

Exhumation of Mass Graves in Iraq

Considerations for Forensic Investigations, Humanitarian Needs, and the Demands of Justice

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ACROSS WAR-TORN IRAQ, IRAQIS HAVE BEGUN TO REVEAL the horrors of nearly a quarter century of repressive rule. Former political prisoners have led journalists and human rights investigators to prisons where torture and summary executions reportedly were routine. Municipal grave diggers, shepherds, and farmers have publicly disclosed the whereabouts of mass graves believed to hold the bodies of those who disappeared during the rule of Saddam Hussein.¹ Lacking adequate forensic expertise and in the absence of international assistance, Iraqis have been exhuming some of these graves in a manner that prevents forensic identification of most of the remains and possibly brings greater mental anguish to the relatives of the deceased. For example, in May 2003, at 2 sites located near the Mahawil military base just north of the southern Iraqi city of Hilla, villagers used a backhoe to dig up more than 2000 sets of remains, gouging and comingling countless skeletons in the process, while some families used their hands to dig for bones and shards of clothing and carted them away in wheelbarrows and buckets.¹

Clearly, the numerous infrastructure, public health, safety, and security needs of Iraq require immediate attention; however, addressing the fate of missing persons will be an important aspect of the long-term restoration of the health and well-being of Iraqis. In this context, coordinated forensic, psychosocial, and logistical support for the Iraqi people may help enable the remains of some of the missing to be exhumed and identified in a humanitarian, scientific, and judicial manner. However, at the time of this writing,² US and other coalition authorities have not implemented a plan to help Iraqis recover the remains of their relatives in a dignified manner and to preserve evidence that might convict those responsible for these crimes.

Although this may be understandable given the current dire situation in Iraq (ie, ongoing conflict and security threats, infrastructure and public health demands, and the need to prioritize resources), it stands in contrast with the role played

by the United States during and after the recent wars in the former Yugoslavia. For example, in 1993, before the conflict in Croatia and Bosnia had ended, the United States had funded and donated field equipment to forensic teams investigating mass graves in those countries under the auspices of the UN Commission of Experts and its successor, the International Criminal Tribunal for the Former Yugoslavia.³⁻⁵ Similarly, after the war in Kosovo, the United States dispatched a team of forensic scientists to the region to investigate graves associated with the purge of ethnic Albanians in the spring of 1999.⁶ These forensic investigations were used by the International Criminal Tribunal for the Former Yugoslavia in indictments of war criminals in the former Yugoslavia.⁵

The grim spectacle at the Hilla burial pits in Iraq and protests of international human rights organizations prompted the US Office of Reconstruction and Humanitarian Assistance (ORHA) to take action.¹ In late May 2003, the ORHA (which has since been folded into the Coalition Provisional Authority) announced that it would take measures to secure grave sites, launch a media campaign to explain to the public the necessity of preserving grave sites, and request governments to send forensic teams to Iraq to exhumate graves prioritized for forensic investigation.⁷

In the meantime, several nongovernmental organizations have become involved. At the onset of the war, 2 US-based human rights organizations, Human Rights Watch and Physicians for Human Rights, sent 10 researchers, including 1 of us (E.S.), to the region to investigate possible violations of international humanitarian and human rights law committed by all sides of the conflict. In June, 2 of us (W.D.H. and M.S.) traveled to Iraq on behalf of Physicians for Human Rights to assess local capacities for dealing with the search for missing persons. In addition, a British-based group, the International Forensic Center of Excellence for the

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Investigation of Genocide, sent a team of 8 forensic scientists to Baghdad in June to begin drafting medicolegal protocols for future exhumations.

Forensic Investigations

Recognizing the need to prioritize current resources, there are several reasons the US and other coalition government agencies and nongovernmental organizations should support the exhumation of mass graves in Iraq. First, from a humanitarian perspective, at least some of the families will know the fate of their loved ones and be able to give them a proper burial, and forensic exhumations can help reconfirm the dignity of the victims and the value of human life, which in turn can help the families and their communities restore a sense of personal and social well-being.^{8,9} Second, forensic exhumations can assist Iraqi and international authorities to establish accountability and bring those responsible for these crimes to justice. Third, the process of investigation and documentation can help create a historical record of past crimes.

Investigation of the graves in Iraq will be formidable and fraught with forensic, humanitarian, and legal challenges. These complex investigations require multidisciplinary teams, long-term planning, and substantial financial and logistical support. For example, in previous efforts in the 1990s, field equipment and supplies had to be shipped into remote areas where there was no electricity or running water. By 1999, 97 forensic scientists from 20 countries had traveled to the former Yugoslavia, Rwanda, and 30 other countries to investigate the whereabouts of the missing and to train local scientists in the procedures of unearthing mass graves.¹⁰ They brought with them new technologies and scientific advances designed to bring greater accuracy to their investigations. Satellite imagery made it possible to generate maps to be used in pinpointing graves hidden in remote locations.^{5,11} Electronic mapping systems had replaced the standard archaeological technique of a baseline-and-string grid, which meant the scientists could save time and produce more precise data.⁵ Most important, advancements in DNA analysis meant that the scientists could identify some remains that had confounded more traditional anthropological methods.¹²

Even with these technological advances, the complexities surrounding the investigations of mass graves are compounded in Iraq. During the past 20 years, the Iraqi government has been engaged in 3 wars and has conducted numerous campaigns to repress its Kurdish, Shiite, and Marsh Arab populations, resulting in the reported disappearance of more than 290 000 people.¹³ Most of the missing are thought to be buried in dozens of mass graves located across Iraq. Some have been located as far north as Kirkuk and as far south as Basrah, and some sites are believed to contain thousands of execution victims. In addition, several burial yards containing thousands of individual graves of execution victims have been located near prisons and military in-

stallations.¹ The secrecy under which the Iraqi military and police conducted these burials means it will be impossible for investigators to locate all of the graves. When graves are located, it will be difficult in many instances to determine the identity of the victims because Iraqi military and police reportedly abducted people in one part of the country and often transferred them, sometimes up to hundreds of kilometers away, to other areas for interrogation and execution.¹³ However, the Iraqi state kept records of its repression and executions, and the few archives obtained so far from the former headquarters of the Iraqi security agencies have helped to trace missing persons and locate mass graves.¹

War and the subsequent looting of Iraq's medical facilities has left its medicolegal system in shambles. The forensic facility in southern town of Basrah, for instance, was completely looted following the war, leaving it without plumbing and electricity. In June, we found that while Iraq has well-trained and dedicated forensic pathologists, it has no forensic anthropologists. Iraqi forensic scientists and medical professionals told us that they have traditionally identified the dead through circumstantial evidence, including visual recognition of the body or presence of identity documents in the clothing of the deceased. As a result, Iraq has no procedure in place for collecting and preserving antemortem dental documentation or medical radiographs that are often vital for identification of skeletal remains.^{9,14} Iraq also does not have the capacity to conduct DNA analysis of bone and teeth, which, when compared with blood samples collected from the relatives of victims, can lead to positive identifications. To implement an effective forensic investigation of the remains found in mass graves in Iraq, governments and international agencies will need to donate specialized resources, including field equipment and forensic experts.

Humanitarian Needs

No large-scale, cross-cultural, systematic study has been conducted to understand the specific, long-term psychological impact of disappearances on the families of the missing in the aftermath of war or civil conflict. However, anecdotal evidence and country- and population-specific studies suggest that relatives of the missing can experience trauma-associated stress as a result of "the anguish and pain caused by the absence of a loved one."^{15,16} They may also experience cumulative trauma caused by other war- and conflict-related stresses and decades of political oppression.¹⁷

In their work exhuming mass graves in 31 countries, Dorreti and Fondebrider¹⁸ have found that relatives of disappeared persons generally want to recover the remains of their missing family members. Without bodies and funerals, relatives of the missing often are unable to visualize the death of their loved ones and accept it as real and are unable to fulfill their religious and communal obligations to the dead.^{5,10,14} In Iraq, funerary rituals are explicitly carried out for the dead and serve as rites of passages for the principal survivors.^{5,19} Without the remains of loved ones, many Iraqi

families may experience “ambiguous loss,” a condition in which no tangible evidence exists that a missing person is alive or dead. As a result, many families may be torn between hope and grief, unable to return to their past or plan for the future.^{20,21}

Mass violence and its aftermath must be understood as both an individual and collective experience. Individuals lose family members and communities are decimated, as was the case in northern Iraq when Iraqi troops destroyed more than 4000 Kurdish villages in the late 1980s.¹³ In Iraq, many families are dealing with both the ambiguous loss of a relative as well as the loss of their homes and communities.¹ Mental health problems, including posttraumatic stress symptoms, can increase when people are disconnected from their biological, personal, and historical past.²² In this context, an important source of resilience for survivors of war and mass violence is the presence of a community to provide mutual support and nurture problem-solving strategies.

Experience in several countries suggests that involving family members as observers at forensic exhumations where they believe their relatives are buried can have positive results, especially if they are able to observe both the technical skills required and the care that is taken to honor the dead.^{14,18,19} Although some families in postwar societies may find it too painful to experience the process of identifying the dead, especially if the effort will take years, involving family members in the collection of premortem data and information, such as medical records and radiographs, to help identify the deceased may help ease feelings of helplessness and survivor's guilt.^{10,23} At the community level, exhumations can become a commemorative event that may facilitate the process of mourning.¹⁸ If conducted under the aegis of local or international institutions, exhumations may help individual mourners and communities receive acknowledgment of their loss and move forward in the grieving process.^{6,10,18} The presence of family members at exhumations may also remind the forensic investigators of the human difference their work is making.^{5,18}

Key to the success of any forensic investigation of the missing in Iraq will be the extent to which the families and their organizations are actively involved in efforts to locate, exhume, identify, rebury, and memorialize the dead. Whenever possible, the families should be present during exhumations and kept informed about developments during postmortem examinations.²³ Special care needs to be taken not to raise false hopes. Families need to be aware of the limitations of forensic investigations and that some identification procedures, such as DNA analysis, can take months and even years.²³ Most importantly, families should be informed that their family members may not be identified at sites of exhumation and that most of the dead may never be identified.

Justice and Accountability

Traditionally, judges or prosecutors, not forensic scientists, determine which graves could be directly linked to tar-

gets of indictment and could support elements of crimes being charged and which therefore should be the subject of an investigation. Yet, an international criminal court has not been established in Iraq to investigate and try those responsible for past crimes. As an occupying power, the US government has stated that it aims to create “an Iraqi-led process assisted and supported by the international community” to prosecute crimes against humanity committed by officials of the former regime.⁷ However, to date, details about how this process will be carried out and what support can be provided by the international community have not been released.²⁴ Meanwhile, the International Center for Transitional Justice, a US-based nongovernmental organization that has worked on justice and accountability issues in more than 20 countries, has recommended that the United Nations appoint a commission of experts to consult a cross-spectrum of Iraqis, evaluate the evidence of international crimes, and determine what form of justice should be implemented in Iraq.²⁵ Such a commission could serve as an independent repository for evidence until a justice process is in place.

Caught in a justice vacuum, Iraqi and international forensic scientists have begun to set their own investigative priorities. In an effort to assist this process, Human Rights Watch has been analyzing Iraqi government documents it recovered in northern Iraq in 1991 to link former high-level Iraqi officials with specific mass graves.^{1,13} This information may help direct forensic teams to those sites that are most likely to yield physical evidence for trials. In deciding which graves to exhume, forensic investigators will need to know what information, both testimonial and documentary, is available regarding the circumstances of the deaths and burial, and they will need to know whether identification of the victims is possible, whether the grave has been disturbed, and whether logistical support is available to secure and help exhume the grave.

The Future

Recognizing the immediate demands for restoring security and rebuilding Iraq, the search for missing persons is a relatively small part of a larger strategy for restoring health and well-being in Iraq. However, until a policy for dealing with the mass graves of Iraq is developed, agreed on, and implemented, critical evidence for future trials might be lost and the likelihood that at least some families will ever recover the remains of their missing relatives decreases by the day. Based on our experience conducting forensic investigations and training programs in 22 countries, we offer the following recommendations. As the occupying power, the United States, in consultation with other coalition governments, nongovernmental organizations, and the United Nations, should establish a central coordinating body to oversee the grave exhumation process and to develop a comprehensive strategy that satisfies both the humanitarian needs of the families of the missing and the legal needs of criminal trials. This body should seek the participation of local

and international organizations, including representatives from family and local religious groups, the International Committee of the Red Cross, the International Commission of Missing Persons, and forensic teams sent to Iraq by governments and other entities. As part of a larger strategy to rebuild Iraq's health care system, the coordinating body could also oversee the training of local forensic scientists in the recovery and analysis of skeletal remains and other health care professionals in the assessment and treatment of the mental health of the surviving families of the missing. At the same time, any future internationally coordinated search for the missing should not undermine the capacity of local institutions to develop culturally appropriate responses to what are ultimately local problems that the people of Iraq will continue to face for decades to come.

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