Searching for a Legal Framework: Missing Migrants in International Law

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By:

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• October 3, 2023 marked the ten year anniversary of one of the worst shipwrecks in recent era where at least 368 migrants lost their lives close to the small Italian island of Lampedusa.
Unfortunately, it would not be the last time we hear of such events.

Just recently in June of this year, there was a similar shipwreck took place where a crowded boat carrying several migrants just off the coast of Greece where more than 100 migrants are confirmed dead and many others still missing.

Another one can be mentioned in Italy as well.
According to the data from the IOM’s missing Migrant Project, established as one of the response measures following the Lampedusa shipwreck, there are close to 60,000 missing migrants around the world since 2014. (figures last checked on 5 October, 2023.)
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• The Missing Migrant Project has also recorded 4,562 dead and missing migrants for 2023 alone.

• The remains of 24,917 people have not yet been recovered.

(figures last updated 5 Oct, 2023.)
These figures are likely to be higher.

IOM only tallies the number of people who have died at international borders or during the journeys.

It does not cover other instances where migrants could go missing such as in immigration detention.
Adverse Impact on families

The Impact on families of those missing is significant. Exposes them to ambiguous loss with no possibility of closure. This in turn has adverse impact on their;

their socialization; impact the stability of families and impact on the income if the missing relative was the bread winner of the family.
Migrants face unique hurdles in searching for their missing relatives and access to justice such as:

- The absence of mechanisms to report.
- The inability to travel, owing to the lack of resources, to the country where the migrant went missing.
- These challenges adversely affect their enjoyment of their human rights.
Despite these challenges, there does not seem to be a coordinated approach among states towards alleviating the suffering of the families of missing migrants.

As put in the Op-Ed, “the International community is yet to develop a coherent and effective strategy to deal with the problem of missing migrants.”
The Research Question and Objectives

• The focus of my research is to study whether the international law can provide a coherent strategy to respond to the problem of missing migrants.
To answer this question, I go through the relevant regimes of international law such as international human rights law, the law of the sea, international humanitarian law, international criminal law, and determine whether they can respond to the needs of missing migrants and their families to prevent them from going missing or facilitate search as well as provide effective remedy.
Methodology

• I adopt a doctrinal methodology basing my analysis on the legal instruments as well as case-law of judicial and treaty bodies as well as resolutions, declarations of international organizations.
Thank you!