciplinary training or with different experiences may pinpoint the relevance of actors other than criminals who constitute one of the prime categories of actors to focus on for criminologists and law enforcement authorities.

Categories of actors are not as homogenous or fixed as they are often presented. For example, as studies suggest, many smugglers are actually migrants themselves (Ahmad 2011; van Liempt and Sersli 2013; Baird and van Liempt 2016). Smugglers are motivated by different things and act in different ways; their role towards migrants can be labelled as angels (providing opportunities for migrants) or devils (culpable criminals violating all sorts of

laws) (Horwood 2018a). The interchangeability of labels can be highlighted by the simultaneousness of their roles: a police informer among migrants who is also acting as a facilitator for a smuggler. Another example is that of state institutions: while some state agents are socialized in humanitarian values and have a disposition to prioritize saving lives (e.g. a coastguard officer), others might see border crossers as security risks that have to be controlled. Other state agents may simply abuse their power through corruption or violence.

Analyses may choose to focus on one or more of these actors when inquiring about border deaths. Some studies focus on the border control practices, deterrence and apprehension measures executed by border guards and law enforcement as a – direct – cause of border deaths (e.g. La Coalición de Derechos Humanos and No More Deaths 2016). Others may focus on the role of smugglers whose methods may directly or indirectly cause border deaths, whilst others will focus on the policies, laws, and/or practices of states or regional organizations such as the European Union as indirect causes of border deaths (Last 2018; Ulusoy, Baldwin-Edwards and Last 2019). Analysing the role of a particular actor can lead to diverging claims. Social scientists and lawyers may argue over migrants' risk-taking behaviour, their own role in their death or suffering, while others may point to the restrictions on migrants imposed by government policies which makes routes to the Global North more dangerous for certain groups (Brolan 2003; Spijkerboer 2018; Horwood 2018b). A more holistic approach to investigating actors in relation to border deaths requires a theoretical framework that relates these actors to one another, such as the 'border death regime' introduced by Cuttitta, Häberlein and Pallister-Wilkins in Chapter 1.

Geo-temporal context

While the question 'where and when does border violence and death occur?' may seem unnecessary (even absurd) at first, the complex nature of the violence arising from borders can be traced back to multiple geographies and timeframes along the migration route (see Chapter 6). As already mentioned, there is some analytical leeway as to what one can consider a border death. On the one hand, one can conceptualize it narrowly to only include deadly crossings *at* legal and/or geographical borders (Last 2018; La Coalición de Derechos Humanos and No More Deaths 2016; Ulusoy, Baldwin-Edwards and Last 2019; Missing Migrants Project).[1] On the other hand, from a broader space-time perspective, borders can also give rise to violence and victims *before* or *after* people cross

1   The Missing Migrants Project of the International Organization for Migration (IOM) records only 'migrants who die during their journey to a country different from their country of residence'

them (La Coalición de Derechos Humanos and No More Deaths 2016; Last 2018; Ulusoy, Baldwin-Edwards and Last 2019), including deaths due to 'deportation procedures, detention conditions and the inadequacies of asylum application processes' (UNITED for Intercultural Action n.d.). For instance, the Australian Border Deaths Database 'maintains records of all known deaths associated with Australia's borders' (Border Crossing Observatory 2019). It not only registers physical deaths resulting from dangerous border crossings or interdictions at sea, but also includes other border violence-related effects, such as death resulting from deteriorating health or suicide while in detention.

While the focus of scholarly work is mainly on the violence *at* the borders or *after* the borders (Weber and Pickering 2011), people can sometimes already feel the effects of borders without leaving their country of origin or transit. Borders as such can affect livelihoods (sometimes quite literally) of people, for instance, in countries which are weak visa-states. One might argue it is overstretching the concept of border deaths to consider those that are stuck in societies affected by violence or a lack of access to a safe social contract. Think however, of those cases where third countries refuse to issue humanitarian visas at their embassies in these countries.[2] If a few weeks later those people die due to the local violence, could they be considered to be border deaths?

One can argue that, with the securitization of migration issues in the Global North and with the externalization of migration policies to third countries (to the countries of origin and countries of transit), violence at the borders is transferred (spread) beyond the geographies of borders (Walters 2006; Cuttitta 2015; Basilien-Gainche 2017b). The geo-temporal dimension as a result includes violence at home, violence in transit, violence when crossing and violence at arrival, covering almost all geographies along the migration route. Although the current chapter does not go into further detail, one should be cautious about capturing the border deaths phenomenon exclusively through classical cartographic methods and visualizations: it may hinder scrutiny and understanding of non-geometric manifestations of authority in the field of border control and migration policies (cf. Rajkovic 2018).

Level of manifestation

Spending some time at the borders where border deaths occur provides a wide range of points of view on why and how border deaths are happening.

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and excludes 'deaths that occur in immigration detention facilities or after deportation to a migrant's homeland'. (https://missingmigrants.iom.int/methodology).

2   CJEU, GC, 7 March 2017, *X.X. v. Belgium.* Case C-638/16 PPU. See Moreno-Lax 2017a, 2017b; Spijkerboer 2017.

Insights can focus on multiple levels of analysis, from the micro level, in what could be described as capturing the direct and very tangible causes of death at the borders, to the macro level such as post-colonial structures. Interestingly, these insights at all levels can be in operation at the same time or can be simultaneously linked to a specific border death.

At the lowest level, which one might label the 'micro level', migrants experience what could be described as the *direct* causes of death at the borders: it concerns tangible experience of violence such as the man-made use of force by smugglers or border- and coastguards, or being subjected to harsh weather conditions. The ways in which borders cause violence however, should be understood in the larger context, since 'power', 'violence', and 'causation' also manifest themselves via other levels (Galtung 1969; Barnett and Duvall 2005; Kurki 2008).

At the 'meso level', one can investigate the role of the policies of states and regional organizations and – in case policies are viewed as an independent variable – how they make (irregular) border crossing legal versus illegal, safe versus unsafe, etc. (see Chapters 1 and 8).

At a more general level – the 'macro level' or 'structural level'– we might examine how global, systemic forces influence the emergence and continuation of border deaths (see Afterword and Preface). Here one can think of studies on how North-South relationships, alleged clashes between civilizations, post-colonial structures, historical-material forces, race, gender, etc. influence the manifestation of borders themselves, constitute identities and norms, and give rise to violence and human casualties.

The interaction of dimensions

The following three figures bring together these five dimensions in a sort of analytical map – a pentagon – and combine them in different ways. This helps to clarify what people do when focusing on certain aspects and how that does not necessarily exclude assessing the role of other factors contributing to border deaths.

Example 1: Understanding the effect of policies on deaths at the border

One way of studying border deaths is to inquire whether – and if so: why? – there is any significant correlation between the occurrence of border deaths on the one hand, and changes in national, regional or international immigration and border control policies on the other. One such analytical undertaking is that of Last (2018). This academic study focuses on producing reliable data on

physical border deaths at the southern external land and sea borders of the European Union. She combines the following (aspects of) dimensions to start with: *physical deaths* (effect) *at* the border (geo-temporal context) analysed from a social scientific perspective (analytical lens). The next step in her research is identifying hypotheses which capture the relationship between policy (meso level) and the phenomenon of physical border deaths. In this context, Last finds that this relationship is presented differently in academic literature from EU policy documents. While academics point to the causation of things occurring at the meso level (stricter policies lead to irregularization and endangerment and hence more deaths)[3] and the role of states of arrival (actor dimension),[4] policy makers emphasize action by migrants and smugglers

Figure 7.1   Understanding the effect of policies on deaths at the border
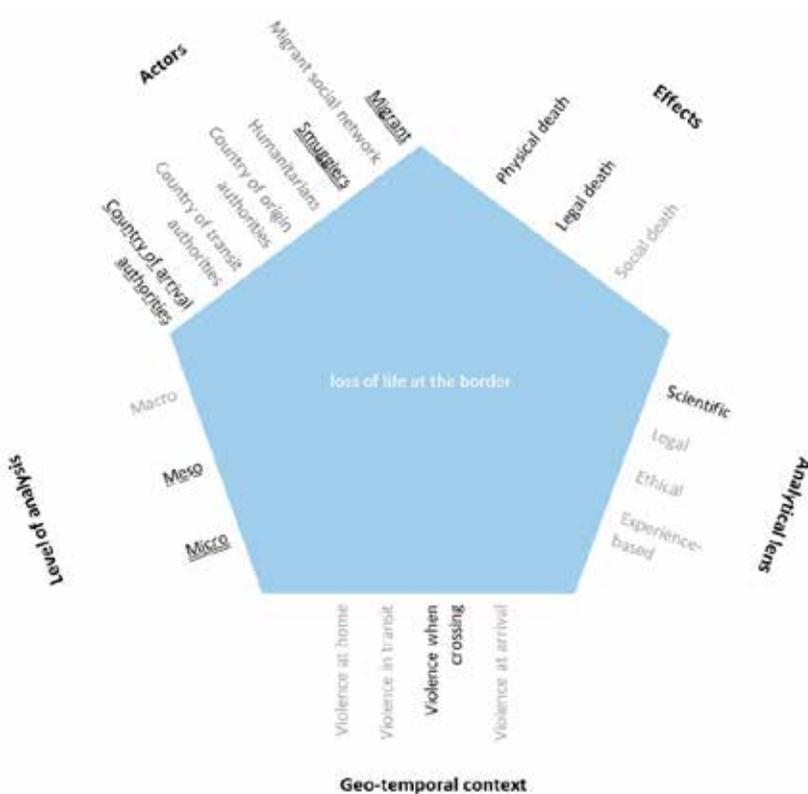
3   Some identify a relation between the two at a macro level too. See Last, 2018: 78-79.
4   Indicated in Figure 7.1 by dash underlining.

at the micro level (travelling illegally and risk taking, combined with the ruthlessness of smugglers which leads to more deaths) (actor dimension).[5]

Example 2: Understanding border deaths in transit

While our previous example concerned a study of border deaths *at* the border, our next example concerns what, from a geo-temporal perspective, could be labelled border deaths *before* the border. Imagine the physical death of an irregular migrant from Ghana in a Nigerian detention centre. Such deaths are nowadays likely to be reported and/or recorded, but not necessarily as border deaths (see Chapters 2 and 3). Records are likely to qualify the death as the passing of a person due to inhumane conditions of the detention centre in Nigeria and/or malpractice of Nigerian officials (i.e. state actors in the country of transit). A basic understanding of such records will reveal nothing about borders, nothing about Global North-South dynamics which constitute the setting of the border death in our example. Alternatively, consider a Sudanese migrant held in Gharyan prison in Libya who is then sold as a slave. We would term this a social death. Again, there would be no mention of the violence caused by borders.

However, a closer look by a scholar studying the externalization of migration policies will underline certain elements of these death records. Actors such as governmental agencies of these transit countries or armed non-governmental groups would be the first ones to be highlighted. Interestingly, the European Border and Coast Guard Agency (Frontex) would also be highlighted since the European Border Agency provides training, guidance and material to these countries (Ikuteyijo 2014; Campesi 2018).

According to our model, the level of manifestation of border violence and death would include both the meso level and macro level. The relationship between countries, funding mechanisms, regional and bilateral agreements between transit and arrival countries will provide evidence at a meso level. At a macro level, slavery (Stoyanova 2017) would definitely bring race and gender issues forward. A social scientific analysis (e.g. a historical-economic study) could highlight the historical and contemporary role of the Global North in creating political and economic instability in the South, while at the same time barring the mobility of people to the North through its policies and politics of international law. This analysis could also be done from an ethical perspective. On the effects side of our map, the physical and social death of migrants would be the starting point of the analysis while the geo-temporal context would point to transit violence.

5   Indicated in Figure 7.1 by double underlining.

Figure 7.2   Understanding border deaths in transit
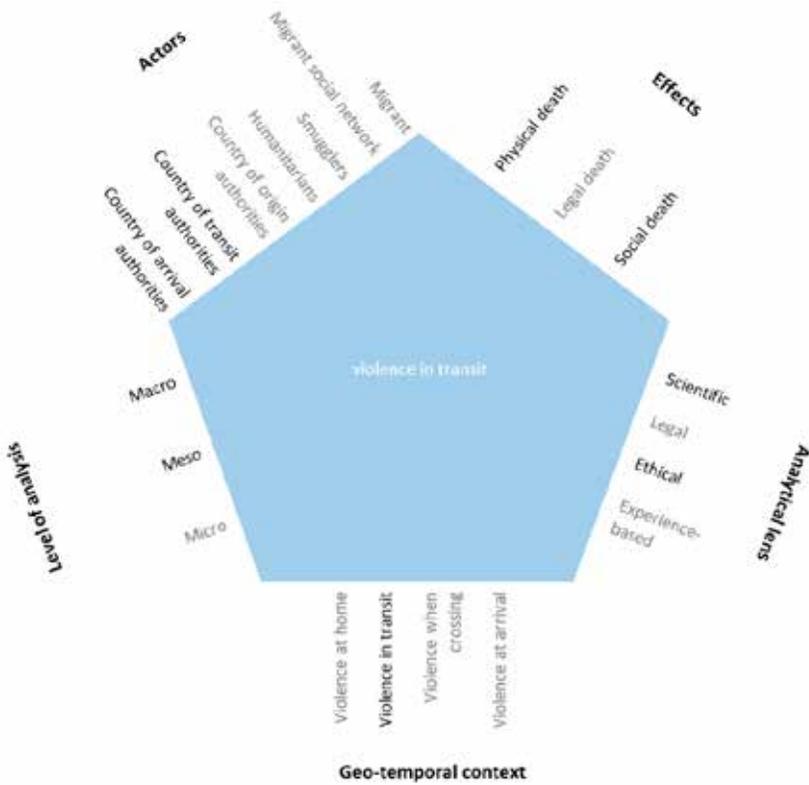
Example 3: Understanding border deaths in the hotspots

Borders can also give rise to violence and cause death *after* migrants have reached the destination state, i.e. after they have already crossed the border (Border Crossing Observatory 2019). In September 2018, Médecins Sans Frontières (MSF) reported that there has been an 'increase in suicide attempts among child refugees on Lesvos' (MSF 2018). For many, the violence caused by the borders did not end after crossing the border. On the contrary, so-called 'hotspots' became the border zones themselves (Basilien-Gainche 2017a, 2017c). The actors (according to our map) would include; agencies of the arrival state, i.e. Greece. However, this would only be partially correct. In reality, multiple European Union agencies (such as FRONTEX, EASO) are in charge of these camps in Lesvos as well as humanitarian actors and international organizations (Gkliati 2018). Furthermore, local Greek communities living in these hotspot islands would also be involved, since their lives are fundamentally

changed by the increased refugee population in their towns and relations between the local community and migrants will profoundly affect the mental well-being of the migrant community, in particular migrant children.

The effects of this border violence would include physical death. However, social death should also be considered since the migrants and refugees living in these islands and camps for more than three years are stripped of their rights by norms and mechanisms of EU institutions and member states that support a policy of non-access. They are simply 'kept' out-of-sight and left to 'die' in these camps.

Greek asylum policies and law would provide a starting point for the analysis, although the meso level of analysis should include the main elements such as the EU-Turkey Statement of March 2016 (Ulusoy and Battjes 2017) and EU migration policies (Steinhilper and Gruijters 2018; Basilien-Gainche 2019). An interesting element to include in the meso level would be the involvement of civil society and international organizations (UN and IOM) in the development of these policies (Geiger and Pécoud 2010, 2014; Fine 2018).

Figure 7.3   Understanding border violence through detention after the border
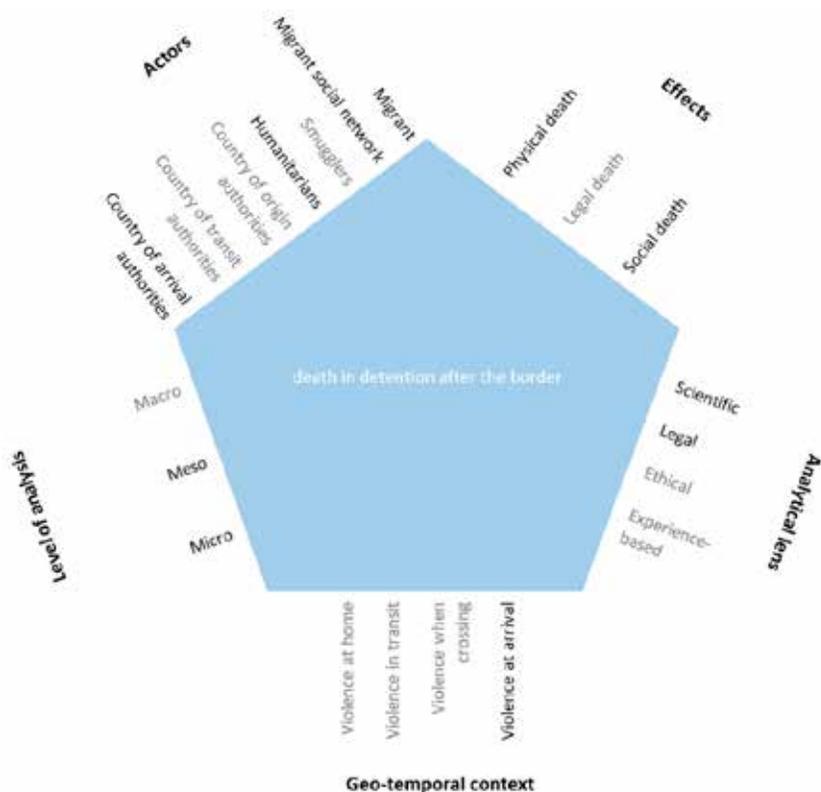
The violence of the border in this example can be analysed from e.g. a legal as well as a social scientific perspective. From a legal perspective, one could identify the legality of the EU-Turkey Statement, EU common asylum system, Greek asylum law in light of wider refugee law and human rights law principles, with the further aim of identifying the legal responsibility of the EU itself, the Greek state, or – at an individual criminal procedure level – the state agents involved in abusive practices.

Conclusion

How border deaths come about has proven to be quite complex to pin down. Our mapping exercise suggests that several factors are – often simultaneously – at play. Observers should be attentive to this. Indeed, when entering debates about the causes of border deaths, one of the risks is to commence from a position that creates tunnel vision (see Afterword). The advantage of a multi-dimensional perspective (albeit a non-exhaustive one) is that it allows any researcher to situate his or her own thoughts and analyses in relation to others. The researcher does not disagree per se with those others, but may struggle to reach a common understanding because people approach multi-dimensional phenomena from specific positions and select elements accordingly (see Chapter 3). The risk, then, consists of talking past each other. The model raises awareness of the complexity of the causes of border deaths and could therefore help to simplify the communication of different perspectives and to challenge dominant views.

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About the authors

Kristof Gombeer is a PhD Fellow of the Research Foundation Flanders (FWO) and is completing his doctoral thesis on migrant rescue and human rights at sea at the Vrije Universiteit Brussels and Leiden University.

Orçun Ulusoy studied law at Dokuz Eylul University in Izmir, Turkey. As a lawyer, he worked on human rights related cases with a focus on migration, asylum and LGBTI rights in Turkey. At the Vrije Universiteit Amsterdam, he acted as coordinating researcher of the project, The Human Costs of Border Control.

Marie-Laure Basilien-Gainche is Professor of Law at the University Jean Moulin Lyon 3. She analyses EU immigration and asylum norms, and their compatibility with international and European instruments of human rights protection, with a particular focus on situations of exception and conditions of marginality.

8.   Moving forward

Between Utopian and Dystopian Visions of Migration Politics

Huub Dijstelbloem, Carolyn Horn and Catriona Jarvis

Abstract

The chapter presents the authors' views on 'Moving Forward', specifically on the development of better data to evaluate the impact of competing migration policies on border deaths, the need for an overarching vision for border control and migration, and the requirements for what is perhaps the most viable option currently, 'muddling through'. Even in today's difficult environment, many practical, legal, and technological initiatives flourish that could help prevent deaths; these initiatives provide a pragmatic way forward. To keep continued crises from becoming the new normal, we must use these promising practices to develop, and gain acceptance of, a migration framework that prevents border death.

Keywords: Open borders, Right of movement, Human rights, Evidence-based policy, Humanitarian corridors, Pragmatic humanitarianism

A common sentiment today is that there is little hope of 'moving forward' – the immediate goal is not to move in reverse. The externalization of borders, the rise of populism and nationalism, and heightened anti-immigration measures are aimed at reducing mobility among some segments of the population and undermining protection guarantees. This intensification of border control often has severe side effects, such as increases in border deaths as people take riskier routes, de facto stimulation of human trafficking, and the violation of fundamental rights. The situation is dire.

On top of these bleak circumstances, states are touting their restrictive measures as a means for reducing deaths along the border, effectively claiming a 'humanitarian border' (see Chapters 1, 3 and 7). Many believe any reduction of deaths on the physical border masks potentially higher

death rates in transit countries and countries of origin, but good data to evaluate these competing claims are missing. This lack of data hobbles efforts to combat border deaths generally. There are no comprehensive data on existing initiatives, little data on whether policies raise or lower death rates (see Chapter 2), and no open debate on alternatives.

In the meantime, many actors, such as refugee and migration lawyers and local humanitarians, continue to muddle through, trying to maintain core protections for refugees and migrants in the face of intensifying opposition from those advocating greater restrictions. To manage these challenging circumstances, we suggest two perspectives:

1. A focus on better data and, importantly, more coordination amongst different types of actors in the identification and collection of data; and
2. The continued pursuit of pragmatic policy initiatives, combined with an attempt to frame these initiatives within a re-envisioned legal framework governing migration.

The current situation will not last forever and neither will the current regulatory framework. States, the public, media, NGOs and volunteers have to be provided with the conceptual repertoire and vision to cope with changing circumstances, as they deal with immediate demands (see e.g. Chapters 4 and 6). While existing protections must be guarded, a broader vision is required for the future, particularly since change, if and when it comes, might happen quickly. Meanwhile, many promising initiatives and ideas already exist. Exploring these options may lead to a pragmatic humanitarianism – pragmatic, not in the sense of some diminution of fundamental rights, but in the intellectual tradition of pragmatism, namely 'oriented at action'.

The need for more comprehensive data sources

There are fundamental gaps in knowledge in all areas relating to border deaths. Large sections of the world are ignored, and data are rarely disaggregated to provide details on subcategories, such as gender and age. Information is needed to serve a variety of purposes: guiding migrants and refugees so that they can remain as safe as possible, providing operational guidance for those seeking to offer life-saving aid, evaluating policy options for their impact on saving lives, holding institutions accountable for their failure to meet responsibilities (see e.g. Chapter 4), and raising public awareness. Simply put, in order to prevent deaths, it is vital to know on which routes

migrants are dying, why they are dying, whether migration policies will prevent those deaths or simply displace them to another region, and what measures, including humanitarian relief and ensuring respect for legal rights, will be most effective in saving lives. Even generally accepted policies, such as increasing developmental aid, must be evaluated with better data, as the data might show that better standards of living increase migration and thus potentially increase border deaths – making developmental aid possibly desirable for improving local conditions but ineffective in preventing death. Given these needs, there must be a more expansive view of data, with guidance and protocols as to the type of information to be gathered and the appropriate rules governing its collection, storage and dissemination.

The critical need for better data is illustrated by the existence of 'rival hypotheses' on the impact of migration policies on border deaths (Spijkerboer 2018: 2, citing Last 2018). Academics argue that 'those crossing borders in an irregular manner are *endangered* by intensified border controls, which result in them choosing more dangerous manners of irregularized border crossings' and 'higher migrant mortality' (Spijkerboer 2018: 2)[1]. In contrast, many state policy makers now argue that 'intensifying border control will lead to a *smaller volume* of irregular border crossings', resulting in lower mortality (Spijkerboer 2018, 2). This is the argument that the Australian government presented when it claimed that it reduced border deaths by imposing its stringent border policy, Operation Sovereign Borders (Australia Border Death Database 2018). In essence, states are justifying their border controls as satisfying any obligation, moral or legal, that they might have to prevent the continuing border deaths of thousands of people. These claims have important legal ramifications, discussed below, but they also speak to the need for data: the data used by states are incomplete and focus on deaths at the physical border. Full, objective data are required, which must include all deaths potentially attributable to migration policies, including those in countries of origin and in transit countries. Little of this data is currently available (see Chapter 2 for a detailed discussion of the challenges and ways forward for border death data collection and dissemination).

States have a wealth of data that they collect for migration control and to classify people in terms of their mobility rights (Dijstelbloem 2017), but this information is typically unavailable to researchers and the public, and sometimes not used by states themselves, even when it could save lives.

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1   If this view is accurate, these border controls represent a form of 'necropolitics', an exercise of sovereignty that equals a 'control over mortality' (Mbembe 2003, 12). See Chapter 6 for an analysis of disappeared migrants as 'necro-figures'.

For example, states and NATO are accused of having known the location of a distressed boat in 2011, yet allowing the migrants to die, in the tragic 'left-to-die' case. The journey of this boat started when 72 migrants, fleeing Tripoli, ran out of fuel and were left to drift for 14 days until they landed back on the Libyan coast, with only nine surviving (Heller and Pezzani 2016). Even though authorities apparently made contact with the boat, no rescue was attempted. In general, whether in individual instances such as this or in general policy debates, authorities have been unwilling to devote the surveillance technologies they have deployed throughout the world, and the data they have collected, for the purpose of saving lives (Gkliati 2019).

It is likely that non-state parties will need to fill the gap[2]. These entities collect significant data but for divergent purposes, and these divergent purposes constrain the extent to which data collection can be coordinated. There are differences between operational and research data, and different ethical constraints on those collecting the data. For example, rescuers could help identify the dead and the missing, and they could potentially provide information, through interviews, on what motivates migrants, how migration policies have influenced their decisions, what migration route they took, how and why routes are shifting, and whether undocumented deaths are occurring along those routes – all of which is valuable information in formulating initiatives to prevent deaths. However, as just mentioned, rescuers have operational and ethical constraints that limit their ability to gather data. They are already overburdened. The purpose of interviews after rescues may differ from that of law enforcement and academics. Some fear being co-opted by governments and law-enforcement, who might seek access to the interview data, causing rescuers to lose the trust of migrants. Plus, there is little ability to follow up, as contact may be lost following the rescue, and there is concern about re-traumatizing migrants and traumatizing the rescuers themselves. Some organizations, such as Last Rights[3], are developing guidance on evidence gathering, based on human rights law, which could address some of the concerns of both state and non-state search and rescue teams and permit the collection of more information on how many have

2   The monitoring of international mobility is also deployed by NGOs, academics and activists (Dijstelbloem 2015; Dijstelbloem 2017). Increasingly, these actors use digital instruments, visual means, mapping tools, cartographies and search and rescue itself to represent the consequences of border control and to influence debate (Cuttitta 2017; Last et al 2017; Heller and Pezzani 2016). See e.g. the Forensic Architecture Project (https://www.forensic-architecture.org/project/).
3   'Constructing a new framework of respect for the rights of missing and dead migrants and their bereaved families' (Last Rights Project: http://lastrights.net).

died and what might prevent these deaths.[4] Yet, many of the underlying constraints will probably remain, due to the different mission of rescuers.

There are various sources that could provide data relevant to preventing deaths, including big data, such as GPS information, social media, and the testimony of migrants themselves. Similar limitations may apply to this data, but it is nonetheless critical that those with access to these different data sources coordinate and interact (see Chapter 2). In today's political environment, 'cross-fertilization' will ensure that promising data sources, and potential solutions, will be identified and pursued.[5][6]

Pragmatic policy experiments

With regard to the appropriate course of action, muddling through may be the best option given the current political environment. However, with the continuous and ongoing changes in international mobility and migration control, there is still a need to formulate an overarching vision. Indeed, the debate between vision and muddling through might be a false choice, as the small-scale efforts to address problems inform the ultimate solution, and the grand vision may help to provide coherence to the multitude of efforts and afford a common language. But what should be the focus?

It is commonly assumed that more legal pathways for migration would reduce border deaths, as people will forego risky routes if given the option. This has led some to advocate for 'open borders', with often conflicting understandings of that term (Bauder 2018). States in turn deride 'open borders' as utopian. They prioritize their sovereign right to control borders, giving only lip service to state responsibilities and the individual right of movement. However, it is utopian, and far from 'realistic', to claim that

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4   On 11 May 2018, international civil society signed *The Mytilini Declaration for the Dignified Treatment of all Missing and Deceased Persons and their Families as a Consequence of Migrant Journeys* (Mytilini Declaration). The Last Rights Project is finalizing a Protocol to the Mytilini Declaration, including detailed guidance for all those working with the families of the missing and the deceased, an Explanatory Note and Glossary. This work is set to conclude in May 2019 (http://lastrights.net).

5   For example, Craig Spencer at Columbia University has initiated research on migration deaths in the Sahara because of his experience serving on a rescue boat and his being told by migrants that their experience in the Saharan desert was worse than almost dying on the Mediterranean. This research might help illuminate the risks of crossing the desert and the impact European policy initiatives are having in either increasing or decreasing those risks.

6   See Chapters 2 and 3 and the Preface for a critique of the collection and use of numbers, and data more generally, in the context of 'knowledge' on border deaths.

states can prevent high levels of migration, particularly given the disruptive conditions prevailing around the world. We suggest that, by adopting an evidence-based approach, a more pragmatic response to migration might be possible. Borders are best seen as selection mechanisms that allow the circulation of *some* people, goods, finances and information whilst excluding others (Casas Cortes et al 2015; Dijstelbloem and Broeders 2014; de Haas et al 2016). Various options exist that permit the circulation of *more* people and these can be tested and 'actively promoted in a coordinated and systematic manner' (Cyrus 2018: 14), even under today's conditions.

This systematic process, espoused by Cyrus, is one way to meld today's muddling through with ultimately achieving a differently ordered, more protective framework for migration. It is possible to consider both the sovereign right to control borders and the individual right of movement as fundamental, with their relative importance calibrated in the context of particular situations – just as freedom of speech is fundamental yet regulated under certain circumstances (Cyrus 2018: 4). The right to movement, for example, can accommodate reasonable investigations to prevent the entry of those who are dangerous, or even require a visa. The way forward could be to focus on smaller initiatives, advocating for more open migration in those situations, and demanding that any restrictions in this smaller setting be justified on an objective basis related to actual circumstances (Cyrus 2018: 8-9). This could guide research as well: '[s]egmenting the analysis of reservations against an individual Right to Freedom of Movement into small and manageable research units provides the possibility to search for practical proposals responding to reservations' (Cyrus 2018: 9).

In general, migration policy is susceptible to symbolic action, border theatre and low levels of trust. Infusing policy debates with promising examples and better information could therefore be indispensable. Unfortunately, this idea of evidence-based policymaking in the context of migration has itself become a contested issue. As Baldwin-Edwards et al (2018) conclude, for instance, there is a 'substantial gap' between existing data on migration and European Union policy responses, even when the underlying research is directly funded by European governments. Despite these limitations, the possibilities of evidence-based policy making should be explored further, using smaller initiatives to build trust.

In this respect, it might be useful, as a model, to look at the rise of the evidence-based movement in the medical sciences and the problems it has experienced. Currently, evidence-based medicine is often identified with corporate-directed and financially intensive clinical trials, where supporting corporate profits and goals conceivably outweighs addressing the needs of

individual patients – much as governments might distort migration data to serve their goals, rather than human needs. Various scholars have argued that a true evidence-based movement would be informed, at the ground level, by the clinician's collective experience with individual patients, each presenting different health profiles and aspirations (Greenhalgh et al 2014; Sackett et al 1996).

This 'bottom-up' approach, if applied to migration, could ideally lead to an overall, unifying vision (Cyrus 2018: 11; see Chapter 6 and Preface). The creation of humanitarian corridors and NGO-sponsored resettlements (Palm 2018) is an example of small efforts that could potentially be used to create principles and practices later generalized on a larger scale. More expansive legal access has been repeatedly advocated in global agreements, such as the New York Declaration for Refugees and Migrants and the UN Global Compact for Safe Orderly and Regular Migration[7] (GCM, adopted 10 December 2018), but little has been achieved by nations along these lines. The EU, for example, announced the creation of resettlement channels from Niger, in consideration for relocation of migrants from Libya to that country, but that resettlement has stalled (Palm 2018). At least initially, NGO efforts might need to stand in for state efforts, even though they are currently too small to address overall migration. In one such initiative, a group of civil institutions and the Italian Ministries of Foreign Affairs and of the Interior signed a Protocol of Agreement for the resettlement to Italy of 1,000 vulnerable people from Lebanon, Morocco and Ethiopia in 2016 and 2017 (Palm 2018; Gois and Falchi 2017). Effectively, states such as Italy are substituting these smaller efforts, where they can control information and the cost is borne by civil society, for larger endeavours implemented by the UN High Commissioner for Refugees (UNHCR). Nonetheless, it is worth incorporating these smaller endeavours into the overall vision and determining what issues arise and what features, if any, could be scaled up to make resettlement more effective.

In a recent report, the Dutch Scientific Council for Government Policy (WRR 2018) advised facilitating external processing of asylum requests at the embassies of EU member states in the countries of origin of would-be migrants. This measure could potentially prevent people from taking dangerous routes and allow people who might have a right to asylum a quicker and safer procedure. Other recommendations in the same spirit included experiments with circular migration and more specific and

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7   https://www.un.org/pga/72/wp-content/uploads/sites/51/2018/07/migration.pdf

wider labour migration policies, all potentially endeavours with which to experiment.

Another potential solution to prevent border deaths is removing visa obligations, which would make borders not entirely open (because controls could still be in place) but much more open than they are now. Indeed, it was in part the imposition of visa requirements by Spain and other Mediterranean EU countries that resulted in the irregularization of travels in this region and is one of the origins of recent border deaths (see Afterword and Preface). Removing visa requirements would be a return to the historical norm of movement and history suggests that adverse effects might be less than states warn. For example, Poland's accession to the EU and Schengen occurred without significant adverse effects, despite some predictions to the contrary, and coincided with the end of deaths along the German border (UNITED 2018).

These smaller endeavours could also identify the potential for adverse consequences before problems become overwhelming. For example, even proponents of open borders express concerns that these could 'have disturbing unintended consequences'; they could overstrain welfare systems, increase labour competition, and lead some states to revamp citizenship requirements (Bauder 2018: 5). Resettlement likewise could raise issues as, depending on the circumstances, it could be considered a form of forced movement or indentured labour. With smaller projects, these problems could be addressed before they become overwhelming.

Ultimately, the goal is to use these pragmatic steps to develop support, and experience, for a shift in paradigm. The legal framework already exists to demand that states meet their responsibility to individuals (see e.g. Chapters 5 and 6; UN GA 2017; Last Rights Project 2017). States have an obligation to protect the lives of individuals from foreseeable risk, without discrimination, whether or not the individual is acting lawfully; here, the risk is foreseeable, as governments 'know that people will die attempting to cross dangerous border regions, including deserts, rivers and seas' (UN GA 2017: para 59). Governments are obligated to investigate these deaths and to determine how to prevent them (*ibid*: para 52). The obligation to protect life could even *require* that states issue humanitarian visas, or institute other legal routes of migration, if the failure to do so would put an individual's life at risk (Spijkerboer 2018).[8]

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8   More specific legal paradigms, supported by regional agreements, also exist. In the EU, instead of interpreting the principle of solidarity enshrined in Article 80 TFEU as limited to EU members, this principle could be read as requiring solidarity between the EU and external subjects, including refugees and migrants (Redondo Ibarrondo 2018).

The Global Compact for Safe, Orderly and Regular Migration and the Global Compact on Refugees[9] constitute starting points for developing initiatives. These Compacts expressly envisage further collaboration and provide a potential framework for mainstreaming individual initiatives. Furthermore, academics and NGOs are developing additional guidance on how migration can be regularized and deaths reduced. Examples of such guidance range from the model international mobility convention (The Model International Mobility Commission 2017), which provides a comprehensive framework for all mobility, to the Mytilini Declaration (Last Rights Project 2018b), which addresses the specific issue of the rights of those who die or disappear during migration and the rights of their families. Early June 2019 saw an important legal development in that two lawyers lodged a comprehensive and detailed written submission with the International Criminal Court arguing that the European Union is culpable of crimes against humanity in relation to its acts and omissions regarding the deaths of migrants. The response of the court is awaited (Bowcott 2019).

Conclusion

If there is a conclusion to be drawn, it is that there are many policy options between the utopian and dystopian visions of borders and migration politics. Between the harsh measures of states and extreme border rhetoric on the one hand and humanitarian ideals and fundamental rights on the other, many practical initiatives flourish already. These initiatives, some of which we have described (see Chapters 4, 5, 6 and 2 for additional initiatives), can function not only as possible policy options, but also as building blocks for a different kind of evidence-based policy-making: one based on monitored pilot projects, on local initiatives, on solidarity actions of people, NGOs and local governments, which potentially escape from the misleading dichotomies between 'open' and 'closed' borders or 'utopian' and 'dystopian' visions.

In order to prevent crises from becoming the new normal, and solutions becoming the exception and emergency-driven, we have emphasized the need to 'zoom out' and use these small endeavours to develop the guiding principles for the ultimate paradigm change. These promising practices deserve to become the accepted normal. The next step should consist of developing an

9   https://www.unhcr.org/events/conferences/5b3295167/official-version-final-draft-global-compact-refugees.html

overarching framework into which these practices fit – a framework that demands that states meet their obligations to recognize a right of movement and to protect all individuals during migration from any risk to life.

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About the authors

Huub Dijstelbloem is Professor of Philosophy of Science and Politics at the University of Amsterdam (UvA) and Senior-Researcher and Project Leader at the Scientific Council for Government Policy (WRR) in The Hague. His research focuses on migration policies, the monitoring of mobility, border control and the deployment of technologies.

Carolyn Horn is Senior Advisor to Dr. Agnes Callamard, U.N. Special Rapporteur on Extra-Judicial, Summary or Arbitrary Executions. She is a former partner of Arnold & Porter. Her research focuses on migration policies and the increasing criminalisation of humanitarian aid.

Catriona Jarvis, LLM, MA, is a retired judge from the United Kingdom. She sat for some twenty-one years, most recently in the Upper Tribunal, Immigration and Asylum Chamber. She is, with Syd Bolton, Co-Founder and Co-Convener of the Last Rights Project.

Afterword: From the Iron Curtain to Lampedusa

Thomas Spijkerboer

One of my earliest childhood memories is that my father cries. He had heard on the radio news that a Czechoslovakian couple had crossed the border to Austria hidden in a truck. Just before the border, their baby had started to cry. By muffling the sound of their baby, they had killed it.

I could call what I remember 'the facts'. They seem pretty straightforward. But what do we make of these facts? The immediate cause of death of the baby seems clear, but does causality stop there? Do we include the decision of the parents to make a perilous journey in the picture? Shall we call it reckless? Is the behaviour of the truck driver relevant, who no doubt was paid for the human cargo? Do we include into the picture the fact that a totalitarian regime was protecting its way of life by controlling the departure of people? Do we look only at direct actors, or do we look at the indirect effect of Czechoslovakian policies and practices? Do we include international law into the picture? And if so whose law? The right to leave any country, including one's own (codified in Article 13 of the International Covenant on Civil and Political Rights and Article 2 Protocol 4 to the European Convention on Human Rights) was precisely not recognized by communist states. And what is the relation between causality and responsibility in the moral, political and legal sense?

To the four- or five-year old version of me, it was too cruel to blame the parents. They did something that turned out very wrong, but that was an accident. But, that they were hiding in a truck and had to remain silent was not an accident, and the people who had given them reason to do so (soldiers, I imagined) bore much of the blame. No doubt this analysis was heavily influenced by discussing this with my dad, and with my older sister who also remembers the scene. The fact that this is the analysis of a child as remembered in middle age does not necessarily make it irrelevant. But to elevate it to the kind of wisdom to which children have unique access also does not seem right.

The papers in this volume come out of the conference marking the formal end of a five year research project on border deaths at the Law Faculty of the VU, with Tamara Last, Paolo Cuttitta, Theodore Baird, Orçun Ulusoy, Lisa Komp, as well as twelve field researchers.[1] The ambition of this project was to better understand the relation between European policies and border deaths; and to analyse this relation in terms of humanitarianism and human rights. Of course, as with the Czechoslovakian baby, our understandings and analyses may be contested.

Humanitarianism & human rights

In 2009, the Italian authorities intercepted people at sea and brought them back to Libya – the infamous pushbacks. They claimed that this was not the exercise of jurisdiction but a humanitarian act. In its Hirsi Jamaa judgment, the European Court of Human Rights ruled in 2012 that it was the exercise of jurisdiction, as well as a violation of, essentially, the prohibition of *refoulement*.[2] After the Lampedusa shipwreck of 2013, the Italian and other European authorities gradually took over search and rescue (SAR) on the Central Mediterranean. As we can see in the crackdown on humanitarian NGOs, which is intensified by the new Italian government, they seek an actual monopoly. For the time being, international law stands in the way of European authorities acting within the territory and territorial waters of North African states. Therefore, we now see what Markard (2016) has termed pullbacks: the Italian Maritime Rescue Coordination Centre notifies the Libyan Coast Guard, which rescues people and brings them back to Libya (Cuttitta 2018c and 2018d). In this manner, pullbacks are remote control pushbacks. No doubt, the pullbacks will lead to interesting case law in the European Court of Human Rights.[3] In itself, it is perfectly arguable that, because of the essential role of European states in the pullbacks, they are violating international human rights law just as they did in the Hirsi Jamaa case. However, there are limits to the number of times human rights courts can pick up the pieces by giving controversial judgments. Law is not a technical construct, it is not a machine which delivers results. It is a discursive social system in which language and power interact. Lawyers and

1   The project as a whole is presented on www.borderdeaths.org.
2   European Court of Human Rights 23 February 2012, application no. 27765/09.
3   A case regarding a pullback to Libya which occurred on 6 November 2017 is currently pending before the ECtHR.

human rights courts are perfectly able to construct arguments about the incompatibility of pullbacks with international law, but they do not control the force field in which these arguments operate. Human rights law in itself will not do the trick because it is as multi-interpretable as humanitarianism.

At a certain level of abstraction, there is agreement on humanitarian values and human rights: death is bad, torture is bad. But this abstract agreement then becomes an arena of contestation (Cuttitta 2018a and 2018b). On the one hand, the Italian government claims to be the real humanitarian: if the number of deaths is to be brought down, the number of people crossing the Mediterranean in smuggler boats has to go down. SAR with transport to Europe has been integrated into the smuggling trajectory and fails to bring the number of crossings down. Therefore, European state authorities argue that pullbacks are the real humanitarian concept. That this involves exposing people to inhuman treatment in Libya is, in this perspective, unfortunate. It shows that European states have to work with actors in Libya to improve the human rights situation there, not that European states have to accept being integrated into smuggling activities. But one can argue the opposite too (see Chapter 7). It can be pointed out that exactly this kind of policy is part and parcel of the cycle of the repression of migration and counter-strategies of migrants. Policies such as the pullbacks channel migration towards ever more dangerous routes. They also result in the consolidation of smuggling professionals which leads to an increasing risk to life (Brachet 2018). Therefore, many humanitarian NGOs as well as academics argue that, as long as legal channels of migration are preached but not practised, SAR and disembarkation in Europe is the humanitarian and human rights thing to do.

The policy dynamics

A crucial issue for figuring out alternatives is: how did we get here? Access to the infrastructure which makes the expansion of global mobility possible is tightly controlled (Spijkerboer 2018). As part of this development, an increasing number of people die under the spotlights of political and media attention. Why does it seem impossible to change this course of events?

We can agree that before 1990 very few people died while trying to enter European states. They died while trying to leave European states, but this involved a different policy dynamic which was ended by the fall of the Iron Curtain in 1989. Starting with the 1990 Schengen Implementing Agreement, European states began to harmonize and externalize migration policy. A

direct relation between these developments and the increasing number of border deaths is hard to deny. These policy innovations are closely related to the increasing role of the security industry. The interpenetration of states and markets for security is an explicit aim of the border security policies of European states and of the EU. In his network analyses and ethnographic evidence of the border technology field, Theodore Baird has shown how the security industry and policy makers continually interact in research and development (R&D) projects, at marketing events, and in Brussels meeting rooms (Baird 2016; 2017a). In these settings, a community is created where state and market actors position themselves as professional experts, people who can get things done and know what they are doing, contrasted with people who are either bad (smugglers) or naïve (migrants as well as NGOs and academics). It is this community of technocratic experts that defines the parameters of European policy in the field (Baird 2017b; 2018). Imagine Baird were to make a comparative analysis of the participant lists of his border security fairs and academic conferences on border deaths. I would not be surprised if he would conclude that there is virtually no overlap between the participants. The separation which we ourselves perform is part of the policy dynamic we try to analyse (see Chapters 1 and 3).

But the dynamic is bigger than that. Essentially, European states claim they are trying to combat border deaths by suppressing irregular migration. They argue that they are doing the humanitarian thing (bringing down the number of deaths) by serving state sovereignty (more control over populations). This makes sense, they say, because when fewer people get into rickety boats, fewer people will drown. What critics of European policies argue is that people get into rickety boats because they are unable to board planes or ferries. And they used to be able to get on to more reliable smuggling boats, with professional drivers who ran regular shuttle services between two coasts. Because of increasing enforcement, nowadays old boats are used, the boats are run by migrants who get a discount, and pullbacks will lead to people trying not to be rescued unless it is already too late. So basically what the critics say is that the response to border deaths consists of measures which led to border deaths to begin with.

The idea that the European policy intervention does not break through the vicious cycle but reinforces it over and over again is more plausible than the alternative which European policy makers propose: namely, that there has been insufficient enforcement and that, this time, their policies will meet the stated policy objective to prevent migrant deaths along the borders (Last 2018). Whether states should take the critics seriously is not only a moral and political question. If we accept the argument that the

European Convention on Human Rights applies to border deaths occurring in their territorial waters and on the high seas, even when state actors were not directly involved, states are obliged under Article 2 (right to life) to genuinely investigate how border deaths come about and whether the policy and administrative framework in place in fact contributes to the aim of preventing loss of life[4] (see Chapters 7 and 8).

Closing

What conditions need to be fulfilled for breaking through this cycle? It feels naïve and utopian to ask this question. But of course it is not. Only 30 years ago, there were no border deaths in the Mediterranean; nowadays, it would be news if there were less than 2500 in one year. So once again: What conditions need to be fulfilled?

First of all, it must be recognized that the lives of the racialized Others who die at the borders of the 'Global North' matter. The contrast with, for example, the people who died when in July 2014 Malaysian Airlines flight MH17 was downed over Eastern Ukraine shows what a difference this could make. The Dutch government made every conceivable effort to ensure the dignity of the human remains, to ensure identification, and to analyse how this could happen. In contrast, European states do not even systematically count border deaths (see Chapter 2), and the local death management systems that record dead bodies are overwhelmed and ill-equipped for investigating border deaths (Last 2016; Last et al 2017; see also Chapter 4).

Secondly, an obvious idea to consider is to loosen the grip of the security industry on policy making. In the panels deciding on how to spend R&D funds, on developing new technological systems, there should be more seats at the table for civil society, humanitarian actors and NGOs. They should be part of policy development and decision-making processes from the initial stages (see Chapter 5).

Third, policy makers need an alternative for the tunnel vision in which they are currently caught. These alternatives need to be cast in technical terms (concrete policy measures, impact assessments, etcetera). But policy makers also need alternative political and emotional discourses. Politicians who are willing to oppose initiatives of emerging nationalist political alliances in Europe, or the European Commission's proposal to

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4   Lisa-Marie Komp's PhD research at Vrije Universiteit Amsterdam consists of an in-depth legal analysis of state obligations under Article 2 ECHR vis-a-vis border deaths at sea.

triple the budget for border control, need alternative plans and alternative language (see Chapter 3). These ideas have been put forward. It might make sense to bring them together and develop a couple of policy alternatives, including alternative narratives of migration (see Preface and Chapters 6 and 8).

In 1989, European countries succeeded in ending the situation in which people died while trying to cross borders irregularly. Since then, people have started to die at other borders. Like those at the Iron Curtain, these deaths are the consequences of the choices of human beings (see Chapters 1 and 6). Therefore, these new border deaths can be ended too. The changes ending the current border deaths may have to be as momentous as those of 30 years ago.

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About the author

Thomas Spijkerboer is Professor of Migration Law at the Amsterdam Centre for Migration and Refugee Law of the Vrije Universiteit Amsterdam. He was Principal Investigator for the project, Human Costs of Border Control.

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