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To cite this article: Luca Mavelli & Lorenzo Zambernardi (23 Apr 2024): 'To be human is to bury the enemy dead': migrant deaths, posthumous citizenship, and the 'soldier-migrant analogy' in the refugee crisis, *Citizenship Studies*, DOI: [10.1080/13621025.2024.2341718](https://doi.org/10.1080/13621025.2024.2341718)

To link to this article: <https://doi.org/10.1080/13621025.2024.2341718>



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Published online: 23 Apr 2024.



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‘To be human is to bury the enemy dead’: migrant deaths, posthumous citizenship, and the ‘soldier-migrant analogy’ in the refugee crisis

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ABSTRACT

While states increasingly govern migration through the administration and distribution of death, they occasionally invest considerable resources in recovering, identifying, and burying dead migrants. How to explain this paradox? A forceful argument in the critical scholarship on migration and citizenship maintains that death sometimes compels states to acknowledge the humanity of the migrants and grant them some degree of posthumous citizenship. In this article, we advance a view that is both different and complementary. We suggest that burying dead migrants is a way for the state and its host population to affirm and celebrate *their own* humanity. This perspective rests on three arguments: to be human is to bury; the ultimate act of humanity is not burying the loved ones but the enemies; burying dead migrants can be compared to burying dead enemy soldiers. The article sheds further light on the still underexplored phenomenon of ‘caring for dead migrants’ and assesses how these practices of care challenge but also reinforce dominant exclusionary understandings of citizenship.

ARTICLE HISTORY

Received 20 October 2023
Accepted 8 April 2024

KEYWORDS

Migrant deaths; humanity; burials; citizenship; soldiers; war

1. Introduction

Since 2014, more than 55,000 migrants have died in border zones such as the Mediterranean Sea, the English Channel, and the U.S.-Mexican border. The Mediterranean, in particular, is the most dangerous migrant crossing in the world, which to date accounts for over fifty per cent of the total death toll (IOM 2023). The connection between ‘migration and death’ (Raghuram 2023, vii) has become an entrenched feature of Europe’s refugee crisis. Although some of these deaths were not preventable, they have been also the product of the growing securitization of undocumented migration – with the militarization, proliferation, externalization, and technological sophistication of borders – and of inaction – with the scaling down and halting of state-sanctioned search-and-rescue missions and the simultaneous attempt to restrict the capacity of NGOs to carry out them (Cusumano 2019; Cusumano and Villa 2021). Through the theoretical lenses provided by Foucault (2008), Agamben (1997) and Mbembe (2003), the management of the migration crisis has been described as biopolitical, biophysical,

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necropolitical, and thanatopolitical to indicate how it increasingly relies on the administration and distribution of death (Squire 2017, 2020).

The rising number of migrant casualties has brought several scholars to interrogate the politics of death, dead bodies, and burials in the migration crisis, with the effect of highlighting an apparent paradox. While governments, through securitization and inaction, often treat undocumented migrants as threatening and disposable ‘bare lives’, they occasionally invest considerable resources in recovering and identifying their bodies, and giving them a proper burial (or, more rarely, repatriating them so they could get one) (Rygiel 2016; Kaneti and Assis 2016; Squire 2017; Mirto 2019; M’charek and Casartelli 2019; Stauffacher and Maddrell 2023). These practices have prompted a momentous question: How to account for the fact that migrants are sometimes granted in death ‘a piece of a sovereign territory’ (Kaneti and Assis 2016, 311), a sort of informal ‘posthumous citizenship’ (Rygiel 2016), and an ultimate recognition of their humanity which they were denied in life?

A forceful line of argument in the critical scholarship on migration, citizenship, and border studies maintains that, in some circumstances, death may compel the state to ensure that ‘certain rights of the dead are provided, including the provision of ethical care, the right to be identified, preparation of the body for burial, and the return of bodies and belongings to relatives’ (Rygiel 2016, 549). Death thus becomes the condition of possibility of a new ‘legal subjectivity’ beyond ‘legality/illegality’ (Rygiel 2016, 549) enacted through practices of ‘relational citizenship’ (M’charek and Casartelli 2019). The dead bodies trapped in sunken vessels are recovered by underwater firefighters, identified by forensic pathologists, assisted by the police, and often accompanied to their ultimate place of rest by members of the local community. Through these ‘acts of care’, this collective ‘bounded by ideas about humanity’ enacts a series of socio-material and relational practices that turn ‘bodies’ into ‘people’ and ‘citizens’, ‘rather than objects or waste to be disposed of’ (M’charek and Casartelli 2019, 739). According to this reading, burying dead migrants is an act of care that recognizes, albeit only partially and tragically belatedly, their humanity. It is an informal act of ‘posthumous citizenship’ with which, while not legally granted citizenship, dead migrants are recognized with some level of inclusion, protection, and belonging that was denied to them in life.

This article aims to shed further light on the still underexplored phenomenon of ‘caring for dead migrants’. Whereas existing accounts have focused primarily on the formal and informal practices of state officers, NGOs representatives, medical personnel, activists, relatives of the victims, community members, and ordinary citizens, our focus is on the rationalities of official state-sanctioned responses. Given that states are not bound by law or forced by public health reasons to recover bodies from sunken vessels, what are the governmental, emotional, and affective logics that have compelled them in a few instances to undertake this effort? How can death turn migrants – often portrayed as a cultural, religious, economic, and civilizational threat that undermines our life and well-being – into fellow human beings and citizens who deserve the piety of a proper burial? Is there more at stake in the burial of dead migrants than the recognition of *their* humanity?

We argue that state-sanctioned burials – and the other practices they entail, from the retrieval of bodies to their forensic identification – are not just a way of caring for dead migrants and recognizing their humanity but are also a means through which

the state cares for its host population by affirming its ultimate humanity. We suggest that celebrating the humanity of the migrants by ensuring that they receive a proper burial enables the states of the Global North to assert and celebrate their humanity against accusations of indifference, callousness, and inhumanity vis-à-vis the drama of undocumented migration. This view rests on three claims that will be explored in detail in the following pages: *first*, to be human is to bury, that is, burials are a measure of a people's humanity; *second*, the ultimate act of humanity is not burying the loved ones, but the enemies; *third*, burying dead migrants can be compared to burying dead enemy soldiers.

According to Italian philosopher Giambattista Vico (1668–1744), burying the dead is what makes humans human, what separates us from the 'bestial wilderness' of 'a feral state in which human bodies remain unburied on the surface of the earth as food for crows and dogs' (Vico 1970, 55). Our own *humanity*, Vico (2002, 90) contends, has its origin in *humare* ('to bury' in Latin), that is, in burying our own dead. As he suggests in *The New Science*, the importance of burying the dead is shown by the centrality of this practice in ancient Greek culture and history. Indeed, in the classical world, burial practices are celebrated to the point that they concern not just one's own dead but also the enemy's dead. This idea runs from Homer's *Iliad*, with its famous account of Hector's death by the hands of Achilles, to Sophocles' tragedy *Ajax*, via historical accounts such as Plutarch's, and finds its first systematization in the legal commentaries of two of the most important founders of modern international law: Alberico Gentili and Hugo Grotius. These thinkers regarded burying the enemy as comparable to 'the right of embassy' (Grotius 2005, 936) and as a fundamental expression of 'the law of nations and humanity' (Gentili 1964, 279).

In suggesting parallels between the burial of migrants and the burial of enemy soldiers, we take inspiration from Michel Foucault's (2003, 15) insight that war can be used as an analytic framework for understanding social relations. Whereas Foucault employs this argument as the groundwork for his biopolitical paradigm and reinterpretation of race and racism in modern societies, our goal and use are much more limited. By reflecting on the diffuse and widespread representations of undocumented migration as an 'invasion', we wish to elaborate on what we call the 'soldier-migrant analogy'. Eschewing the too broad and reductionist reading of a 'war on migrants', we suggest that the postmortem treatment of the dead migrant may reflect the postmortem treatment of the dead enemy soldier. What unites them in a single paradigm is that, in both cases, states can expose some lives to the risk of death – predominantly by actively killing them in the case of soldiers and letting them die in the case of migrants – and take care of their corpses.

In contributing to the growing critical scholarship on migration, citizenship, and death, this article argues that the referent object of state-sanctioned practices of care for dead migrants may not just be the dead but the living – that is, the retrieval of corpses and the associated disposal rites are meant to affirm the humanity of the societies who perform these practices rather than celebrating solely the humanity of the dead migrants. This argument, to be sure, does not aim to detract from the genuine humanitarian commitment of those forensic pathologists, firefighters, NGOs activists, religious actors, relatives of the deceased, community members, and ordinary people who have the care of dead migrants as their primary concern and whose actions have an ethical, relational, political, and transformative potential that turns dead bodies into human beings.

Our analysis, however, aims to highlight the more structural, state-centred, and less innocuous implications of existing manifestations of posthumous citizenship. While these practices may expand the existing boundaries of citizenship by making dead migrants ‘visible and grievable’ (Rygiel 2016, 553), they may also reinforce the exclusionary logic and violence of modern citizenship as they contribute to concealing the violence that caused the migrant deaths in the first place and subordinate the possibility of inclusion, protection, and belonging to death. To illustrate this argument, we will focus on the Mediterranean case as this is the borderzone where the retrieval of dead migrants is most dependent on official state interventions. Our approach will concentrate on the social and political theory of burials, rather than on an exploration of practices. Following an overview of the literature (Section 2), we will first delve into the political philosophy of burials (Section 3), drawing historical and conceptual parallels between the care for dead soldiers and the care for dead migrants (Section 4), and then elaborate on the socio-political implications of the soldier-migrant analogy (Section 5).

2. Caring for dead migrants

In October 2013, a migrant boat capsized off the Italian island of Lampedusa killing almost 400 people. The magnitude of the disaster, accompanied by the dramatic testimonies of the survivors and underwater images that showed several bodies trapped within the submerged vessel (including a hugging couple) triggered an emotional shockwave and prompted an unprecedented effort by the Italian coastguard, rescue divers, and Red Cross volunteers to retrieve these bodies so that they could be identified and receive a proper burial. A few days later, after paying respect to the hundreds of coffins (many of which were child-size) in the hangar at Lampedusa’s airport, then Italian Prime Minister Enrico Letta called for more humane approaches to undocumented migrants, proclaimed a day of national mourning, and stated: ‘The hundreds who lost their lives off Lampedusa yesterday are Italian citizens as of today’.

In April 2015, just outside Libyan waters, the deadliest migrant shipwreck to date in the Mediterranean occurred. The Italian government launched a series of complex operations, codenamed Melilli (from the Sicilian town hosting the mission headquarters), to retrieve the bodies of the drowned. Having recovered 217 bodies from the seabed, the Italian Navy with the support of a team of maritime engineers and the use of a sophisticated remotely operated submarine vehicle, managed to bring the vessel to the surface. By the time, the operation was completed, over a year after the disaster, the human remains retrieved from the vessel filled 458 body bags. New protocols were devised to enable forensic pathologists to carry out an unprecedented work of identification. An extensive and often informal network of NGOs, representatives of the Catholic Church, and ordinary people provided the means – from refrigerated vehicles to blessings and burial spaces – which made it possible to give the dead migrants a dignified burial.

These cases, combined with the numerous governmental and non-governmental initiatives aimed at keeping track and accounting for migrant deaths – from the *Missing Migrant Project* of the International Organization for Migration to the *Deaths at the Border Database* of the Free University of Amsterdam – have prompted several scholars to interrogate the ambivalences of deaths in borderzones. Whereas they are

often considered the product of the inaction, indifference, and security rationalities of states, they have also been analyzed as ‘a form of transgressive citizenship politics’ (Rygiel 2016, 555) that mobilizes ordinary citizens and compels states to perform a duty of care towards dead migrants.

In a seminal article in this journal, Kim Rygiel (2016) has described this paradox as ‘dying to live’. Death transgresses the exclusionary logic of modern citizenship and becomes, in Arendtian terms, the condition of possibility for ‘the right to have rights’. As Rygiel (2016, 549) explains, ‘the dead migrant acquires a legal subjectivity and status denied to him or her in life. . . . The death of the migrant/refugee forces the state to forgo its categorization of legality/illegality in order to administer to the dead body’. Death thus becomes a ‘transgressive moment’ that turns the ‘bare life’ of the living migrant into the legal and social recognition of the inherent dignity and rights of the dead migrant, who ‘must be identified, by first recovering the body, followed by providing an identity through a name, DNA and/or a person’s history’ (Rygiel 2016, 549).

Rygiel recognizes that, even with death, the disruption of the biopolitical logic of modern citizenship is certainly partial and incomplete. She discusses how Letta’s promise of posthumous citizenship to the dead of the Lampedusa shipwreck was not only eventually disavowed but was also accompanied by the prohibition for the survivors of the disaster to attend the funeral of their relatives. She nonetheless considers that the ‘acts of caring’ for dead migrants, precisely because transgress the remit of traditional citizenship, should be found not just in state responses but also in the mobilizations carried out by ‘local villagers’, ‘transnational activists’, and ordinary citizens. ‘[I]n making demands around rights of the dead’, particularly concerning their identification, mourning, burial and memorialization, these groups ‘enact a form of transgressive citizenship politics’ that cuts across ‘territorial, national and legal citizen/non-citizen binaries’ (Rygiel 2016, 554–555).

Building on Rygiel, Amade M’charek and Casartelli (2019) explore how the caring for dead migrants performed by professionals and volunteers produces a condition of ‘relational citizenship’. Focusing on the Melilli mission aimed at recovering the victims of the 2015 Libyan shipwreck, M’charek and Casartelli (2019, 739) explore how this year-long operation resulted in the establishment of ‘an emerging forensic infrastructure for caring for dead migrants’. This infrastructure encompassed not only institutional and state-led interventions, which supported the significant financial investment required to bring back to the surface the sunken vessel, but also the good-will, commitment, and participation of a vast network of actors – from the underwater firefighters, who ‘out of respect’ were careful not to step on the remains they were retrieving, to the forensic pathologists who, to prevent that bones and therefore identities might be lost in the process of washing the dead bodies of migrants, devised ingenious homemade solutions like using a ricotta cheese basket as a colander (M’charek and Casartelli 2019, 747–752).

Similar stories of micro-acts of care are recounted also by Daniela Stauffacher and Avril Maddrell (2023; see also Mirto 2019) in relation to this and other deadly shipwrecks occurring off the coast of Sicily. For example, the police commander of a local village in Sicily scrambled to rent a refrigerated truck normally used for the transport of fish so that the recovered bodies would not decompose in the heat. Another case saw the mayor of a local village asking members of his community to donate bed linens so that thirteen Eritrean migrants could be buried in them according to their own custom. The

‘religiously-inspired compassion and respectful treatment of the dead’ of the villagers prompted them to donate more than double the requirement (Stauffacher and Maddrell 2023, 71). In another instance, faced with the body of a Nigerian boy whose parents had gone missing in a shipwreck, a cemetery warden decided to inter the boy in her family tomb, next to her deceased husband, grieving and mourning the boy as her own family member – a choice described as an ‘adoption’ (Stauffacher and Maddrell 2023, 78). For M’charek and Casartelli (2019, 739), these acts of care were performed by ‘citizens of the world’ who mobilized and deployed feelings of empathy, compassion, and care that established an informal regime of ‘relational citizenship’ which recognized the fellow humanity of the dead migrants.

Some scholars, while sharing the underlying gist of the argument, have taken a more sceptical outlook by considering these practices of care not solely as a celebration and recognition of the humanity of the dead migrants, but also as a sign of the ‘crisis of modern humanism’ (Squire 2017). Vicki Squire (2017, 513), in particular, argues that although the care of the dead is ‘a means of compensating’ without ‘redressing’ the violence they have endured, ‘practices of identification and burial’ also contribute to ‘tolerate such violence’ as they have little effect on the underlying governmental rationalities that produced death in the first place and can actually normalize death as a regime of governing migration. A ‘humanist tradition that seeks to provide “dignity in death”’, Squire (2017, 528) concludes, signals the very crisis of modern humanism.

A complementary critique has been raised by Stauffacher and Maddrell (2023), who question the selectiveness and possibly exclusionary dimensions of these practices of care. The retrieval and identification of bodies, they observe, is not an established practice but has occurred only in the case of high-profile shipwrecks which either involved a very high number of victims and/or took place close to European shores. Moreover, they suggest, burying migrants among ordinary citizens, as it has happened on several occasions, may not just stand as a posthumous form of citizenship and inclusion. It may also be a way of normalizing the violence and inaction behind these deaths and providing closure for the host populations through a process of assimilation that ‘render[s] the border dead, and the wider causes of their deaths, invisible’ and the responsibility of the state completed with their disposition (Stauffacher and Maddrell 2023, 80). Likewise, when dedicated burial grounds have been employed, they have often been located in peripheral sites, with the effect that acknowledging the collective identity of the dead migrants and rendering visible the structural violence is offset by a process of spatial segregation that makes them invisible (Stauffacher and Maddrell 2023, 80).

This brief overview of the literature suggests that, in different ways, the existing scholarship considers retrieving, identifying, and burying migrants as a way of caring for the dead and belatedly acknowledging their humanity. While there are differences and reservations on the transformative and mobilizing potential that these actions may have and the extent to which they challenge the exclusionary logics of citizenship and may stand for new forms of ‘posthumous’ or ‘relational citizenship’, there is nonetheless a consensus on the fact that the primary referent object of these burial practices is the dead migrant. In the remainder of this article, we wish to advance a reading that is both different and complementary. Shifting the focus from the often-informal practices of care of non-state actors to official state-sanctioned interventions, we suggest that burials may not just be for the dead but also, and possibly primarily, for the living. Specifically, we

advance the argument that they are the means through which states care for themselves and their host populations by affirming their ultimate humanity.

3. Burials are for the living

In the first book of the *Tusculanae Disputationes*, focusing on the question of death, Cicero (1960, 123–125) recounts that the Greek philosopher Diogenes told his friends that when he died, he wished his corpse to be tossed over the city walls and left as food for the birds and beasts. In death, he explained, one has no perception and sensation anymore, thus no harm is done to the deceased. Diogenes believed the concern about human remains after death to be unreasonable since they are just lifeless matter. In his monumental study on the dead body, Thomas Laqueur (2015, 1) maintains that most societies have disregarded Diogenes's view. Although the dead do not need body disposal or mortuary rites, the living nevertheless care about them.

As anthropologist Robert Hertz notes in his classic work on the representation of death, human beings do not see death as a mere biological event: 'The body of the deceased', Hertz (1960, 27) contends, 'is not regarded like the carcass of some animal: specific care must be given to it and a correct burial; not merely for reasons of hygiene but out of moral obligation'. Death, far from being a merely brute fact, is imbued with individual and collective meanings, values, and beliefs that speak directly to 'the sense of identity and ontological security' of 'individuals, communities, and states' (Auchter 2016, 37).

From this perspective, caring for dead bodies is the means through which several social functions *concerning the living* are performed. As the scholarship on death has shown, apart from the necessity of disposing of cadavers for hygiene reasons, caring for the dead through funerary rites and burials is a typical social mechanism employed for coping with death's disruptive and upsetting effects. Indeed, these acts of care are rites of passage, transition, and incorporation in the community of the dead (van Gennep 2018), a means of handling and facilitating the grieving process (White, Marin, and Fessler 2017), 'tools' to confront, accept, and 'conquer' death (Bailey and Walter 2016; Davies 2017) and, as we have briefly discussed in the previous section, a way of normalizing the violence and inaction behind the deaths of migrants and closing the circle of responsibility. Yet, caring for dead bodies performs a further and possibly more foundational and ontological function: it is a way for the living to affirm their humanity.

To appreciate this function, let us briefly consider Vico's reflections on the relationship between humanity and burial. For Vico, burying the dead is what distinguishes humanity from the rest of the living creatures. Humans do not bury the dead only for hygienic reasons or to prevent the dreadful sight and smell of decaying bodies. In *The New Science*, he maintains that the burial of the dead is one of the three general customs of humanity, along with religion and marriage (Vico 1970, 53). By no means coincidentally, the connection between humanity and burying is inscribed in language, Vico (2002, 90) suggests, since the term *humanitas* and *humare* (to bury) share a common root (in Latin *humus* means soil or ground; the Latin verb *exhumare* and the English term *exhume* derive from this word). Hence, according to the Italian philosopher, to be human is to bury the dead.¹ In a recent restatement of Vico's seminal argument, philosopher and activist Cornel West (2008, 26) argues:

Any time you talk about wrestling with the terrifying question of what it means to be human, you must begin with the Latin *humando*, which means ‘burying’. To be human is to bury your dead, to put those beloved corpses in the grave, and somehow connect yourself to them.

What is puzzling about our argument is that the corpses of dead migrants are not those of our loved ones. In fact, they belong to people that in life were regarded by states as a threat to our culture, economy, and civilization or, at best, they belong to individuals who were considered unwelcome. The recognition granted to their bodies (through their retrieval and forensic identification) was denied to them in life. The extensively circulated images of overcrowded vessels attempting to reach European shores filled with migrants, their bodies stacked haphazardly, desperately seeking air or a life jacket, instead of evoking sentiments of compassion and prompting calls for the reaffirmation of human dignity, have often been turned into a foreboding cautionary tale of an imminent invasion (Mavelli 2022, 12). Indeed, as a recent study of the metaphors used to describe undocumented migration in public discourse has shown, since the beginning of the European refugee crisis in 2014, the term ‘invasion’ and the portrayal of undocumented migrants as ‘enemies’ have become a regular occurrence in the political debate (Taylor 2021).

The idea that undocumented migrants are an ‘army of invaders’ that threatens Europe’s identity, economic livelihood, cultural, and religious foundations has been extensively employed and exploited by far-right leaders such as Marine Le Pen (‘Without any action, this migratory influx will be like the barbarian invasion of the 4th century’), Victor Orbán (‘Europe is under invasion already, and they are watching with their hands in the air’), Matteo Salvini (‘It is an invasion . . . I will not stand by and do nothing, while there are landings after landings of migrants!’), Giorgia Meloni (‘If Europe does not take action . . . this summer we will have an invasion [of migrants]’), Geert Wilders (‘It’s an invasion that threatens our prosperity, our security, our culture and identity’), and Nigel Farage (‘The arrival of migrants [on the isle of Lampedusa] was almost a military-scale operation. This was an invasion!’).

With many of these populist leaders scoring significant electoral success and some of them getting in power, the idea of undocumented migrants as an invading army has become almost mainstream and absorbed by the popular press and right-wing politicians (such as former UK Home Secretary Suella Braverman, who has repeatedly used the term ‘invasion’ in describing the migrants crossing the British Channel). Ironically, even leftist perspectives that challenge this xenophobic reading often resort to the Marxist idea of migrants as a ‘reserve army of labour’, thus reproducing the model of war in the understanding of the migrant crisis. While not considering migrants as enemies, this perspective nonetheless hints at the threat they represent for European workers as they are the pawns of capital’s attempt to undermine labour by putting downward pressure on wages and breaking the unity of the labour force (Mavelli 2022, 165).

The construction of refugees as an army that embodies a feral threat to the survival and well-being of Europe powerfully evokes Foucault’s (2003) idea of the model of war as an analytical framework for understanding social relations. For Foucault (2003, 49), the fact that since the early modern period war has been ‘centralized in practice and confined to the frontier’ of the state does not mean that its rationalities have disappeared from society. Hence, he asks, ‘[C]an we find in bellicose relations, in the model of war, in the

schema of struggle or struggles, a principle that can help us understand and analyze political power, to interpret political power in terms of war, struggles, and confrontations?’ (Foucault 2003, 23). In the framework of this article, the question becomes: Is it possible to identify in the logic of war a principle, a rationality that can help us understand how migrants often described as enemies and as an invading army may be taken care of in death through the granting of a proper burial and some degree of posthumous citizenship?

To answer this question, we need to go back to Vico and explore his suggestion on the relation between humanity and burial in the classical world. In Greek epic poems and poetry, for instance, the idea that burying the dead is a testament to one’s own humanity is celebrated to the point that it concerns not just one’s own dead but also the enemy’s dead. Consider Homer’s *Iliad*’s famous account of Hector’s death by the hands of Achilles. Mortally wounded and close to death, Hector begs Achilles to return his body to the Trojans so that he may receive a proper burial. Achilles, still furiously seeking revenge for Hector’s killing of Patroclus, refuses and keeps tormenting and disfiguring Hector’s corpse by attaching it to his chariot and dragging it in the dirt. Resolved to have Hector’s body mauled by dogs and birds, Achilles eventually allows Hector’s father Priam to retrieve his son’s body so that it may laid to rest. His decision, following Achilles sharing a meal with Priam and weeping over Hector’s body, ‘restores humanity to the hero and a sense of order to the world’ (British Museum 2023).

Likewise, in Sophocles’ tragedy *Ajax* (5th century BCE), the two victorious kings, Agamemnon and Menelaus, want to leave the body of their defeated enemy Ajax unburied to be further ravaged by scavengers. Yet Odysseus, the legendary king of Ithaca, manages to dissuade them from this intent. Embodying humanity and reason, Odysseus urges those in attendance to remember Ajax as a formidable warrior and emphasizes the importance of giving him a proper burial. These fictional accounts find a vivid translation in historical events. Greek philosopher and historian Plutarch (c. AD 46 – after AD 119) (1892, 228) recalls how Demetrius, after successfully defeating Ptolemy’s brother Menelaus in the battle of Salamis (306 BC), ‘added to the glory of this brilliant victory by his generous and humane conduct in burying the enemy’s dead with great honour’. In the historical context of ancient Greece, burying the enemy was an essential feature of being humane and a necessary condition for qualifying as human.

Over 2,000 years later, this attitude still resonates and continues to inform present-day debates. During the complex and expensive operations which led to the recovery of the 2015 shipwreck and human remains of over 400 migrants, a controversy arose in Italy over the cost of the operation. As there was no legal obligation or public health reason for the Italian government to recuperate the bodies, critics maintained that money was being wasted by giving a proper burial to non-deserving people. In rebuffing this view, a commentator recalled how, from Priam to Antigone (who buries her brother, an enemy and traitor to the state, defying the order of King Creon), classical Greek culture ‘has taught us to respect the dead [and give them a proper burial], even when they are our enemies’ (Azzaro 2016, authors’ translation). Interestingly, this passionate defence of the burial of dead migrants rests on casting living migrants as ‘enemies’, and yet it is precisely caring for the dead enemy that exalts our humanity. In the next section, we elaborate further on this idea by looking at the principles governing the burial of enemy soldiers.

4. Caring for dead soldiers

The practice of burying enemy soldiers has been codified in article 4 of the 1929 Geneva Conventions, which states:

The detaining authorities shall ensure that prisoners of war who have died in captivity are honourably buried, if possible according to the rites of the religion to which they belonged, and that their graves are respected, suitably maintained and marked so as to be found at any time (Geneva Conventions 1929).

For US troops in Iraq in 2003, this was a meticulous task that involved trying to identify the corpses of Iraqi soldiers, recording where the bodies had been retrieved, noting the unit that had retrieved them, bringing the remains to the cemetery, and burying them according to the Islamic practice – for instance, making sure to place the head towards Mecca. According to one reporter and witness, burying the enemy dead ‘is what Americans do. It’s the kind of people we are. Even for our enemies’ (Bartlett 2003). The first modern treatment of the customary practice of burying the enemy dead in war can be found in the legal commentaries of two of the most important founders of modern international law, Alberico Gentili and Hugo Grotius, who both devoted an entire chapter to the question of burials in their respective *De Jure Belli Libri Tres* (1598, Book II, Ch. XXIV) and *De Iure Belli ac Pacis* (1625, Book II, Ch. XIX). Relying on many ancient sources, both Gentili and Grotius considered burying the dead as an unwritten norm, part of the voluntary law of nations and a custom dating back to antiquity, when it was considered both a ‘divine law’ and a ‘law of nature’ (Gentili 1964, 278). Referring to the legal work of Peter Faber, Gentili writes that this is ‘the law of nations and humanity’. Quoting Philo of Alexandria, Gentili (1964, 279) specifies that ‘it is the usage of war either to bury the dead or to turn them over to their countrymen when they ask for them’. Hence, providing for the burial of the dead (by taking care of them or allowing the enemy to do so) was considered a moral and legal obligation. Equating the standing of this norm with ‘the right of embassy’, Grotius (2005, 936) writes that ‘Sepulture is not to be denied either to our private or publick Enemies’.

Leaving corpses unattended was considered a disrespectful treatment of the dead but, especially, a disruption of humanity. Indeed, though a right of the dead, a passage where Gentili comments on Isocrates (1964, 279) makes it clear that the humanity of those who bury is at stake, rather than just the humanity of the buried: ‘The law about burial is generally accepted among men and those who prevent the enemy from being buried are even more injurious to themselves than they are to the enemy’. Gentili (1964, 285) further explains that this is ‘an injury to nature and to all humankind’, an offense committed against humanity as such.

Likewise, when Grotius explains the importance of burial as the distinguishing feature between human beings and animals, he also clarifies that what is at stake is not merely the fate of the dead, but rather that of humanity:

But what seems the most plain and obvious Reason is, that since Man is the most noble of all living Creatures, it was not fit that his Body should be torn in Pieces, and devoured by Beasts . . . Hence it is, that this good Office of Burial is said to be performed, not so much to the Man, that is, the particular Person buried, as to Humanity, that is, human Nature in general (Grotius 2005, 934–936).

Therefore, both jurists make clear that the offense produced by lack of burial is to humanity rather than to the dead. Not fulfilling or allowing the burial of fallen soldiers, one's own or those of the enemy, was considered a betrayal of the human condition, an uncivilized, brutal, and inhuman action, a sort of *ante litteram* crime against humanity. Indeed, who prevents burial, according to Grotius (2005, 926–927), 'violate[s] all that is sacred', 'divest[s] himself of Humanity' and 'disgrace[s] his Nature'. Burial, in other words, is seen as the distinction between culture and nature, the social universe and the animal world.

Saving the dead from nature by burying them also marks the distinction between civilization and barbarism, between human decency and the bestial cruelty typical of savages. Leaving corpses on the battlefield was and still is considered an uncivilized, primitive, and brutish action. Indeed, when Grotius (2005, 927) suggests that the right of burial is common 'to all civilized Nations', he implies that only uncivilized people do not attend to the bodies of fallen soldiers. From this perspective, burying the dead, especially the enemy dead, is evidence of the rise from barbarism to civility.

Interestingly, one does not break the bond of human sympathy by killing other human beings, but rather by not disposing of their bodies: whoever does not properly dispose of the fallen divests himself of humanity, even if the other is 'the most barbarous man' (Gentili 1964, 285). According to both Gentili and Grotius, the logic of this seemingly paradoxical situation lies in the fact that the right to kill enemies is extinguished by their death, so the law does not allow one to punish their inanimate and unthreatening corpses. Grotius maintains that 'By this Law [...] the Dead are not accounted Enemies, nor does any Man extend his Anger and Revenge to the Bodies of the Slain' (Grotius 2005, 938). Likewise, Gentili argues that 'They [soldiers] have ceased to be enemies who have ceased to be men [...] to rage against corpses or to prevent their burial is beyond question a base and impious act' (Gentili 1964, 278). Quoting several Roman sources, Gentili (1964, 278) restates the point, writing that 'the dead do not wage wars'. Enmity is what produces the possibility to kill in war without committing murder, but with death hostility comes to an end. Hence, if enemy soldiers can be rightly and legally killed in battle, their corpses cannot be injured or left unattended.

Despite the importance attached to the burial of the war dead, before the mid-nineteenth century fallen soldiers were not buried in individual, registered graves in military or civilian cemeteries, but were instead interred either on the battlefield in individual unmarked burials or, more often, in shallow mass graves (Zambernardi 2022, 90–91). At any rate, providing individual burials would have been pointless, since there was no organized way to identify the dead; no names were marked on uniforms or on the bodies of soldiers. It was not until the second half of the nineteenth century that the practice of burying ordinary soldiers in individual graves in military cemeteries with a record of their names – what we may call the one-grave one-body method – emerged and gradually developed. Specifically, the issue of locating the dead, identifying their remains, and burying their corpses in military cemeteries was a central policy during the American Civil War and its aftermath. In Europe, too, the attempt to save from oblivion the fallen soldiers through body recovery and identification was made by the Prussians in the War of 1870 (Zambernardi 2017, 294) and became a major concern for most belligerent countries in the Great War.

This practice is now reflected in the modern laws of war. Today, failing to provide proper disposal for the war dead is a violation of international humanitarian law (Elliot 2007, 152). While the Geneva Conventions of 1864 and the 1899 Hague Conventions did not mention the question of the war dead and the 1907 Hague Conventions treats only marginally this issue (merely in reference to prisoners of war), the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick of (1929) codified both the old practice of burying the war dead and the relatively more novel requirement of individualized burial for the identification of the deceased. In particular, Art. 3 of the Convention states that '[a]fter each engagement the occupant of the field of battle shall take measures to search for the wounded and dead, and to protect them against pillage and maltreatment' (Geneva Conventions 1929). Art. 4 stresses the importance of identifying the dead: 'Belligerents shall communicate to each other reciprocally, as soon as possible, the names of the wounded, sick and dead, collected or discovered, together with any indications which may assist in their identification' (Geneva Conventions 1929).

This means that a significant change has taken place: the traditional emphasis on burying the dead is now supplemented by the need to identify their names. Indeed, according to Art. 4, belligerents are required to 'collect and transmit to each other all articles of a personal nature found on the field of battle or on the dead, especially one half of their identity discs, the other half to remain attached to the body'. This is also why in the case of cremation, this form of body disposal must be 'preceded by a careful, and if possible medical, examination of the bodies, with a view to confirming death, establishing identity and enabling a report to be made'. These norms concerning the burial and identification of the deceased were subsequently restated in the Geneva Conventions of 1949 (Arts. 15–17) (Geneva Conventions 1949).

Not coincidentally, to identify the war dead, soldiers' cadavers are now usually treated with great care and have become the object of clinical and medical analysis, such as fingerprinting, dental examination, and DNA tests. Today great efforts and costs are also devoted to retrieving and identifying the remains of the fallen soldiers in past conflicts, what is commonly referred to as 'historical recovery' (Sledge 2005, 82). Although retrieving, repatriating, and identifying the mortal remains of the war dead is a costly activity, it is regarded as a sacred obligation, and, as such, it justifies all political, financial, and administrative costs.

5. Posthumous citizenship and concluding remarks

If we use war as an analytic framework for understanding social relations and employ the soldier-migrant analogy, the paradox of states taking care of migrants in death disappears. As discussed through the work of Grotius and Gentili, the bond of humanity is not broken by killing other human beings regarded as enemies, but by denying them a proper burial. Failing to bury the dead – i.e. enemies or migrants – constitutes an offence 'to all humankind' (Gentili 1964, 285) and shows the inhumanity of those who do not take care of the deceased. Both Grotius and Gentili emphasize that the right to kill enemies – or letting them die, in the case of migrants – ends with their death. The law of humanity requires that their corpses receive a proper burial. To restate a previous quote by Gentili (1964, 285), 'whoever does not properly dispose of the fallen divests himself of humanity'.

The duty to retrieve migrant bodies, the obligation to carry out a medical examination, the forensic procedures used for identifying their corpses, and the shift from common to individual burials appear to reproduce the logic and practices that govern the burial of dead enemy soldiers. In both cases, the humanity being recognized and celebrated is not solely that of the dead but of the states and populations burying them. It is revealing that, following the Lampedusa shipwreck of 2013, the relatives of the victims were not allowed to attend the funeral, which was instead attended by representatives of the Italian government, members of civil society, and ordinary people. It was their humanity – the humanity of the Italian state and people – that was affirmed with the official state funeral. In other words, the humanity of the victims was instrumental in enabling this celebration, whereas that of the surviving relatives was largely disregarded.

Following Grotius and Gentili, it could also be suggested that this lack of care for the survivors was a product of seeing them as ‘uncivilized’ and therefore undeserving of the right to mourn their dead. As we discussed, for the two jurists to be buried is to be civilized and this obligation holds even when confronted with ‘the most barbarous man’. This argument enables us to see how the widespread portrayal of migrants as barbarians (as for the likes of Le Pen) and of migration as ‘a form of barbarian warfare’ (Nail 2016, 158) that threatens the civilized does not prevent the latter to bury the ‘barbarians’ because this is what the civilized do.

There is no doubt that, although the victims of the Lampedusa shipwreck were not citizens, they were able to ‘force the state’ to deal with them ‘not as bare life’ but as legal subjects ‘with rights that include identification, return, burial, and memorialization’ (Rygiel 2016, 549). With death, the migrants managed to rally the humanitarian commitment of a formal and informal network of medical personnel, forensic pathologists, NGOs representatives, state officers, activists, religious actors, relatives of the deceased, community members, and ordinary citizens and claim for themselves an ‘informal’ posthumous citizenship even if this was not legally granted by the state. Yet, if we push this argument to an extreme – namely, to the idea that with their death migrants were able to ‘mobilize’ the principle that ‘to be human is to bury’ by compelling the Italian government to acknowledge their humanity through their burial – their citizenship should be regarded as ‘sacrificial’ rather than posthumous. Indeed, here we are facing with a type of citizenship that can only be acquired through the sacrifice of death (Mavelli 2022, 164–170). Moreover, while enabling the migrants to acquire certain rights, this sacrifice also enabled the Italian state to celebrate its own humanity, with the effect of obscuring its responsibility in the tragedy.

This argument complicates the debate on citizenship, migration, and death. As Robin C. Reineke (2022, 25) notices, most of the current scholarship ‘is positioned in opposition to frameworks following Agamben that emphasize the abjectivity and circumscribed agency of migrants’, who are regarded as ‘bare lives’ which can be ‘killed with impunity’ and whose death will not make them ‘sacred’ (Agamben 1997, 72). The idea that death compels states and populations to care for dead migrants breaks these connections. Building on the idea that citizenship transcends the legal status and that ‘acts of citizenship’ (Isin and Nielsen 2008) can also be performed ‘from below’ by non-citizens such as migrants (Nyers 2015, 24; see also Rygiel 2016, 547), the scholars discussed in the second section of this article, who regard the retrieval and burial of dead migrants as acts of care, argue that migrants cannot

always be 'left to die' with impunity because in death they may not be 'bare lives'. Their death may compel the state to take care of their corpses and grant them a 'sacred' status because it forces the state to acknowledge their humanity.

Our argument does not deny the caring nature of these practices, particularly when performed by an informal network of volunteers, NGOs, and ordinary citizens. Yet it suggests that the sacralization of the bodies of dead migrants also entails the sacralization of the humanity of the state and its population and that this sacralization contributes to denying the violence produced by securitization and inaction, with the effect of disempowering and partially neutralizing migrants' informal posthumous citizenship.

A further limitation of the transgressive and mobilizing potential of this idea of citizenship is that death does not automatically compel states and host populations to act, welcome, and build relations. The practice of burying dead migrants remains a selective and sporadic endeavour carried out only in the case of high-profile shipwrecks or shipwrecks occurring in proximity of European coasts with bodies washed ashore. Death has no universal capacity to compel states to acknowledge the humanity of the migrants. If a 'minor' deadly shipwreck occurs in the open sea, the migrant is likely to be denied the humanity of a proper burial and is likely to be left to rot among the waves, on the seabed, or in a sunken vessel, with the body gnawed by fish like the carcass of an animal. If concealed from the public gaze and away from European shores, the obligation to bury the dead, advocated by Gentili and Grotius, is not a universal moral imperative but a self-serving principle that the state mobilizes at its occurrence.

From this perspective, the randomness that governs the practice of caring for dead bodies – i.e. whether dead migrants will be granted some degree of posthumous citizenship depends on *how many of them* and *where* they die, which in turn will determine the amount of media coverage they will receive – mirrors the randomness of traditional regimes of citizenship with blood and/or place of birth to crucially shape one's life chances. There is an important difference though. Traditional regimes of citizenship can empower or constrain one's own choices and possibilities. In the case of posthumous citizenship, there are no choices to be made and no possibilities to be explored as inclusion, protection, and belonging can only possibly be achieved through death.

Note

1. Throughout history and across societies incineration was another recurrent type of body disposal. Yet, even in this practice, burials played a significant role, as incomplete cremation (due to the inefficiency of the process of incineration until the invention of modern furnaces in the last quarter of the nineteenth century; see Colombo 2017) was generally followed by the interment of bones or their placement in mortuary chambers. Although Vico's etymological analysis of *humanitas* and *humare* has been questioned, his argument on the intimate connection between humanity and burial remains widely accepted. See, for example, Laqueur (2015).

Acknowledgments

An earlier version of the article was presented at the 2023 Conference of the Società Italiana di Scienza Politica, Genova, Italy (16 September). For constructive criticism and feedback, we are thankful to the chairs of the panel 'Migration governance, common security and collective defense:

blurring the lines and/or building a nexus?’ and, especially, to the panel discussant Iole Fontana. We are also grateful to the two anonymous reviewers and the editors of *Citizenship Studies* for their insightful comments and valuable suggestions.

Disclosure statement

No potential conflict of interest was reported by the author(s).

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