

Contribution to Call for Inputs on
Report on the phenomenon of missing migrants – human rights analysis
by the UN Special Rapporteur on the human rights of migrants
13 December 2024

Introduction:

1. Franciscans International (FI) welcomes the decision of the Special Rapporteur on the human rights of migrants to make his next report to the 59th Session of the UN Human Rights Council on the issue of missing migrants, and the opportunity to make comments on this very important issue. It is a Franciscan tradition to welcome strangers and assist marginalized groups. In terms of migrants this has led to the establishment of two Franciscan networks¹ in the areas where most migrants have perished on the perilous routes, namely, across the Mediterranean towards Europe, and through the Darien Gap and across Mexico, to the United States of America.
2. The Franciscan interaction with migrants in the places where assistance is provided is principally concerned with giving care to the living rather than seeking out the missing and possibly dead; the subject of missing relatives or friends is not easily brought up by migrants.² Nevertheless, Franciscans and FI do work with and have contacts with civil society organizations directly dealing with this issue, and in this submission make comments on the basis of direct information provided and publicly available, if not widely known, statistics.
3. The topic is a vast one and the area concerned is global. The issues faced by families in whichever part of the world their migrant kin go missing are the same. In this submission, we will concentrate on sea crossings to Spain which comprises four different routes. The aim in line with the request of the Special Rapporteur is to assist in the provision of data disaggregated in so far as is possible in terms of nationality, age, gender and migration route and to suggest measures which would assist in the prevention of migrant deaths and missing, and in relation to supporting families in tracing or searching for, locating and exhuming, identifying and returning remains of missing or disappeared migrants, as well as in seeking justice and pursuing the right to the truth.

¹ Red Franciscana para migrantes (Franciscan Network of Migration) founded 2018 [Red Franciscana | Para Migrantes](#) and the Franciscan Mediterranean Network founded in 2019 [Franciscan Mediterranean Network \(FMN\) |](#)

² There are exceptions to this such as that reported in the 2022 Annual Report of the Franciscan Network on Migration: “Help was given to cremate a migrant woman who died after crossing the Darien jungle and family members were accompanied by the Franciscan Sisters of Mary Immaculate.”

Comparison of Statistics

4. The basic statistics on which we would wish to concentrate are those given by Caminando Fronteras, in their Monitoring the Right to Life Report of 2023.³ These were chosen so as to give a direct comparison on particular routes across the Mediterranean with the statistics of the International Organization for Migration (IOM). The report gives details of the overall death rates on migration routes heading into Spain. It notes that 2023 was the deadliest year on record with a total number of victims amounting to 6,618, which equates to 18 deaths every day. This compared to 4,639 victims, and 12 deaths per day, in 2021. Breaking down the figures by route by far the most hazardous was the West African Atlantic Route (WAAR) with the Canary Islands destination which amounted to 6,007 victims. The other three routes the Strait (147), Alboran Sea (30) and Algerian (434) accounted for the other 611 victims. In terms of gender, the statistics refer to 363 victims being women and 384 being children with people from 17 different countries⁴ counted among the overall victims. Some 84 boats have disappeared with everyone on board.
5. On the Missing Migrants Website of the IOM the statistics pertaining to the Mediterranean in 2023 are given with routes in a fact sheet dedicated to Irregular Migration.⁵ This includes routes which do not lead to Spain including the Central Mediterranean route which is the largest for victims but what is striking is the comparison with the WAAR figures given by Caminando Fronteras. The 6,007 is more than 6 times that of the IOM, which is 959. The percentage of child victims is given in a bar chart together with that of men and women and appears to be around 3%, roughly 30, and that of women (13%) or roughly 125, these figures require to be multiplied by 12 and 3 respectively to arrive at the comparative figures of Caminando Fronteras. Some 13 countries of origin are given in the IOM figures.
6. Caminando Fronteras notes that 2023 was “a particularly difficult year for seeking truth, justice and reparation for victims at the borders” and that it had increased its capacity in this area and that “the silence surrounding the victims has been exacerbated by fear of state repression and detention among those who speak out. Our research also highlighted a rise in the persecution, stigmatization and criminalization of families because they were looking for their loved ones”.⁶ This may provide one reason why there is underreporting of victims in the IOM statistics. The IOM itself acknowledges on its website that there is undercounting because of the difficulty in collecting information, hundreds of bodies being found that are not linked to any known shipwreck and many reports of shipwrecks with no survivors which are inherently difficult to verify.⁷
7. The latest figures from Caminando Fronteras are, however, even more alarming than the annual figures for 2023 which had been declared the deadliest year ever. These relate to

³ [MONITORING THE RIGHT TO LIFE 2023 - Caminando Fronteras](#)

⁴ Algeria, Bangladesh, Cameroon, Ivory Coast, Gambia, Guinea Conakry, Comoros Islands, Mali, Morocco, Mauritania, Palestine, Democratic Republic of Congo, Senegal, Syria, Sudan, Tunisia and Yemen.

⁵ [West and Central Africa — Irregular Migration Routes to Europe \(January - December 2023\) | Displacement Tracking Matrix](#)

⁶ [MONITORING THE RIGHT TO LIFE 2023 - Caminando Fronteras](#) p. 4.

⁷ [Mediterranean | Missing Migrants Project](#)

the first 5 months of 2024⁸ and show a number of 5,054 victims with an average of 33 deaths per day, nearly double of that reported in 2023. The WAAR accounted for 4,808 of the victims, again by far the highest, with the others accounting for a total of 246. There were 154 women and 50 children among the total figure and the casualties came from a similar number of nationalities, 17.⁹

8. Behind the statistics, however, there are cases of the individual or collective suffering of a family. These people live very often with the uncertainty of not knowing whether their loved one is dead or alive. If a body is identified, there is at least, alongside grief, the opportunity of closure, the end of ambiguity and the chance to give the victim a dignified burial. It is important to hear these stories and they are recounted in respect of Spain in the 2021 IOM report on Families of Missing Migrants.¹⁰ The same report concludes with five recommendations (which are articulated in sub-headings)¹¹ which in respect of Spain can be considered as still valid today, viz.
 1. Designate or create a body or institution to act as a single contact point for the relatives of those missing or deceased while trying to migrate to Spain.
 2. Ensure that families can report the disappearances of their relatives using simple and accessible procedures.
 3. Investigate and prioritize all incidents of disappearances or deaths of migrants.
 4. Develop a protocol establishing a road map for the Spanish authorities to adopt a uniform approach and strategy to search for and identify missing or deceased migrants, taking into account the respective mandates of the different actors involved in these processes.
 5. Adapt the existing legal framework for handling missing-person cases to take into account the situation of their relatives and the transnational dimension of migration.
9. In regard to Spain, and other countries, reticence to report a missing relative to authorities because of being an irregular migrant oneself has been raised as an issue. Franciscans have declared their support for the extraordinary regularization of migrants by a letter¹² from the Inter-Franciscan Federation of Spain which assists in this regard. We welcome the introduction of the new law by the Government of Spain which should lead to the regularization of some 900,000 migrants.¹³

General Comments

10. We have concentrated on the precise area of emigration to Spain because of the available statistics and the qualitative research done by the IOM in respect of that country. Country

⁸ [Right to Life Monitoring - First five months 2024 - Caminando Fronteras](#)

⁹ Algeria, Burundi, Burkina, Cameroon, Gambia, Guinea Bissau, Guinea Conakry, Comoros Islands, Ivory Coast, Mali, Morocco, Mauritania, Pakistan, Democratic Republic of Congo, Senegal, Sierra Leone, Sudan.

¹⁰ *Sánchez Dionis, M., G. Sanchez and C. Arce Jiménez, 2021. Families of Missing Migrants in Spain: Their Search for Answers, the Impacts of Loss and Recommendations for Improved Support. International Organization for Migration (IOM). Geneva. Chapter 2.*

¹¹ Ibid. Chapter 4

¹² [ILP-NUEVA-1.pdf](#)

¹³ [Spain plans regularization of 900,000 undocumented migrants: Spain's New Immigration Law - Schengen Visa News](#)

reports were compiled however for three other countries, namely, the United Kingdom, Zimbabwe and Ethiopia with recommendations tailored to the specific jurisdiction, and a helpful combined report which can inform recommendations for ways in which governments and other actors can better support the families of missing migrants.¹⁴ We believe however, that the foundation must be the protection of the human rights of the migrants.

11. In respect of the Mediterranean, they are well set out in the 2016 briefing by Stefanie Grant on Dead and Missing Migrants: The Obligations of European States under International Human Rights Law where the basic human rights protections are listed in the conclusion.¹⁵ These include effective measures to enhance monitoring, accountability for, and of course prevention of, migrant deaths. We suggest measures below which have come up in the issues raised by people who work on the ground in the area of human rights for migrants and their families¹⁶.
12. The first recommendation is the formulation approved by Pope Francis as the first of 20 points for global action: “encourage States and all actors involved to expand the number and range of alternative legal pathways for safe and voluntary migration and resettlement, in full respect for the principle of non-refoulement.”¹⁷
13. A second action point relates to the practical difficulties which migrants' families face in tracing their lost relatives which is: empower non-governmental bodies to assist in the search or identification processes and the facilitation of information to be given to the families. Very often the family members are impeded from contacting the authorities whether because of mistrust, language difficulties or even fear of deportation if they themselves are undocumented migrants. There is a clear need to differentiate between information supplied for the purposes of finding a missing person and using such information to identify traffickers, for example. Some bodies such as the International Committee of the Red Cross (ICRC) are willing to act as a neutral intermediary between the different actors to ensure the vital sharing of information for strictly humanitarian purposes as it offered to do in its November 2022 report - Counting the Dead.¹⁸
14. Thirdly, all steps should be taken to facilitate their identification, such as taking fingerprints, DNA samples and avoiding premature burial before all efforts are taken to assist in their identification. Again, the ICRC has advocated practical steps to be taken, such as: use of a Disaster Victim Identification (DVI) Unit, the Missing Persons Unit, the Coast Guard and the medico-legal and forensic services, to offer help in the process of identifying the

¹⁴ [Families of Missing Migrants: Their Search for Answers and the Impacts of Loss | IOM Publications Platform](#)

¹⁵ [Mediterranean-Missing-Legal-Memo-290816.pdf](#)

¹⁶ These include volunteers on the Mediterranean, a rescue ship, the Observatory Al Marsed in Libya which seeks justice for migrants in the Peoples Permanent Tribunal in Tripoli, and a partner in the work of Caminando Fronteras.

¹⁷ https://migrants-refugees.va/wp-content/uploads/2019/03/20-Action-Points-for-the-Global-Compacts.EN_.pdf

¹⁸ [Counting the Dead: An ICRC report on the migrants dying on Europe's borders | ICRC](#)

deceased.¹⁹ Using these multi-disciplinary efforts in the particular case of the capsizing of a fishing boat in June 2023 of the coast of Pylos, in the Peloponnese, Greece allowed over half the recovered bodies to be identified, mainly from fingerprints. The success rate and speed of identification are exceptionally high compared with other migration disasters. But not only the giving of bad news was expedited by using modern techniques but also the good news of survival through the Family Links Network and the Trace the Face App.²⁰

Conclusion

15. In most of the literature tracing the human rights aspect in respect of treatment of the missing and dead, the rights holder is normally seen to be the next of kin. Their moral right to claim the body stretches back in time and is recorded in the earliest stories of humanity right to the siege of Troy when King Priam begged Achilles for the return of his son, Hector's body. In a recent article entitled *How society cares for the dead – a matter of human dignity* the rights involved in respect of care for the dead are traced through the Geneva Conventions and other international laws and concludes that the need to bury the dead in a dignified manner, and rights of the next of kin to obtain information and to participate, are a recurring element in that elucidation of human rights. What the article conveys however is that the treatment of the dead is a touchstone of how society values human life and human rights, and we end with a quotation from that article which emphasizes the importance and the urgency of dealing with this subject:

“There is a need to act. It needs to be ensured that the dead are cared for in a manner that is appropriate to human dignity in order to respect the rights of the next of kin, and to avoid placing the normative foundation of society at risk.”²¹

¹⁹ [Missing Migrants on the Mediterranean Route: Multidisciplinary Efforts to Address a Humanitarian Tragedy | Missing Persons Platform](#)

²⁰ [Missing Migrants on the Mediterranean Route: Multidisciplinary Efforts to Address a Humanitarian Tragedy | Missing Persons Platform](#)

²¹ *How society cares for the dead – a matter of human dignity! Series of Publications on Justice and Peace, Vol 142e Edited by: Dr. Jörg Lürer Published by: German Commission for Justice and Peace Berlin July 2024 p.4*