

## Archaeology and the Forensic Investigation of Recent Mass Graves: Ethical Issues for a New Practice of Archaeology

**Caroline Steele**, 239 Strafford Road, Tunbridge, VT 05077, USA  
E-mail: steelecaro@googlemail.com

### ABSTRACT

The close of World War II marked the advent of international human rights legislation and the prosecution of individuals for human rights crimes, by both nation states and international tribunals. The prosecution at such trials often presents evidence from forensically excavated mass graves. Forensic archaeology is a new and expanding field and as such has yet to establish a uniform code of ethics, standard operating procedures, and transparency. In addition, there are complex and conflicting agendas of mass grave excavation. Mass grave investigation in Iraq since the 2003 American-led invasion is presented as a case in point.

Résumé: La fin de la seconde guerre mondiale a marqué l'avènement international de la poursuite judiciaire des individus ayant commis des crimes de guerre et d'une législation des droits de l'homme à la fois de la part des nations et des tribunaux internationaux. La poursuite judiciaire engagée a souvent fourni la preuve de la présence, par excavation, de tombes de masse. L'archéologie des expertises médico-légales est devenue un champ nouveau en pleine expansion, et, en tant que tel, a établi un code éthique généralisé, ainsi que des procédures standard et de transparence. De plus, il existe des agendas complexes et conflictuels de tombes de masse découvertes par excavation. Ceci s'applique à l'Irak depuis 2003 où l'invasion menée par les américains est sujette à enquête.

Resumen: El fin de la Segunda Guerra Mundial marcó la aparición de una legislación internacional de derechos humanos y los juicios contra los acusados de crímenes contra los derechos humanos, tanto por parte de los estados nacionales como los tribunales internacionales. En los procesos de estos juicios a menudo se presentaban pruebas de la existencia de fosas comunes excavadas por forenses. La arqueología forense es una nueva disciplina en crecimiento y por ello, aún no ha establecido un código ético uniforme, procesos de funcionamiento estándar ni transparencia. Asimismo,

hay programas complejos y conflictivos de excavación en fosa comunes. La investigación de fosas comunes en Irak desde la invasión del 2003 encabezada por EE.UU. se presenta como un caso paradigmático.

---

**KEY WORDS**

Forensic archaeology, Mass graves, Iraq

---

## **Introduction**

While the post-World War II victor tribunals of Nuremberg and the International Military Tribunal for the Far East as well as national trials such as Auschwitz I and Auschwitz II in Germany prosecuted individuals for war crimes that occurred under the Axis regimes, it was the Universal Declaration of Human Rights and the Genocide Convention issued in 1948 that were the first international human rights legislation to espouse universal jurisdiction and individual criminal accountability for genocide, war crimes, and crimes against humanity. The United Nations (UN) was established concomitant with these international declarations and initially sponsored the international promulgation and adjudication of these and subsequent human rights laws. However, the actual establishment by the UN of an international tribunal to prosecute human rights violations was slow in coming. It was not until the 1990s that the UN Security Council first established two ad hoc tribunals to try cases of human rights violations: in 1993 the International Criminal Tribunal for the Former Yugoslavia (ICTY), and in 1994 the International Criminal Tribunal for Rwanda (ICTR). More recently, the UN has been involved in the formation of ad hoc national courts with national and international judges such as the Special Court for Sierra Leone (SCSL), the Serious Crimes Panels in the District Court of Dili (East-Timor), and the Extraordinary Chambers in the Courts of Cambodia.<sup>1</sup> State courts in Kosovo, Bosnia, Argentina, Guatemala, and Chile have also conducted trials of national human rights crimes. Some of the most striking and haunting evidence to be presented in these various courts and tribunals has been that recovered from mass graves.

## **Archaeology and Mass Grave Excavation**

The murders that result in mass graves are obviously not just a post-World War II phenomenon, and archaeologists have on occasion excavated such

graves. The burial of Pu'abi in the Royal Cemetery of Ur in Iraq ca 2400 BC is a mass burial, as was the mass burial from the Battle of Towton (AD 1461), but unlike the graves at Ur and Towton, the mass deaths and burials that were the driving impetus for the invention of the term 'genocide' (Power 2002:XIX) and post-war international human rights legislation were not recovered by archaeologists. The excavation of World War II mass graves was usually done by military or mortuary personnel and generally consisted of uncovering the grave, photographing the bodies, and then re-burying them. Nineteen eighty-six (1986) marked a significant change in mass grave recovery with the founding of the Argentine Forensic Anthropology Team (EAAF). The EAAF, established by the Argentine National Commission of the Disappearance of Persons and the Grandmothers of Plaza de Mayo with help from the American Association for the Advancement of Science, was created to exhume the 10,000 unmarked graves of the 'desaparecido' of the former military regime of Argentina, with expressed goals to identify the recovered missing individuals and document the evidence for courts of law ([http://eaaf.typepad.com/about\\_us/](http://eaaf.typepad.com/about_us/)). From its earliest conception in 1984, the EAAF innovatively called for the use of archaeologists and anthropologists to exhume and analyze skeletal remains using the techniques of archaeology and forensic anthropology (Snow 1984; Stover 1985). Chile (in 1989) and Guatemala (in 1991) also founded forensic teams based on the Argentine model to investigate unlawful and mass deaths in their countries. In 1987 Mark Skinner from the archaeology department of Simon Fraser University published one of the first articles by an archaeologist which argued that archaeologists were important to the successful recovery of a mass grave, entitled "Planning the Archaeological Recovery of Evidence from Recent Mass Graves" (Skinner 1987). A point of note is that the article was published in *Forensic Science International*, not an archeological journal. In 1990, Richard Wright went to the Ukraine with the Australian Special Investigation Unit for the Australian War Crimes Commission (Wright 1995). At the time he was an archaeology professor at the University of Sydney whose field of expertise was environmental changes at the end of the Ice Age and models for computer-aided multivariate analysis of archaeological data. Following his work in the Ukraine, Wright was asked by the ICTY to direct the excavation of numerous mass graves in the Former Yugoslavia and has become, along with Skinner, a major voice in forensic science.

It was not until the war in Kosovo when overt violations of international humanitarian law were not just happening to people in South America, the Soviet Union, and Southeast Asia, but at the very doorstep of the West, that the UN Security Council actually established a human rights tribunal. With the 1993 creation of the ICTY, which included an investigatory mandate, more Western archeologists became involved in forensic

excavation of mass graves. Under the mandate of the office of the Chief Prosecutor of the ICTY, forensic teams comprised of pathologists, archaeologists, crime scene officers, and anthropologists were assembled and hired by non-governmental organizations (NGOs) such as the EAAF, Physicians for Human Rights (PHR), and the International Commission for Missing Persons (ICMP). These NGO teams were contracted by the ICTY to exhume mass graves (Skinner and Sterenberg 2005). The scale and magnitude of the graves in Bosnia and later Kosovo, required many forensic teams. Increasing numbers of archaeologists were hired for an endeavor that called upon the skills of the discipline but was very different from research projects examining environmental change, the formation of complex societies, lithic sources, gender roles in colonial America, or cultural resource management. Archaeologists participating in these and other forensic mass grave excavations for the first time had to view how and why they practice archaeology from a different perspective: in these new investigations they were bringing archaeological skills to the examination of recent crime scenes situated within the context of forensic rather than research investigations. In 1996 Melissa Connor published a brief article in the *Society for American Archaeology Bulletin* about working in Rwanda, the first published discussion by an archaeologist about mass grave work that appeared in a journal dedicated to archaeology. Other than a dedicated volume of *Historical Archaeology* in 2001, the papers in this volume that were originally read at the Society of American Archaeology Annual Meeting in Austin (2007), and a recent 2008 symposium at the Annual Meeting of the Society for Historical Archaeology, mass graves are not often addressed in archaeological fora. Rather, they continue to be presented within the domain of forensics, in journals such as *Forensic Science International*, the *Forensic Bulletin* and the *Journal of Genocide Research* and in papers read at the Annual Meeting of the American Academy of Forensic Sciences (AAFS). Even in these publications, mass grave archaeology is discussed very generally (e.g., Juhl and Olsen 2006) or in particular presentations of technique (e.g., Jessee and Skinner 2005; Skinner 1987). There are no published mass grave “site reports” in the manner of the archaeological site reports that are at the heart of archaeological endeavor. The lack of site reports is understood to be due to a variety of factors, including evidentiary procedure, proprietary control of the work product by the excavation’s funding agency, and respect and privacy concerns. In recent years archaeological research has come under increasing scrutiny and reflexive consideration concerning the power of archaeology in the production of knowledge as well as the concerns with equity of descendant people and source communities (Nicholas and Hollowell 2007). However, the issues that have been raised are not about a need to restrict information but rather a call for its wider and more equitable dissemination.

## Archaeology and the Forensic Investigation of Mass Graves

Archaeological skills and recovery techniques such as emphasis on site context, recording of surface finds, stratigraphic interpretation, controlled excavation, and detailed mapping provide essential contributions to the recording and interpretation of a mass grave. Archaeological data can provide detailed documentation about the stratigraphic sequence of the crime from the killing, burial, and possible post-burial disturbance of the grave, to the association of artifacts with individuals that help identify the dead and sometimes even the perpetrators. When archaeologists bring their disciplinary skills to forensic mass grave excavation, they operate in a different world than the one occupied by most archaeologists. This is a very important point of distinction. Archaeologists are part of a forensic team, not a research team or an environmental impact project. Forensic is defined as “relating to the use of science and technology to establish facts or evidence in a court of law” (American Heritage College Dictionary 2004:543). Forensic sciences are those used in law enforcement, which work to answer questions of interest to a legal system. The ability to determine one’s research design, albeit within parameters of budget, time, and work force is one of the hallmarks of archaeological research, but this is not the case for archaeologists working for a mass grave excavation. Work is not conducted by a team assembled by an archaeologist, but rather archaeologists are part of a team contracted, coordinated, and funded by a combination of government agencies, the United Nations, private corporations, and NGO’s such as Physicians for Human Rights, or EAAF. The work staff is often subcontracted rather than directly hired by the agency with the investigatory mandate. For example, the Office of the Chief Prosecutor of the ICTY contracted PHR to sub-contract and assemble forensic teams to work in Bosnia and Rwanda. Decisions of where to excavate may be informed by archaeological experience, but it is the overt social-political agendas inherent in establishment mandates to investigate mass graves that determine where and when work is to be done, not a research design created by an archaeologist.

Mass grave excavations are mandated and funded by government courts, tribunals, truth commissions, and the UN, or some combination thereof. The crimes against humanity or genocide that resulted in the graves invariably occurred during a regime previous to the one authorizing the excavations and trials. Individuals from victimized groups or those organizations representing them usually have a greater voice and power in a regime that is pursuing the trial, resulting in a delicate tension between justice and revenge. In addition, in the case of international courts and tribunals there

may be a mix of national and international judges and the trial itself may be held outside of the country in which the crimes occurred, treading the line of legal imperialism. Archaeologists who accept mass grave work, even if they are contracted by an NGO such as EAAF or PHR, are ultimately working for a dominant power that has interests in exposing and prosecuting mass killings that are more complex than 'giving voice to the dead' or 'bringing the truth to light'. Some organizations such as ICMP and the UN are supported directly by government moneys. Often mass graves excavations are in countries where security is an issue and the forensic team must work in conjunction with the military, whether Coalition forces in Iraq, or the United Nations troops in Kosovo and Rwanda.

There are questions of conflicting desires or benefits from the work. Not all human rights organizations concerned with missing individuals may want their forensic recovery. Zoë Crossland's (2002) discussion of the complexity of mass grave excavation in Argentina is a trenchant case in point. Crossland points out that there is a large and vocal number of human rights organizations opposing the forensic recovery of human remains in Argentina (Crossland 2002:121). These groups have several concerns: the belief that inquiry and excavation are focused on the victims rather than eliciting admissions of guilt from the perpetrators (Crossland 2002:121) and that upon excavation the violent manner of death overshadows the identity and memory of the individual (Crossland 2002:138). The dominant ideals of discovery, recording evidence, and justice become even more complex when juxtaposed to memories and experiences of the bereaved.

The academic and contractual archaeological communities employ peer review and professional advancement as means to foster transparency and control the quality of archaeological research. Transparency of the excavation recovery and post-mortem examination of individuals recovered from mass graves is hampered by both humanitarian and evidentiary concerns that restrict the publication of the methods and techniques used as well as the 'results'. Archaeologists and members of a forensic team have little or no control over the use of their work product. There are instances where reports are prepared and yet the political sponsors forbade disclosure until the courts had completed their investigation. Circumstances such as these are not uncommon and can muzzle the NGO or other agency so that their forensic reports remain confidential forever (Skinner et al. 2003). Members of the team excavating mass graves in Iraq for the Iraqi High Tribunal and the Regime Crimes Liaison's Office cannot talk about how they conducted excavations, the analytical techniques or results of their work unless the information has previously appeared in the media, official press releases or symposia. To speak or write about work that has not appeared in the press in detail, members must get permission from the United States Army

Corps of Engineers (USACE), the Mass Grave Team Project manager, and, due to the complexities of United States government contracting, Parson Corporation who hired the forensic team for the USCE must also grant an information release. None of the actual reports prepared by the team are yet available to team members, the Iraqi public or wider international community (C. Steele, personal experience). A further obstacle inhibiting publications of work is that if a mass grave report is published or even just made available to the public with “presence of photographs of bodies in a mass grave [the] report can be deemed to violate privacy concerns or to be influencing to a degree that militates against a fair trial or which may revive ethnic tensions” (Skinner et al. 2003:13).

Academic and contractual archaeological communities have protocols for archaeological techniques, transparency and codes of ethics. There are, however, no profession-wide standards, codes of ethics, protocols or credentials for mass grave forensics *per se* (Jessee and Skinner 2005). The AAFC has a code of ethics as do the professional organizations of various members of forensic teams, e.g., the American Medical Association, Society of American Archaeologists, and American Anthropological Association, yet these codes are *American*, not international codes such as that of the World Medical Association. Furthermore, these codes are particular to a profession and not necessarily specifically relevant to the practice of that profession in a forensic context. While ethical codes of different national organizations provide a first line of standards, they are not uniform across professions or international in character. For example, a comparison of English and American forensic codes of ethics reveals a fair amount of discrepancy, and most of the codes are less than comprehensive, with little guidance for application of ethical obligations (Mario 2002).

The lack of transparency in forensic reports of mass grave excavation and analysis prohibits peer review and highlights the need for the establishment of public standard operating procedures (SOPs). The UN policy statement on mass graves (i.e., the Minnesota Protocols) is a set of “*Guidelines for the Conduct of UN Inquiries in Allegations of Massacres*” (emphasis my own). Human Rights Watch and the International Committee of the Red Cross have also proposed *guidelines*, but these are statements, not codes that can be enforced through censure and or job loss. They do advocate the development of a coherent standardized process to identify the dead, observe and record all crime scene and post mortem information relevant to identification, but they give no specifics on what are relevant procedures or personnel. The guidelines urge that individuals who work on mass graves consider families’ rights and needs before, during and after exhumation (see also Gassiot and Steadman this volume), be familiar with pertinent provisions of human rights law and know the ethical boundaries of their work. The level of generality is such that the guidelines do not even propose what

ethical boundaries should be: are they solely those of professional organizations that an individual may belong to? There is no universally established line beyond which practices come to be regarded as unethical. The use of recovered unidentified human remains for personal research projects is a clear violation of ethics, but what about when observations made during testing of DNA samples recovered from unidentified individuals lead to the general advance of scientific knowledge of identification? Should they or can they be published (Skinner and Sterenberg 2005)?

The lack of internationally endorsed SOP's is not mitigated by publications such as Skinner, Alempijec and Djuric-Srejec's "Guidelines for International Bio-archaeology Monitors of Mass Grave Exhumations," and textbooks on mass grave excavation techniques (e.g., Cox et al. 2007; Dupras et al. 2005; Haglund and Sorg 2002; Hunter et al. 1996). In addition, advanced degrees in forensic archaeology, for example at the University of Bradford (UK) and Simon Fraser University (CA), or courses such as one offered by The International Forensic Centre of Excellence for the Investigation of Genocide (INFORCE) Foundation (UK) in mass fatalities (Cox 2008) that provide specialized training do not diminish the need for the establishment of international SOP's and ethical considerations.

While issues of rigidity, enforcement, and exclusivity are all pitfalls to be avoided when considering a code of ethics, the lack of uniform standards needs to be addressed in the field of forensic archaeology. Standard levels of recording should be established as well as procedures for repatriation. Members of a forensic team are varied and as such each may draw on a code of ethics defined by their profession, be it archaeology or forensic professionals who are members of the AAFS. Nonetheless there remains the problem of a universal bottom line of respectful treatment of the living and the dead, whether they are defendants who deserve a fair trial, victims, or their living family members. It is also imperative consider the motives for forensic excavation in the first place.

Archaeologists working on mass grave excavations (as well as on any other kind of excavation) have an important responsibility to recover and record as much data as possible. Given the nature of crimes of mass murder, there may never be a court, trial or process of repatriation of human remains that meets everyone's expectations, from international human rights organizations to local communities. However, both the accused and the victims deserve evidence of the highest caliber that can be obtained under the circumstances. Witness testimonies are the core of cases involving recent instances of mass murder, but the charges—or declarations of innocence—hold much greater weight when supported by physical evidence. When conflict results in mass murders there is always the possibility of revenge accusations that arise when individuals are falsely accused of participating in a mass murder, and the testimony from the grave

excavation can gainsay personal testimony (R. Bernbeck per. com). The physical evidence provides the cause and manner of death, thereby aiding the successful prosecution of a crime and also yielding material evidence for the identification of the dead either as member of an ethnic group, possibly contributing to a charge of genocide, or as individuals, hence facilitating repatriation (Komar 2008).

### **A Case in Point: Mass Grave Excavations in Iraq**

One of the enduring images from the anarchy that followed the US-led invasion of Iraq and the removal of Saddam Hussein and the Ba'ath regime in April 2003 is that of Iraqis excavating mass graves with their hands, shovels and heavy equipment in search of missing friends and family members. Immediately PHR (Iraq Bulletin #2 2003) and Human Rights Watch (Stover et al. 2003; Human Rights Watch, <http://hrw.org/english/docs/2003/04/30/iraq5862.htm>) called upon the Coalition Provisional Authority (CPA) to protect the sites as potential evidence for war crimes and crimes against humanity, and to establish an official and comprehensive mass grave program. They and others (e.g., Corder 2005) urged that the mass grave program not only ensure forensic excavations for criminal prosecution but also the engagement of local communities in the 'humanitarian' excavation of the vast majority of the mass graves that would not be used in criminal prosecution.

The CPA, having no trained forensic personnel, responded in May 2003 by inviting INFORCE, a British NGO contracted by the British Government to work in Iraq for the CPA, to develop protocols and perform initial forensic site assessments of the mass graves in Iraq. INFORCE undertook 15 mass grave-site assessments and submitted a draft of mass grave excavation protocols. The INFORCE team was later followed by other teams from Denmark, the United Kingdom and the US that worked in co-ordination with the CPA to perform additional assessments independently of each other. These various Western forensic teams excavated no mass graves. However, the Iraqi Red Crescent exhumed two mass graves. When Human Rights Watch reviewed the human remains from these graves they reported that of the 81 individuals recovered, 36 had been identified solely based on family recognition of clothing and identity cards. The remaining unidentified bodies were observed to be poorly stored, and often one container held the commingled remains of more than one individual (Human Rights Watch 2004:24). The human remains from a US Marine Criminal Investigations Division mass grave recovery were poorly recorded and commingled (C. Steele personal observation).

Prior to the withdrawal of the International Committee of the Red Cross (ICRC) in October 2003, the ICRC and the Medico-Legal Institute in Baghdad were working on a joint training program in forensic anthropology for Iraqi pathologists and physicians. The program was discontinued after a massive bomb attack forced the ICRC to abandon its offices in central and southern Iraq. In 2004–2005 when security in Iraq had completely deteriorated, 39 Iraqis, including some archaeologists, went to Bournemouth, UK for a five-month training program conducted by INFORCE (Cox 2008), which included mass grave excavation techniques as well as court-room and expert witness skills. Others were trained in a month-long course run by the International Commission for Missing Persons (ICMP) in Tuzla, Bosnia-Herzegovina (G. Mackinnon per. com.).

The various self-contained CPA forensic teams recorded a total of at least 270 mass graves thought to have originated during major Ba'ath regime aggressions against Kurds and Shi'ites. These events included the execution of 8,000 Kurds in 1988, the Anfal campaigns that included chemical warfare against the Kurds beginning in 1988, and the 1991 massacres of Shi'ites and Kurds during the uprisings follow the Gulf War. Some of the graves documented were also thought to possibly contain human remains of Kuwaitis, Saudis and Egyptians who disappeared during the Iran–Iraq War and the Iraqi occupation of Kuwait.

The Iraqi Special Tribunal was established in 2003 by the CPA and had the authority to question victims and witness, to collect evidence and conduct on-site investigation of crimes against humanity and genocide committed in Iraq from 1979 to 2003. By the spring of 2004, security in Iraq was so poor that forensic teams could no longer range the country locating and identifying mass grave sites, and the promised protection of these sites by the US military never materialized. International NGO's could not take on the excavation of the mass graves due to security costs and concerns. Iraqis with forensic training faced the same security risks.

In the summer of 2004, following the departure of foreign forensic teams, the United States Army Corps of Engineers reached an agreement with the Department of Justice Regime Crimes Liaison Office and the Iraqi Special Tribunal—later in 2005 renamed the Iraqi High Tribunal by an act of the Iraqi Assembly—to undertake the excavation of a number of mass graves in order to provide judicial level evidence for crimes against humanity and genocide. This endeavor was, from the outset, designated a forensic operation to excavate graves chosen by the Iraqi prosecuting judges of the Iraqi Tribunal (in conjunction with American 'mentors' from Regime Crimes Liaison's Office). The political motivations to excavate mass graves in Iraq were, needless to say, a palimpsest of interests. Among them were the interests of the Kurdish and Shi'a communities, which called for trials of former regime members who had been responsible for persecuting

members of their particular communities. For the United States government, the prosecution of the Saddam Hussein and the high-ranking members of his regime for genocide and crimes against humanity was an opportunity to justify the invasion in the wake of the failure to identify any weapons of mass destruction. For both the United States and Iraqi governments, it was an attempt to showcase the rule of law. Serious questions have been raised about the fairness of the tribunals. Human Rights Watch points to the fact that there was no requirement of proof beyond a reasonable doubt as well as the undermining of the rights to counsel and to remain silent as serious shortcomings in the Iraqi legal system ([http://hrw.org/english/docs/2005/04/22/iraq10533\\_txt.htm](http://hrw.org/english/docs/2005/04/22/iraq10533_txt.htm)). There is also international objection to the Tribunal's use of the death penalty.

The autumn 2004 forensic mass grave team comprised of a dozen American archaeologists and anthropologists and 17 Iraqis was mandated to excavate two graves in Hatra Province, presumed to be graves of Kurds. Two weeks into the excavation, 15 of the Iraqis departed to the UK for the INFORCE training program mentioned above. Two who were trained as lawyers remained with the team. By January 2005 team composition had changed to consist of archaeologists and anthropologists from the US, Australia, Canada, and Costa Rica, who were chosen by the civilian archaeology division of the US Army Corp of Engineers (USACE) but contracted through Parsons Corp, a major contractor in post-war Iraq specializing in reconstruction. At this point there were no Iraqi members of the mass grave team. Over the course of the following two and a half years, the mass grave team excavated nine sites at the request of the Iraqi Tribunal and then disbanded. Three of the graves, two from Hatra Province and one from Muthanna Province, have been presented as evidence in the Anfal trial. The recovered evidence from the other graves (in southern Iraq, containing victims from the 1991 Intifada) has not yet been presented in court, but all the case files for every excavated individual and a comprehensive site report for every gravesite was turned over to the office of the Iraqi High Tribunal.

The last members of the mass grave team left Iraq in April 2007. The team had forensically excavated over 300 individuals and repatriated 100% of the them to their respective Kurdish and Shi'ite communities, a significant achievement since individuals used for legal evidence often remain 'in storage' for many years, e.g., individuals recovered in the former Yugoslavia and Rwanda. However, there are an estimated 300,000 Iraqis interred in mass graves, and other than significant efforts of the Kurds (the most affluent and cohesive community in present day Iraq) and some local humanitarian endeavors to memorialize and or recover community members, there is no program for further repatriation, although mass graves continue to be identified by the Iraqi Office of the Missing.

## Conclusion

This brief overview of mass grave investigation and excavation in Iraq illustrates many of the points brought up in the first part of this paper. The various national teams that worked in Iraq all had different operating procedures and reporting. Although INFORCE provided a set of SOP's, they were not complete when the early teams were working, and these SOP's and those established by the RCLO Mass Graves Investigation Team were never openly vetted and reviewed by the international forensic community. Early excavations by the Red Crescent and the US Army CID were not well performed due to the absence of trained forensic personnel, including archaeologists. An international team was assembled under a hierarchy of subcontracts, Parsons Corporations—the USACE—the US Department of Justice/US Department of State, all of whom control the final work product of the team. Although the American-led mass grave team has completed its work, the case files and reports they prepared are not available to any public—even those from the three graves that have been presented in court. When members of the team presented their work in a Society of Historical Archaeology Annual meeting in Albuquerque in 2008, they had to obtain waivers from Parsons Corporation and permission from the Regime Crimes Liaison Office and the government of Kurdistan. Although in this instance the mass grave team was managed by an archaeologist, the decision of which graves to excavate was determined by the politics within the Iraqi High Tribunal and the Regime Crimes Liaison office. These agencies were concerned with balancing the competing interests of the now dominant Kurds and Shia—no grave thought to hold Sunni individuals was chosen for excavation. Lacking an internationally established code of ethics, the mass grave team followed those of their individual professions, (e.g., archaeology, anthropology, pathology) and strove to produce the best work possible, yet their work was presented in a court viewed by many as flawed. The excavated human remains were repatriated, yet estimates suggest that hundreds of thousands of individuals still lie in mass graves in Iraq. All the members of the team received official letters of thanks and acknowledgement from the government of Kurdistan. And yet, the monument commemorating the lethal gas attack on the Kurdish village Halabja, part of the Anfal campaign, was recently burned by Kurds who were protesting that too much time and money was being spent on the dead at the expense of the living.

Forensic archaeologists should see themselves as activist archaeologists—“using the past as a political means to change present social conditions” (Bernbeck and Pollock 2007:219). However, there are inherent tensions between a belief in forensic investigation as the objective pursuit

of physical facts, the pursuit of justice as a force to advance social goals, and the complexity of human emotions.

### Acknowledgements

The author would like to thank Susan Pollock, Reinhard Bernbeck and Maresi Starzmann, as well as the anonymous reviewers for their comments and suggestions.

### Note

1. The International Criminal Court (ICC) was established 2002 and is headquartered in Den Haag. It is not entitled to prosecute crimes committed before 2002 and presently it has ongoing investigations in four African countries, warrants out for individuals from three of these countries and three persons being held for trial, but has yet to try anyone.

### References Cited

- American Heritage College Dictionary  
2004. Fourth Edition. Houghton Mifflin, New York.
- Bernbeck, R., and S. Pollock  
2007. 'Grabe Wo Du Stehst!' An Archaeology of Perpetrators. In *Archaeology and Capitalism: From Ethics to Politics*, edited by Y. Hamilakis and P. Duke, pp. 217–233. Walnut Creek, CA, Left Coast Press.
- Connor, M.  
1996. The Archaeology of Contemporary Mass Graves. *Society of American Archaeology Bulletin* 14(4):6–31.
- Cordner, D.  
2005. The Missing. *The Forensic Bulletin* Winter:19–22.
- Cox, M.  
2008. Experimental Education: The Use of Simulation in Training in Forensic Anthropology and Archaeology. Paper delivered at the 2008 Annual Scientific Meeting of the American Academy of Forensic Sciences, Washington DC.
- Cox, M., A. Flavel, I. Hanson, J. Laver, and R. Wessling (editors)  
2007. *The Scientific Investigation of Mass Graves: Towards Protocols and Standard Operating Procedures*. Cambridge University Press, Cambridge.

Crossland, Z.

2002. Violent Spaces: Conflict Over the Reappearance of Argentina's Disappeared. In *Matériel Culture: The Archaeology of Twentieth Century Conflict*, edited by J. Schofield, W.G. Johnson, and C. M. Beck, pp. 115–131. Routledge, New York.

Dupras, T., J. Schultz, S. Wheeler, and L. Williams

2005. *Forensic Recovery of Human Remains: Archaeological Approaches*. CRC Press, Boca Raton.

EAAF, [http://eaaf.typepad.com/founding\\_of\\_eaaf/](http://eaaf.typepad.com/founding_of_eaaf/).

Haglund, W., and M.H. Sorg

2002. *Advances in Forensic Taphonomy: Method, Theory and Archaeological Perspectives*. CRC Press, Boca Raton.

Human Rights Watch

2003. Iraq: Protect and Preserve Mass Grave Sites. <http://hrw.org/english/docs/2003/04/30/iraq5862.htm>.

2004. Iraq: State of the Evidence. *Human Rights Watch Bulletin* 16:9(E).

Hunter, J., C. Roberts, and A. Martin

1996. *Studies in Crime: An Introduction to Forensic Archaeology*. Routledge, New York.

Jessee, E., and M. Skinner

2005. A Typology of Mass Grave and Mass-grave Related Sites. *Forensic Science International* 52(1):55–59.

Juhl, K., and O.E. Olsen

2006. Societal Safety, Archaeology and the Investigation of Contemporary Mass Graves. *Journal of Genocide Research* 8(4):411–435.

Komar, D.

2008. The use of Material Culture to Establish the Ethnic Identity of Victims in Genocide Investigations: A Validation Study from the American Southwest. Paper delivered at the 2008 Annual Scientific Meeting of the American Academy of Forensic Sciences, Washington DC.

Mario, J.

2002. A Review of Anglo-American Forensic Professional Codes of Ethics with Considerations for Code Design. *Forensic Science International* 25(2–3): 103–112.

Nicholas, G., and J. Hallowell

2007. Ethical Challenges to a Postcolonial Archaeology: The Legacy of Scientific Colonialism. In *Archaeology and Capitalism: From Ethics to Politics*, edited by Y. Hamilakis and P. Duke, pp. 59–82. Left Coast Press, Walnut Creek, CA.

Physicians for Human Rights, <http://physiciansforhumanrights.org>.

Physicians for Human Rights. Iraq Bulletin #2 2003.

Power, S.

2002. *A Problem from Hell: America and the Age of Genocide*. Basic Books, New York.

Snow, C.

1984. Forensic Anthropology in the Documentation of Human Rights Abuses. Paper presented at the American Association for the Advancement of Science, Annual Meeting, New York City, May 22, 1984.

Skinner, M.

1987. Planning the Archaeological Recovery of Evidence from Recent Mass Graves. *Forensic Science International* 34:267–287.

Skinner, M., D. Alempijevic, and M. Djuric-Srejic

2003. Guidelines for International Forensic Bio-archaeology Monitors of Mass Grave Exhumations. *Forensic Science International* 34(2–3):81–92.

Skinner, M., and J. Sterenberg

2005. Turf Wars: Authority and Responsibility for the Investigation of Mass Graves. *Journal of Forensic Science* 151(2–3):221–232.

Stover, E.

1985. Scientists Aid Search for Argentina's "Desaparecidos". *Science* 230:56–57.

Stover, E., W. Haglund, and M. Samuels

2003. Considerations for Forensic Investigations, Humanitarian Needs and the Demands of Justice. *Journal of the American Medical Association* 290(5):663–666.

Wright, R.

1995. Address to the Sydney Institute, Sydney, Australia. May 23, 1995. <http://www.soton.ac.uk/~jb3/war/war.html>.