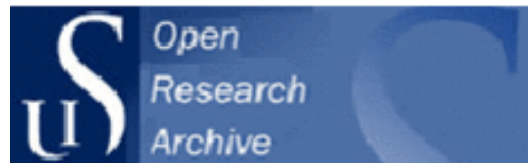




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# Societal safety, archaeology and the investigation of contemporary mass graves

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## Introduction

This paper focuses on the aftermath of conflicts in which state authorities or rebels have directly ordered, induced, sanctioned or “institutionalized” massive human rights abuses by deaths and mass killings of “unwanted elements,” and the subsequent concealment by disposal of the dead in mass graves.

To describe all unlawful killings by government in the twentieth century, R. J. Rummel introduced the term *democide* to comprise genocide, politicide and mass murder (1994, Chapter 2). Rummel used the legal definition of *genocide*, which applies to the intended destruction of national, ethnical, racial or religious groups, but restricted his interest to genocidal killing. To define the premeditated killing or murder of any person or people by a government because of their politics or for political purposes, he introduced the term *politicide*.<sup>1</sup> *Mass murder* was defined as the indiscriminate murder of any person or people by government. Rummel presents a figure of 170 million victims of democide in the period 1900–1987 (1994, Chapter 1, Table 1.2, 1997). Of these, 38.5 million became victims of genocide, equalling the total number of battle-dead in the same period.<sup>2</sup>

Aftermath societal rebuilding processes are often designated as reconciliation processes. Reconciliation, originally a religious concept, cannot be enforced—it is for individuals to find and grant, but may be facilitated by political, humanitarian and judicial means. Over the past three decades, officially instituted reconciliation processes have become typical of the transition into democracy of former authoritarian or totalitarian societies. Truth commissions have become a popular strategy in this respect. Legal proceedings have on occasion been conducted parallel to truth investigations, but very often, perpetrators have been granted amnesty and, in many instances, even retained office. However, since the *ad hoc* International Criminal Tribunals for the former Yugoslavia (ICTY) and Rwanda (ICTR) started working in the 1990s, the struggle against impunity seems to have grown stronger both internationally and within individual states.

In 2002, the ICRC launched a major initiative called “The missing. End the silence—action to resolve the problem of people unaccounted for as a result of armed conflict or internal violence and to assist their families,” also involving the forensic sciences (ICRC home page; ICRC, 2002, 2003). The term *forensic science* is a collective term comprising a group of disciplines that put the services of their particular fields of specialization at the disposal of the medico-legal system. Among these is archaeology. All forensic professions deal with physical remnants produced by human or natural agents and preserved long after the events that caused them. They share an attention to detail, a proceeding by meticulous work and analytical methods that might seem painstakingly slow and somewhat out of proportion with the problem at hand. And yet, mass grave investigations have made a significant contribution to solving the problem of the missing. Associations of relatives of the missing—as well as national and international institutions—have repeatedly called for such investigations, and continue to do so.

Over the past two decades, archaeologists and physical anthropologists have been contracted or subcontracted by truth commissions, local courts and international tribunals, and local and international human rights and family associations to investigate mass graves in more than forty countries worldwide. This paper explores how excavating mass graves can serve different purposes related to the societal rebuilding processes in the aftermath of violent conflicts. The idea is not to discuss which purpose—truth or justice—is the most preferable to pursue. Rather, it is to explore somewhat the question of how mass grave investigations might help bring about *both* truth *and* justice—and specifically how archaeologists and the use of archaeological investigation techniques can contribute to reaching these objectives. The emphasis is on the purposes and philosophies behind mass grave investigations as formulated within the field itself, and how the participation of archaeologists may help fulfil these purposes. The field of applying forensic archaeology and anthropology to human rights investigations has been growing rapidly internationally for the past decade. And yet, it could be described as a comparatively new field not commonly known outside the narrow circles of those professionals who are directly involved. Most traditionally employed archaeologists have no notion of this particular application of archaeology. Thus, the following presentation of the field is partly based on a master thesis within Societal Safety at the University of Stavanger, Norway, submitted June 2004 (Juhl, 2005). One of the authors has subsequently acquired hands-on experience as a forensic archaeologist by working three months in Bosnia and Herzegovina in 2005 with the International Commission on Missing Persons (ICMP). The other author has a long experience working in complex emergencies and post-emergencies as a humanitarian coordinator, and through this acquired experience in reconciliation and peace building activities in several countries. The presentation is largely exploratory and descriptive. The main sources have been literature, official documents and internet sources. When the purpose is to describe a historical development, written sources have the strength of telling the story as it appeared in the actual

context. However, written sources cannot rationalize their own sake after the event, but so can people. Thus, supplementary to the main sources, an open-ended questionnaire was prepared in order to deepen the insight into the field by getting the views and personal experiences of key players and/or participants in contemporary mass grave investigations.<sup>3</sup>

### **The reconstruction of society: trust, truth and justice**

In the aftermath of war and violent conflicts, society is often down on its knees. It has not been able to prevent the events or reduce the damages to any significant degree of societal safety—here defined as: “the ability of society to maintain critical social functions and to protect the life and health of the citizens and meet their basic requirements in a variety of stress situations” (Olsen et al., 2005). In fact, in many instances, society itself—i.e. the state authorities—has been the culprit, initiating as well as escalating the events. The multifaceted task of rebuilding society and getting it (back) to a desired normal condition is long and tedious. The more severe the conflict has been, the more difficult the task. One has to come to terms with an often massively abusive past in order to be able to move on and build new and resilient democratic institutions, and to prevent repetitive occurrences of the conflict and its horrors.

Since the German *Nacht und Nebel* policy of World War II and their industrialized killing of Jews and Gypsies in the Holocaust, state-institutionalized, deliberate and systematic practices of making people disappear—for political, religious, ethnic, cultural or other motives—have been known as an efficient tool of war and repression. The immediate post-war period saw the international society working intensely, taking preventive measures against such practices in order “*never again*” to experience the horrors of the Third Reich: the Nuremberg and Tokyo trials in 1945; establishing the United Nations in 1945; the Universal Declaration of Human Rights and the Genocide Convention in 1948; and the four Geneva Conventions in 1949. Nonetheless, despite the good intentions, without a system to enforce them, the world has seen many “*never agains*.” Since 1978, the practice of systematically making people disappear has been known as *enforced disappearance*.<sup>4</sup> In 1992, the United Nations made a declaration on the practice; and with the Rome Statute of the International Criminal Court of 1998, entered into force July 2002, it became fully recognized as a *crime against humanity* within international criminal law (UN Doc. A/RES/47/133; UN Doc. A/ CONF.183/9, Article 7,1(i)). Death is not always, but often, the outcome, and may be part of the practice. Not only do enforced disappearances inflict upon the relatives the trauma of not knowing the fate and whereabouts of their loved ones: in the absence of a death certificate of the disappeared, the family may suffer economically and socially their own lives may be threatened, and they may be stigmatized as they become dangerous to associate with. The terror thus diffuses into the rest of society that consists not only of individuals who associate themselves with one or the other party to the conflict, but also of individuals who

try to dissociate with the problems altogether.

The UN Office for the Coordination of Humanitarian Affairs (UN-OCHA) defines a complex emergency as: “a humanitarian crisis in a country, region or society where there is total or considerable breakdown of authority resulting from internal or external conflict and which requires an international response that goes beyond the mandate or capacity of any single agency and/or the ongoing United Nations country program” (UNOCHA, 1999, p. 7). In addition, complex emergencies are often characterized by a breakdown in infrastructure and economy, insufficient availability of food and medical assistance, refugees and internally displaced persons, and serious security problems for the civilian population and the organizations trying to assist them (Kruke and Olsen, 2005). Rosenthal et al.’s (2001) characterization of crises as being culturally and politically defined events containing various levels of conflict and strong emotional responses also fits the features of a complex emergency. Such complex crises are strongly dynamic with characteristics, preconditions, and consequences as closely interrelated dimensions. Often, they have had a long incubation period; they may develop in the form of reinforced feedback loops as well as linear escalation; and they can produce crises after the crisis, and short- and long-term consequences that can be very difficult to repair.

In this paper, we regard the state as a key actor in post-emergency effort to achieve truth, justice and societal safety. This does not imply that the state is necessarily able to play a constructive role. As said, often the state itself has been the abuser or the cause of the problems. Armed and violent conflicts leading to genocide or mass killings are complex political as well as humanitarian crises, rendering the national aftermath crisis management at risk of being so highly politicized and fractioned that it may hamper society’s ability to secure societal safety for everybody (Rosenthal et al., 2001). Thus, also mass grave investigations will be deeply embedded in politics, and the purpose of using such investigations as a means to establish truth, justice and societal safety is in itself a political issue. In a post-conflict situation, all parties would like to use the investigations as a means for their own political ambitions. The tricky thing is that mass graves in most cases could serve different political interests at the same time. Consequently, the treatment of mass graves will always have political and symbolic aspects, and actors involving themselves in mass graves investigations will always run the risk of being exploited by political forces they deeply disagree with.<sup>5</sup>

However, in the long-term perspective there are no alternatives to the state taking responsibility. Without a governance structure, society could hardly reorganize a functioning society. External actors may be engaged for a short period in order to stabilize the situation and restore a basis for institutional building. Nevertheless, the UN, NATO or other strong forces can never be an alternative in the long run. Although the causes of complex emergencies often have international roots and hit locally, it is still the state level that has got the most powerful means to respond to the crisis and (re)establish the societal safety (UN Doc. A/59/565). This is true even though international structures have acquired a more central position in an increasingly globalized world.

Consequently, one of the government's most important challenges emerging in the aftermath of a violent conflict will be to restore its ability to maintain critical social and societal functions, and to protect the life and health of its citizens and meet their basic requirements in a variety of stress situations. This involves an ability to produce measures to: (1) prevent or reduce the potentiality of undesirable events (whether intentional, like terrorism or war, or unintentional, like mass disasters and natural catastrophes); (2) secure the (re)establishment of (desired) normal conditions as soon as possible after the event; and (3) protect society's critical infrastructure. Most important, however, is that the government succeeds in implementing measures to (re)establish a public confidence in critical social institutions (Olsen and Scharffscher, 2004; Olsen et al., 2005). Such institutions include political institutions, decision processes, law and legal systems, security organizations (e.g. the police, courts, military, etc.), civilian governmental bodies, etc. In addition, the government has to succeed in rebuilding mutual trust among different groups within the population.

### **Public expectations and authority responses**

In her book *Flirting with Disaster: Public Management in Crisis Situations*, Schneider presents a theory of how the correlation between the norms emerging in a population struck by disaster and the norms of the response system can be paramount to the success or failure of managing the crisis (1995). Although she explicitly explores natural disasters in the US and the responses of well-established US governmental agencies that are not only expected, but trusted, to take hand of the situation, her model still has a bearing on situations like the ones that form the basis of the present study.

Existing social norms guiding standard human interactions are upset when a crisis occurs. It may be so severe, and the conditions so previously unimaginable and incomprehensible, that universally understood and accepted values no longer appear relevant. Apparently, there exists an invariant sequence of behaviours among the population affected consisting of four basic phases: *the milling phase*—a widespread search in the population for meaning and appropriate behavioural standards; *the rumour phase*—a search for critical information via informal and unconventional channels of communication; *the keynoting phase*—selecting specific ideas and eliminating others, and thereby producing meaning to the situation; and *the emergent norms phase*—reaching a new set of behaviour-guiding norms, enabling people to cope. How the crisis is managed and which approach of the response system is invoked depends on how well the norms emerging among the affected population are correlated with the predominantly bureaucratic norms of the response system—the larger the gap, the more problematic the crisis management. A very large gap can produce new *crises after the crisis*.

Immediately following the US invasion in Iraq in April 2003, Iraqis desperately searching for their loved ones started spontaneous exhumations from mass graves throughout the country. This can be seen as an example of *emergent norms* that are completely uncorrelated with the norms of the authority response system in place.

This caused several human rights organizations to call upon the occupying powers to establish an official and comprehensive programme to deal with the totality of problems arising from the already known number of mass graves (PHR, 2003a, 2003b; Stover et al., 2003). Another example occurred in 1996 among the Srebrenica survivors when the needs of relatives clashed with the not yet fully integrated authority response system. Rumours spread that the men were not dead, but working as forced labourers in Serbian mines. The women were infuriated by the International Committee of the Red Cross (ICRC) programme of issuing *pro forma* “death certificates” for Srebrenica victims who were “obviously” alive. Rallies took place, and the women physically attacked the ICRC Headquarters. Simultaneously, body bags with unidentified human remains released from the *ad hoc* International Criminal Tribunal for the former Yugoslavia (ICTY) investigations to Bosnian authorities started piling up. They were stored in an undignified manner, first in abandoned tunnels in Tuzla, and from 1998, in containers in a parking lot, which, of course, angered the family associations (Stover and Shigakane, 2002; Vollen and Peress, 2001). The ICTY performed autopsies on only a sample of the human remains retrieved by them—and strictly and only for prosecutorial purposes. They have eventually released all remains to the families, or to either the International Commission on Missing Persons (ICMP) or the local CMPs for full examination and identification. With a design appropriately in place, there need not be any incompatibilities built into the system. The distance between these emergent norms and the authority response system may depend on a profound distrust that a system will be put in place at all, and that it will work efficiently and to the best of people’s interests. Because of this *a priori* lack of trust, the aftermath response system should automatically expect such occurrences in the wake of massive human rights abuses by states. For the same reason, *dissipation of state authority* (shared concern and crisis management co-production between private and public actors) appears to be extremely important. To (re)establish a public trust in societal institutions, it is necessary to establish a truth about what happened to the missing, and to implement a legitimate justice by convicting the perpetrators.

### **Forensic archaeology versus physical anthropology**

In Scandinavia and Europe in general, archaeology and physical anthropology are separate disciplines originating in the distinctly different educational departments of archaeology and anatomy/forensic medicine, respectively. The European archaeologist needs to be somewhat familiar with physical anthropology (or human osteology), while the European physical anthropologist needs not be familiar with archaeology at all—unless he or she takes a special interest. To the European academic, the distinction drawn between the forensic anthropologist (*sensu stricto*) and the forensic archaeologist (*sensu stricto*) by Skinner et al. (2003, Section 2) is the natural one to draw. *Forensic anthropology* is the application of the methods and goals of physical anthropology to questions of medico-legal significance, with a core expertise in obtaining

information from hard tissue (bones and teeth) variation, whether genetic or acquired (whereas the forensic pathologist is concerned about soft tissue) (Rinehart, 2001; Skinner et al., 2003; Snow, 1982). *Forensic archaeology* is the application of archaeological paradigms, methods, and goals to questions of medico-legal significance (Connor and Scott, 2001; Scott and Connor, 2001). In most of North America, a four-field educational system of anthropology is applied. Archaeology is taught as a sub-discipline along with physical anthropology, cultural anthropology (in Scandinavia, social anthropology) and linguistics. Most North American physical anthropologists will have at least a basic course in archaeology and thus be acquainted with the discipline (Connor and Scott, 2001; Jessee, 2003; Skinner et al., 2003).

The archaeologist is only one of several contributors to mass grave investigations, the success of which depend on the coordinated *multi-professional* efforts invested. Some areas of expertise the archaeologists share with other experts involved, such as their ability to plan and logistically field large projects, their thorough field documentation methods, their knowledge of how to recover and preserve fragile find material, and their ability to systematically classify, process and analyse physical evidence retrieved in field. This shared competence may ideally create a unifying platform for the forensic teamwork. The uniqueness of the archaeologists' contribution to the team, however, lies with their expertise within various areas: on methods for searching for and locating a variety of site types, their ability to recognize and assess man-made disturbances of the physical landscape and the vegetation, their thorough excavation methodology, and (electronically) surveying and mapping of complex physical features and associated objects, their understanding of site formation and transformation processes, and their understanding of chronological and spatial relations between earth-found objects and their distribution and depositing patterns (Skinner and Sterenberg, 2005).

Archaeology became involved in human rights investigations of mass graves through the pioneering work of Dr Clyde Snow, an American physical anthropologist who recognized the value of applying archaeology to such investigations, and who worked in Latin America in the 1980s and early 1990s (Crist, 2001; Doretti and Snow, 2003). He was a member of a multidisciplinary team of forensic scientists assembled by Eric Stover of the American Association for the Advancement of Science (AAAS) at the request of the NGO Grandmothers of the *Plaza de Mayo* and Ernesto Sabato, head of the truth commission established in 1984, to look into the almost 9000 *enforced disappearances* committed by state agents during Argentina's *Dirty War* 1976–1983 (Stover and Ryan, 2001, pp 9–11). This team trained young students of archaeology, anthropology and medicine to excavate the mass graves resulting from the disappearances and to identify the exhumed human remains. In 1986, the hard core of these students established the Argentine Forensic Anthropology Team (EAAF) as a non-profit NGO to apply mainly physical anthropology and archaeology to investigations of human rights violations (EAAF home page; Doretti and Fondebrider, 2001, Doretti and Snow, 2003; Fondebrider, 2002).



A similar training programme conducted by the AAAS with the participation of the EAAF in 1991 led to the formation of another anthropological team—the Guatemalan Forensic Anthropology Foundation (FAFG) (FAFG home page; EAAF, 1998b; Stover and Ryan, 2001). In 1997, the Office of the Archbishop of Guatemala (ODHAG) also formed a forensic team, and in 1999, a third team was formed by a local human rights organization (CAFCA). When the UN-mandated truth commission established in Guatemala in 1997 explicitly recommended an active governmental policy of locating and excavating mass graves, considering this “in itself an act of justice and reparation and an important step on the path to reconciliation,” these teams had for years already investigated mass graves containing the tens of thousands of Mayan victims of genocidal killing committed by state agents during the Guatemalan civil war (1960–1996) (CEH, 1999, Conclusion, Section I, pp 1–2, II, pp 108–120, and III, pp 28–31). A Chilean Forensic Anthropology Team (GAF) was formed in 1989 to investigate cases of the Pinochet regime (1973–1990), but was dissolved in the late 1990s. And finally, a Peruvian Forensic Anthropology Team (EPAF) was formed in 2001 when the Peruvian Truth and Reconciliation Commission started investigating the killing of tens of thousands of civilian peasants during the internal armed conflicts of 1980–2000 (CVR, 2003, General Conclusions, Section I). All these teams consist of both archaeologists and anthropologists. Still, the focus seems to be predominantly on physical anthropology, and the term *forensic anthropology* is often used to refer indiscriminately to both physical anthropology and archaeology. In 2003, together they created the Latin American Forensic Anthropology Association (ALAF home page).

Since 1992, the Argentinean team has been on missions to 30 different countries worldwide,<sup>6</sup> and has increasingly become more and more involved on the international scene, conducting missions on behalf of national truth commissions, prosecutors’ offices or various entities within the United Nations.<sup>7</sup> Also members of the Guatemalan FAFG have worked internationally with the AAAS (Haiti) or Physicians for Human Rights (Iraqi Kurdistan, Honduras, Rwanda and the former Yugoslavia). In contrast, prior to the team formation, most members of the Peruvian team were well experienced within the conventional archaeology of their own country, and many also had substantial experience with forensic anthropology and human rights investigations from the former Yugoslavia (Kosovo), Rwanda, Argentina, Haiti, Guatemala and the Democratic Republic of Congo (EAAF, 2001e).

Conventional archaeologists—being first and foremost archaeologists—were introduced to the field of human rights investigations of mass graves in 1992. When working for the UN-mandated truth commission for El Salvador investigating the US government-supported “*El Mozote* massacre” in 1981, the Boston-based Physicians for Human Rights (PHR), founded in 1986, included with their team a conventional archaeologist, Douglas D. Scott, to do the ballistic artefact study (Doretto and Snow, 2003; EAAF, 1999a, 2000b, 2001b; Scott, 2001; Scott and Connor, 1997; UN Doc. S/25500). The PHR also included conventional (and forensic) archaeologists in the Inter-American, multidisciplinary teams that investigated selected mass graves in Iraqi Kurdistan in 1992 (EAAF, 1992; HRW, 1993; Stover and Ryan, 2001).

Table 1. Abbreviations of organizations mentioned in the text

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- AAAS—American Association for the Advancement of Science (<http://shr.aaas.org>).
- AFHR—Archaeologists for Human Rights/Archäologen für Menschenrechte (<http://www.afhr.org>), established 2003 by German archaeologists to work in Iraq.
- ALAF—Asociacion Latinoamericana de Antropologia Forense (<http://www.alaforense.org>), established 2003 to work in the interest of Latin American forensic anthropology.
- CAFCA—Centro de Analisis Forenses y Cienceas Aplicadas, established in 1999 by a Guatemalan human rights NGO to work in Guatemala.
- EAAF—Equipo Argentino de Antropologia Forense (<http://www.eaaf.org>), established 1986 to investigate enforced disappearances by state agents during the “Dirty War” 1976–1983.
- EPAF—Equipo Peruano de Antropologia Forense, established 2001 to investigate politicicide committed by state agents and guerrilla forces during the period 1980–2000.
- FAFG—Fundacion de Antropologia Forense de Guatemala (<http://www.fafg.org>), established 1991 to investigate genocide by state agents during the Civil War 1960–1996.
- GAF—Grupo de Antropologia Forense de Chile, established 1989 to investigate enforced disappearances by the Pinochet regime 1973–1990, dissolved in the late 1990s.
- IAHRC—Inter-American Human Rights Court.
- ICMP—International Commission on Missing Persons (<http://www.ic-mp.org>), established 1996 at the G-7 Summit in Lyon to help locate and identify persons missing as a result of the conflicts in former Yugoslavia 1991–1995. In 1999 the mission was expanded to Kosovo, in 2001 to Macedonia, and in 2003 to Iraq.
- ICRC—International Committee of the Red Cross (<http://www.icrc.org>), established 1863, since 2002 running the program “The Missing. End the Silence—Action to Resolve the Problem of People Unaccounted for as a Result of Armed Conflict or Internal Violence and to Assist their Families.”
- ICTR—*ad hoc* International Criminal Tribunal for Rwanda (<http://www.ict.org>), established by the UN in late 1994 to prosecute alleged perpetrators of genocide and other serious violations of international humanitarian law committed in the territory of Rwanda or by Rwandan citizens in the territory of neighbouring states between 1 January and 31 December 1994. Commissioned two mass grave excavations in 1996.
- ICTY—*ad hoc* International Criminal Tribunal for Former Yugoslavia (<http://www.un.org/icty>), established by the UN in 1993 to prosecute alleged perpetrators of grave breaches of the Geneva Conventions, war crimes, genocide and crimes against humanity, committed on the territory of the former Yugoslavia since 1991; its Office of the Prosecutor has conducted mass grave investigation in Bosnia, Croatia and Kosovo 1997–2001.
- INFORCE—International Forensic Centre of Excellence for the Investigation of Genocide (<http://www.inforce.org.uk>), established 2001 by forensic specialists active in the investigation of crimes against humanity, war crimes and genocide.
- ODHAG—Proyecto de Exhumaniciones de la Oficina de Derechos Humanos del Arzobispado Guatemala, a forensic team established 1997 by the Office of the Archbishop of Guatemala.
- PHR—Physicians for Human Rights (<http://www.phrusa.org>), Boston, USA, established 1986 to mobilize the health professions to promote health by protecting human rights.
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However, not until the large-scale mass grave investigations in Rwanda and the former Yugoslavia in the 1990s did conventional archaeologists really become involved in greater numbers. They are still struggling to define their role as archaeologists within this setting (Connor and Scott, 2001). Also, the role of forensic archaeologists is still not straightforward in relation to other scientific

experts and entities involved in mass grave investigations (Skinner and Sterenberg, 2005). Conventional as well as forensic archaeologists were included by the PHR, who came to play a pivotal role in assembling teams for the mass grave investigations of the United Nations Commission of Experts to the former Yugoslavia in 1992 – 1993 (UN Doc. S/1994/674, Annex X.A and X.B), and in 1996 for the *ad hoc* International Criminal Tribunals for Rwanda (ICTR) (Connor, 1996; Haglund, 2002; Haglund et al., 2001; PHR, 1996) and the former Yugoslavia (ICTY) (ICTY, 2004; Stover, 1997; Stover and Peress, 1998; Stover and Shigekane, 2002; UN Doc. A/52/375-S/1997/729, Article 66 – 67). From 1997 to 2001, the ICTY’s Office of the Prosecutor organized all their excavations in the former Yugoslavia themselves, employing professionals from many different countries (Abrahams et al., 2002; EAAF, 2000c). In 1999, the International Commission on Missing Persons (ICMP), established at the G-7 Summit in Lyon in 1996 to work in the former Yugoslavia, expanded their work to the Kosovo conflict; in 2001, to the Macedonia crisis; and in 2003, to Iraq. Although forensic anthropologists form their core team, they also employ archaeologists, as do the local commissions in Bosnia-Herzegovina and Republika Srpska. In 1996– 1997, these commissions started exhuming mortal remains buried on each other’s territory (ICMP home page). Finally, since May 2003, several international forensic teams and teams of archaeologists have worked alongside Iraqi professionals in locating, assessing and excavating the overflow of mass grave sites in the present Iraq. At least 270 mass graves are suspected to contain between 300,000 and 400,000 victims of genocide on the part of the Ba’ath regime, each grave containing between six (by definition) and 3,000 bodies (one of the emotionally overrun graves). These teams have worked under the auspices of the occupation powers in collaboration with the Iraqi Governing Council. The PHR are involved, as are archaeological organizations like the British INFORCE, founded in 2001, and the AFHR, a German group of Ancient Near Eastern archaeologists founded in June 2003 (Halchin, 2004; Hess, 2004; Powers, 2004; USAID, 2004; US Department of State, 2003). Also, the ICMP has engaged themselves in the complex problems of mass grave investigations in Iraq.

### **Modern mass graves—definitions and characteristics**

No single definition of the concept *mass grave* exists. As to what defines a *mass*, the minimum number of individuals required has varied from as few as two or three bodies in most definitions (Mant, 1987; Schmitt, 2002; UN Doc. E/CN.4/1993/50, Annex I, Article 5; UN Doc. S/1994/674, Annex X, Section II A), to at least half a dozen (Skinner, 1987). Haglund et al. (2001, p. 57) state that: “Mass, of course, means a large quantity or aggregate, usually of considerable size.” Characteristically, the bodies are in close contact, placed indiscriminately and tightly together, and with no reverence for the individual or concern about their dignity (Haglund, 2002; Skinner et al., 2002). In large body masses, this creates a particular phenomenon called the “feather-edge effect” (Haglund et al., 2001, p 58; Mant, 1950). At the centre of the grave, one may encounter partially

to fully fleshed human remains, while the remains at the outskirts are partially to fully skeletonized. Mummification can also occur. The phenomenon is created by the unique microenvironment and transformation pattern that decomposition of large body masses creates in interplay with preservation factors such as burial method, contact only with other bodies or with grave fill, soil conditions, time passed, clothing, climate, depth of the backfill and its compaction, etc. (Haglund, 2002, pp 247–252). After five years of interment, the human remains in the deep Ovcara grave in Croatia were partially to fully fleshed, as opposed to the fully skeletonized remains of the shallow Cerska grave in Bosnia after only one year (Haglund, 2002, p 252).

As to what defines a *grave*, the United Nations Commission of Experts to the former Yugoslavia defined a mass grave as any site intended as a place of permanent interment from which the bodies are prevented from being moved by natural elements. Non-burial methods of body disposal, such as dumping them into rivers or leaving them on the surface, clearly do not qualify as interment methods. However, the term will include some quasi-burial methods of body disposal, such as gathering people in a confined space and setting it ablaze. As the structure collapses, it will bury the remains and thus create a mass grave. “The *El Mozote* convent” or “the Marquez house” of the *El Mozote* massacre in El Salvador could serve as examples (EAAF, 1999a, 2000b, 2001b). Also, the definition by the United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions, which is the one used by the ICTY (1996), allows for other types of features than actual graves, e.g. village wells and natural ravines.

Also important to most definitions are *legal aspects* concerning the manner of death and how the grave came into being. The Special Rapporteur defines a mass grave as containing victims of extrajudicial, summary or arbitrary executions, not having died in combat or armed confrontations. The Experts Commission identifies four general types of mass graves according to the combination of whether the dead have been lawfully (i.e. casualties or combatants) or unlawfully killed, and whether they were buried properly or improperly. Mass graves may occasionally be lawfully created due to sanitary necessities, time constraints, security conditions and the magnitude of the death toll. Skinner et al. have murder as the manner of death and concealment on the part of the perpetrator during war or civil conflict as the origin of the mass grave (2003, p 82, Note 4). Schmitt distinguishes the criminal mass grave from the accident-related mass grave, and the type of mass grave that requires medico-legal investigation from the type that does not (2002, p 279). The criminal mass grave contains the remains of individuals who share “some common trait that justified their assassinations in the eyes of the perpetrators,” but is often made by others than the perpetrators who, at the time of the crime, need not fear reprisal.

Jessee recently put forward a definition merging the above definitions (Jessee, 2003; Jessee and Skinner, 2005). She is primarily concerned with the mass grave as a unique archaeological phenomenon for which she has developed a typology, with an experimental research design attached to each type. She also briefly

discusses the archaeological evidence potentially to be associated with the different types. Her typology comprises mass grave-related sites: *surface or grave execution sites*, and *temporary or permanent surface deposition sites*; and inhumation sites: *primary inhumation sites* (primary mass graves), which may simultaneously be grave execution sites, *secondary inhumation sites* (secondary mass graves), *multiple deposit interment sites*, which can include both primary and secondary inhumation sites (containing a stratigraphic series of body masses separated by soil, deposited over a period of time), and *looted inhumation sites* (from which human remains have been removed).

### **Mass grave investigation purposes**

The objectives of mass grave investigations may be assigned to three broad categories: humanitarian, legal and historical purposes, all of which can contribute significantly to the reconstruction of societal safety, especially to reestablishing trust in societal institutions. In the literature, *humanitarian purposes* seem to refer almost exclusively to the needs of relatives for identification and repatriation of the remains of their loved ones in order to bring closure and enable them to move on with their lives. Closely linked to identification matters are the acknowledgement of legal (civil) and human rights of the offended party. *Legal purposes* thus refer to both the pursuit of such legal rights and to the prosecution of criminal offences as codified in the body of international laws, even if pursued in local or regional courts. *Historical purposes* refer to establishing a historical record that can counteract historical revisionism. Thus, it primarily refers to factual truth, i.e. establishing facts that are hard to deny by any party, although their societal implications might be an object of interpretation.

The Latin American forensic anthropology teams have tried to take a holistic perspective on human rights mass grave investigations—in principle aiming equally at all three purposes mentioned. Thus, for instance, the objectives of the EAAF are: (1) to investigate and document human rights violations; (2) to provide this evidence in court, special commissions of inquiry, and international tribunals; (3) to assist the relatives of the victims in pursuit of their rights to recover the remains of their loved ones; (4) to help train new teams; (5) to conduct seminars on the human rights application of forensic sciences for humanitarian organizations, judicial systems, and forensic institutes in other countries; and (6) to contribute to the historical reconstruction of the recent past. However, amnesty laws passed following the transition into democracy in Latin American countries like Argentina (1986, 1987), El Salvador (1993) and Guatemala (1996) have largely prevented full criminal investigations. Thus, the excavations have predominantly focused on humanitarian and historical purposes. There has been a strong focus on the needs and the human and civil rights of the relatives of the disappeared, on whose request or behalf the teams have carried out their missions (Doretti and Fondebrider, 2001; Fondebrider, 2002). Relatives and survivors have closely followed the excavations and even acted as workers or handymen on the excavations. In Guatemala, mental

health programmes directed towards survivors and family members of the missing have been carried out alongside the mass grave excavations since the beginning (FAFG home page; EAAF, 2002b). Only in Peru, the amnesty law (passed in 1995) was abolished *before* the Truth and Reconciliation Commission, and the EPAF started working in 2001. A primary objective of the EPAF has therefore been to assist the Truth and Reconciliation Commission and the Office of the Public Prosecutor in their criminal investigations (EAAF, 2001e, 2002e).

Until the ICTY was established by the United Nations in 1993, no international entity had existed since World War II to ensure the enforcement of international humanitarian law. In addition, the four Geneva Conventions of 1949 and the two additional Protocols of 1977, and not least the Genocide Convention of 1948, had never been adjudicated and no precedents existed. The ICTY's objectives have been fourfold: (1) to bring to justice persons allegedly responsible for serious violations of international humanitarian law; (2) to render justice to the victims; (3) to deter further crimes; and (4) to contribute to the restoration of peace by promoting reconciliation in the former Yugoslavia. The Prosecutor's Office operates independently, conducting investigations, preparing indictments and presenting prosecutions before the judges of the Tribunal. Their mass grave excavations have been carried out with a threefold purpose: (1) to corroborate witness testimony; (2) to recover evidence related to events reported in Tribunal indictments; and (3) to document injuries and identify the cause and time of death. Excavations are only conducted pursuant to an investigation by the Prosecutor's Office for reasons relating directly to prosecution charges. Only a sample of the human remains in any particular mass grave is examined—and likewise solely for prosecutorial purposes (ICTY, 1996).

In contrast, the ICMP is a human rights and humanitarian organization, supporting families of the missing in their search for truth and justice, with an emphasis on determining the truth without apportioning the blame. The main objective is “to secure the co-operation of Governments and other authorities in locating and identifying persons missing as a result of armed conflicts, other hostilities or violations of human rights and to assist them in doing so” (ICMP home page).

### **Artefacts and context**

Artefacts found in modern mass graves may include identification papers, wallets and their contents, coins, amulets and other personal ornaments, clothes, cartridges, cartridge cases and bullets, all of which can be subjected to traditional archaeological artefact studies. A typical example are the ballistic analyses performed by the American archaeologist Douglas D. Scott on cartridges and cartridge cases recovered from sites related to the *El Mozote* massacre in El Salvador, or the *Alfal Campaign* in Iraqi Kurdistan (EAAF, 2000b, 2001b; Scott, 2001; Scott and Connor, 1997). The various firearm types involved were identified, and wear pattern analyses revealed individual weapons and how many shots each had fired. Processing of the contextual evidence also

revealed the pathways of individual weapons and some of the specifics of the formation of the sites.

The core archaeological paradigm is the idea that human behaviour is patterned and thus also the physical remnants of human activities will be patterned (Connor and Scott, 2001; Scott and Connor, 1997). The societal concept of context referring to the specific societal setting in which a phenomenon occurs (in our case, mass graves) can be inferred from the archaeological context which, conceptually, is usually restricted to the physical context in which finds occur. Also in modern “archaeological” contexts, one seeks to establish the behavioural pattern through *find distribution analyses*, used to identify activity areas within a site, and *find association analyses*, used for linking finds or activity areas together. Stratigraphic evidence can reveal temporal aspects of the site formation even within the short time span of modern mass graves. Relative dating can be provided by styles of clothes and other accessories. Absolute dating can be provided by *terminus post quem* (date after which) dating of, for instance, coins or cartridges, and *terminus ante quem* (date before which) dating of, for instance, the year rings of twigs penetrating the clothes (or the very remains) of a victim (EAAF, 2000b, 2001b; Hunter, 1997). Such dating can corroborate estimations of *time since death* made by pathologists and physical anthropologists, or new scientific dating methods, e.g. soil chemistry (Kimmerle, 2004, p 9).

For tasks such as surveying for and locating suspected grave and/or execution sites, site assessment and preliminary (trial) excavation, conventional archaeologists have developed, borrowed, adapted and implemented from other professions a wide variety of field investigation techniques and laboratory analysis methods. They are used to read the landscape and detect topographical and vegetation anomalies and soil disturbances that could reveal the existence of man-made features/structures, and to detect both primary and secondary disturbances of these objects. Some archaeologists are also familiar with interpreting aerial photographs. Archaeologists are furthermore well accustomed to a cost/benefit way of thinking because even conventional archaeological excavations are usually not done for pure research purposes, but as a consequence of public building development, often with stronger societal interests than cultural heritage protection at stake. Excavation means destroying the source of evidence; only the documentation and the finds are preserved. Whatever the purpose of excavation, it can only be done once. This destructive and unrepeatable characteristic of archaeological excavations has made it paramount for archaeologists to apply rigorous, detailed and unambiguous documentation techniques to fieldwork practices, subsequent find processing and the way in which finds are taken into custody. The *chain of custody* to be observed in criminal investigations is more rigorously applied than the archaeological “chain of custody”; however, the concept should not be unfamiliar to the archaeologist (Crist, 2001; Melbye and Jimenez, 1997).

## Evidence of identity

Forensic investigations serve medico-legal purposes, and thus the concept of physical evidence is the medico-legal one. The interpretation of the evidence is done by jurists in court and produces a very specific sort of truth—a *legal truth*. Truth in the eyes of survivors, relatives, historians and, not least, alleged perpetrators may look very different—even if based on the same evidence and even if carrying the legal truth as an element within their own perception of truth. Even the legal truth is a variable sort of truth, since civil and criminal courts differ on what they will accept as evidence on which to rule their judgements.

In the medico-legal sense of the concept, four fundamental types of physical evidence can be obtained from mass graves: (1) evidence of identity; (2) evidence of time of death; (3) evidence of pre-mortem trauma (physical trauma occurring before death); and (4) evidence of cause, manner and mode of death by peri-mortem trauma (occurring in association with death) (Skinner, 1987, p 269). Regarding evidence on pre-mortem trauma and mode and manner of death, Skinner, in reply to the questionnaire, stated: “my general impression is that in mass graves, the bodies themselves give relatively little evidence of the circumstances surrounding death, whereas the bullets and clandestine burial are eloquent ‘archaeological’ evidence of what happened.”

Two types of identity are of interest for the humanitarian and legal purposes of mass grave investigations, respectively—personal identity and categorical identity (Haglund, 2002). A *positive personal identification* is based primarily on physical and anatomical traits (generic and acquired) unique to a particular individual. DNA analysis can be the ultimate and conclusive tool to establish this identity. Without DNA matches, reaching a positive identification is not easy, especially in poor third world countries where most people enjoy only provisory health care, or when otherwise decent health records may be destroyed along with everything else in times of conflict. *Circumstantial* (or soft) evidence affiliated with a particular set of human remains—such as identification papers and family photographs carried in wallets, particular personal item(s), specific clothing and the like—may be produced archaeologically to aid the personal identification process. Most respondents to the questionnaire thought such evidence could make an important contribution to personal identification, even if secondary to the physical or anatomical evidence. One example would be the first individual in the former Yugoslavia to be *positively* identified, whose skeletonized remains were found near the *Ovcara* grave in 1992. The decisive piece of evidence was a necklace with a Roman Catholic cross and the inscription *BOG I HRVATI* (God and Croatians) (Stover, 1997). However, the forensic pathologists authorized to make the *formal identification* and issue the death certificate base the identification on the totality of evidence.

For the prosecution of war crimes, crimes against humanity and genocide, personal identification is *not* a primary issue (Haglund, 2002; ICTY, 1996). Those killed are not killed because of their personal qualities, but are targeted because of their ascribed quality of “otherness,” revealed through their membership in a particular group of people. Various groups are protected by the



Geneva Conventions, most notably *civilians* and *POWs*. In the Genocide Convention, *national, ethnical, racial and religious groups* are the protected groups.

Physical anthropologists contribute to group identification by constructing a *demographic profile* of victims based on biological characteristics (sex, age, stature and ancestry). These are not culturally independent, but rely on population-specific parameters such as variable growth and ageing patterns due to biological, environmental and cultural variation (Kimmerle, 2004). Such a demographic profile can contradict allegations that those buried in a particular mass grave are lawfully killed combatants. Also, archaeologically produced *circumstantial evidence* can be extremely valuable. Thus, the victims in the *Ovcara* grave were categorically identified as *patients* and *hospital staff* due to the presence of bandaged limbs or limbs set in plaster casts and slings, a pair of broken crutches, a catheter dangling from a pelvis, hospital smocks and white clogs (Stover, 1997; Stover and Peress, 1998). The terms *national, ethnical, racial or religious groups* are *not* “objective” scientific expressions, but pure social constructs evasive of clear-cut definitions. In the Genocide Convention, according to Schabas, they not only overlap, but also help define each other, operating as four corner posts delimiting an area within which a myriad of groups find protection. He warns against trying to find autonomous meanings for each of the terms as has been attempted by the ICTR or in the US genocide legislation (Schabas, 2000). To North European archaeologists, the idea that ethnicity can be recognized in archaeological assemblages and contexts has been a particularly touchy subject ever since the Nazi regime’s abuse of archaeology during World War II as a means to sustain and justify the Jewish genocide (Arnold, 2002). There is still every reason to be cautious about categorical identifications of national, ethnical, racial or religious groups in modern populations, as such identifications are highly context-dependent and based purely on cultural interpretations.

### **Excavating mass graves—exhuming human remains**

It seems relevant to make a distinction between the mass grave as an object of investigation *per se* and as a container of human remains, these being the object of investigation. We restrict the term *mass grave exhumation* to diggings focused on the retrieval of human remains for the sake of identification and repatriation. This does not totally exclude the use of archaeological techniques or working with a view to the archaeological context. We restrict the term *mass grave excavation* to diggings with a more holistic perspective, focusing equally on the contextual evidence for the sake of establishing a historical record, treating the human remains as a find along with other finds. Although Connor and Scott (2001) make the same sort of distinction, this is not a distinction frequently made within the field. Exhumation (literally meaning “digging up a corpse”) is the traditional medico-legal term and the one normally applied to all types of diggings. However, answers to the questionnaire confirmed the existence of our conceptual bipartition. The respondents also generally related the excavation

category to *prosecutorial purposes*, and the *exhumation* category to *humanitarian purposes*, e.g. identification and repatriation. Historically, actual investigations can be placed on a scale between the two categories. In some *forensic mass grave excavations (I)*, establishing a historical record has taken overall primacy. In other *forensic mass grave excavations (II)*, establishing a historical record has been at par with identification and repatriation, but with a distinct focus on the needs of survivors and families of the victims. At the other end of the scale are *forensic mass grave exhumations*, in which identification and repatriation take priority over establishing the historical record. Largely, two different investigation strategies with a built-in systematic, long-term and large-scale perspective have been implemented. One is the Latin American model of *forensic mass grave excavations (II)*; the other is the model used in the former Yugoslavia, where the *forensic mass grave exhumations* done by institutions such as the ICMP and the national commissions can be seen as complementary to the *forensic mass grave excavations (I)* done by the ICTY.

The mass grave investigation strategy chosen in Iraq is meant to be very similar to that in the former Yugoslavia, adapted to the specific needs and circumstances in Iraq (USAID, 2004; US Department of State, 2003). According to Stover, however, the situation and the way in which it is addressed are more comparable to Rwanda. Except for the *emotionally overrun sites* (11 sites) that are already disturbed and an object of damage control only, the remainder of the graves are divided into *humanitarian exhumation sites* and *full criminal investigation sites*. The latter category is to comprise 8 – 20 sites to be fully excavated for the sake of prosecuting war crimes, crimes against humanity and genocide by an Iraqi Special Tribunal to be set up by the Iraqi Governing Council, and should to be comparable to the *forensic mass grave excavations (I)* done by the ICTY. The *humanitarian exhumation sites* that comprise the vast majority are to be “exhumed in collaboration with the families and communities as commemorative sites with a very low level of ability to identify individual remains” (Stover, 2004, reply to questionnaire cf. Juhl 2005: 12, 47). This does not seem equivalent to any of the investigation concepts previously mentioned, but rather has a distinct *health promotion* aspect taking primacy over medico-legal investigation aspects. Even though health promotion is also clearly an aspect of the Latin American investigation model, there is a vast difference between investigations conducted by professionals, allowing community members in on the excavation and/or offering simultaneous mental health programmes to survivors and families of the victims (as in Guatemala), and community-led investigations supervised by professionals (as planned in Iraq). The concept seems to be a type of adaptation of the WHO “*Safe Community*” model—a strategy based on social mobilization of community resources and competence—for problems that have so far only been approached using forensic investigative strategies (Svanström, 1993, 1994). Also, the gap between the strategies involved with *humanitarian exhumation sites* and *full criminal investigation sites* seems much larger than that between *forensic mass grave exhumations* and *mass grave excavations (I)*. Thus, it could be important to find means to couple the two investigation concepts into one holistic strategy.

## **The quest for truth, justice and societal safety**

In most cases, the (re)establishment of societal safety has to build on a peace and reconciliation process whose ultimate goal is to restore public confidence in vital social institutions. Without public trust in the institutions that are necessary to organize a society, it is hardly possible to return to a peaceful condition. Truth commissions are generally considered an important mediating tool for the transition into democracy in countries that have experienced massive human rights abuses by the state. If democratic institutions exist at all, they are often compromised by their association with the abusive regime. Truth commissions are somehow officially sanctioned and, generally, their strengths are in precisely those areas that fall outside those of a judicial body. However, they are also temporary entities, and their long-term effect depends on the political will and strength to follow up on conclusions. Latin American truth commissions have either strongly recommended or commissioned mass grave excavations, and thus the Latin American forensic anthropology teams have filled an important societal safety function in the transitional phase of emerging democracy. In the Peruvian case, the truth commission was even mandated to ensure evidence for the prosecution in collaboration with the Attorney General's Office through exhumations and forensic investigations. As a result, the Peruvian government has agreed to investigate and determine criminal responsibility in some 165 cases the Inter-American Human Rights Court (IACHR) had on its books (HRW, 2002).

Due to the amnesty laws passed in most Latin American countries, excavation results have not been used on a large scale for prosecutorial purposes. In the Argentinean case, however, criminal cases have taken place in various foreign countries with EAAF members as expert witnesses (EAAF, 2000a). In the Guatemalan case, the amnesty law from 1996 did not pardon the crime of genocide. As an example, in 1998, three Guatemalan army officers received the death penalty for their roles in the *Rio Negro* massacre in the province of *Rabinal* based on evidence from an FAFG excavation of a mass grave containing 177 individuals (EAAF, 1998b). Still, the country's judicial system remains weak, and instead, a number of cases have been brought before the IACHR. In 2000, for instance, Guatemalan President Alfonso Portillo admitted state responsibility for past violations before the IACHR, and the families of the estimated 500 victims of the 1982 *Dos Erres* massacre were the first to be awarded reparation to be paid by the Guatemalan government for human rights crimes occurring during the war. The government was also obliged to provide physical and psychological treatment to survivors and family members, to investigate and try those responsible and to build a memorial (EAAF, 1999b, 2001c; HRW, 2001). Several Latin American countries are now abolishing their amnesty laws and thus moving from a transitional democracy to a stable democracy. An example of this is Argentina, where the two amnesty laws passed in 1986 – 1987 were ruled null and void in court in 2001, and annulled by the Chamber of Deputies in 2003 (Amnesty International Library, 2001; HRW, 2003). The extensive forensic mass grave

excavations in the region, rendering results difficult to overlook, have probably contributed greatly to this end. It can also be considered a synergy effect in the respect that Latin America's youngest truth commission—that of Peru—has combined truth and justice in a thus far unprecedented way.

Also, the ICTY approach has had its merits in terms of societal security. The results of the extensive excavation programme have been successfully used in court, with the case against Major General Radislav Krstić serving as an example. In 2001, Krstić, who was indicted for directing the attack on Srebrenica in 1995, was sentenced to 46 years imprisonment for genocide, crime against humanity and violations of the laws or customs of wars (subsequently reduced to 35 years). The prosecutor's case relied heavily on forensic evidence from the excavation of the 21 Srebrenica-related mass grave sites (ICTY, 1998, Articles 71 – 79; Jessee, 2003, pp 49 – 50; Kimmerle, 2004, pp 13 – 15). Because the former Yugoslavia has a history of genocide and mass graves dating back at least to World War II, the ICTY investigations of mass graves created by any of the parties to the Balkan Wars—and the subsequent prosecutions—are also extremely important in terms of promoting overall societal security in the region.

In a society characterized by a high level of societal safety and security, society is expected to secure and safeguard legal rights broadly based on human rights. Otherwise, legality will have no legitimacy. When other legal subjects—including state agents—offend these rights, it is important that an impartial judicial system independent of the governing system settle the matter. In most countries, people would not accept even a single disappearance or homicide to go un-investigated or un-prosecuted. The search for truth and justice in order to restore societal safety should be supported and organized by the state authorities. The ICTY has extended these expectations to the international scene. Before the ICTY, there was no enforcement of international criminal laws. Without it, we probably would not have a permanent International Criminal Court (ICC)—after all establishing such an entity has been discussed without result for the past 50 years. And without the ICC, enforced disappearance would not have been defined as a crime against humanity. Mass grave excavations for prosecutorial purposes are not about the dead; they are about security for the living. For the relatives of the missing, justice might come second to identification and repatriation, but as soon as these purposes are fulfilled, they also want justice. Yet, justice is not merely about the needs of the relatives of the missing. It is also about those victims who barely escaped ending up in a mass grave—like the six who at first pretended to be dead and then crawled out from under the pile of bodies after the execution of their fellow villagers in *Koreme* (HRW, 1993; Stover and Ryan, 2001). And it is about those associated with the perpetrators by group affiliation who did not commit any crime—the innocent German, Serb or Hutu, etc. Although the legal principle may be that you are innocent until proven guilty, in group conflicts you are guilty by group affiliation until proven innocent. To avoid collective guilt in these groups, it is in their interest to have mass graves excavated, the story told and the perpetrators prosecuted. Although many problems may be involved, the pursuit of justice is paramount to societal security. In situations where no other indisputable

evidence exists, the physical evidence produced by forensic mass grave excavations, and the contribution to this evidence production by archaeologists, have been—and probably will in the future be—important building blocks for safer societies.

## **Conclusions**

Human rights mass grave investigations have contributed significantly to the success of national and international truth commissions, human rights courts and criminal courts and tribunals worldwide. Some institutions pursue either truth *or* justice, others pursue both truth *and* justice—and this is true even for recent truth commissions. Consequently, human rights mass grave investigations contribute to both purposes.

In the aftermath of violent conflicts related to massive human right abuses by state agents, the success of such institutions is fundamental to the societal rebuilding process. At the societal level, they promote the establishment of democratic institutions to provide the societal safety and security basis needed for reconciliation processes. Societal rebuilding and reconciliation processes are long-term projects, with the ultimate goal of establishing confidence among different groups and trust to core social institutions in society. Thus, the contributions by forensic mass grave investigation teams have been most notable in cases where a systematic, long-term and large-scale strategy has been applied—notably in Latin America and the former Yugoslavia. However, the field is rapidly growing, and forensic anthropology and archaeology are to an increasing degree incorporated into international crisis and conflict management strategies—particularly by the United Nations.

In generally, human rights mass grave investigation teams have pursued three major purposes: humanitarian, legal and historical. Establishing a historical record—the factual truth of what happened and in what sequence, at a specific location and a specific point in time—is paramount to pursuing the legal and historical purposes, and important to achieving the humanitarian purpose of identifying victims. The archaeologist's unique contribution lies in the panoply of methods archaeologists apply to establish the historical record from features in the ground and earth-found objects. Guiding these methods is the paradigm that human behaviour is patterned and leaves behind a physical record that is also patterned in a way that is consistent with the behaviour that produced it. Thus, the work of archaeologists must be characterized as a valuable contribution to any forensic mass grave investigation team—and the restoration of societal safety in the aftermath of a complex emergency.

## Notes and References

- 1 Democide comes from Gr. *demos*, people + -'cidium, murder, from Lat. *caedere*, to kill; genocide from Gr. *genos*, race, nation or tribe, + -'cidium, murder, from Lat. *caedere* to kill; politicide from Gr. *politicos*, citizen, political + -'cidium, murder, from Lat. *caedere*, to kill. The concept genocide was originally developed by scholar of international law, Raphael Lemkin (1944, Chapter IX). It was given its legal definition by the United Nations upon adopting the Genocide Convention in 1948, and also comprises other acts than killing "committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such" (UN Doc. GA/RES/260(III), Article II). Genocide as a crime aiming also at political groups was part of the definition in both the first and the second draft, but was explicitly excluded from the final convention (UN Doc. E/447; UN Doc. E/AC.25/SR.1 to 28; Schabas, 2000, Chapter 2).
- 2 The figures do not include such victims of genocide as the Iraqi Kurds (1987–1988), the Muslims of the former Yugoslavia (1991–1995 and 1999), or the Rwandan Tutsis (1994).
- 3 The questionnaire was sent to 12 key informants and answered by six respondents: four archaeologists, one bio-archaeologist and one non-archaeologist. Full information on the questionnaire including the names of the respondents is given in Juhl (2005, Chapter 3 and 6, and Appendix A).
- 4 The concept is defined as relating to persons "arrested, detained or abducted against their will or otherwise deprived of their liberty by officials of different branches or levels of government, or by organized groups or private individuals acting on behalf of, or with the support, direct or indirect, consent or acquiescence of the government, followed by a refusal to disclose the fate or whereabouts of the persons concerned or a refusal to acknowledge the deprivation of their liberty, which places such persons outside the protection of the law" (UN Doc. A/RES/33/173).
- 5 Although symbolic meanings and religious implications are important aspects of mass grave investigations that deserve thorough contemplation in their own right, the study on which this article is built was not designed to evaluate such aspects. It deliberately focuses on humanitarian aspects, issues of societal safety, legal (humanitarian law) and forensic aspects of mass grave investigations which is the area within which archaeology so far has had a role to play.
- 6 See EAAF home page, *Reports by Country & Year*.
- 7 In 1997–1998, they were contracted to set up an international forensic team for the UN Mission to the Democratic Republic of Congo (EAAF, 1996–1997, 1998a, 2002a). They have also been contracted by the Office of the High Commissioner for Human Rights (OHCHR) for Missions to the Ivory Coast (EAAF, 2001f, 2002c), East Timor (EAAF, 2001a) and Sierra Leone (EAAF, 2002f). In 2002, they prepared a "Model Protocol for the Forensic Investigation of Suspicious Deaths Resulting from Human Rights Violations" to be proposed as law by the Mexican government in 2003 (EAAF, 2001d, 2002d).

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