

# Archaeologist under Pressure: Neutral or Cooperative in Wartime

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## INTRODUCTION

The wars in Afghanistan and Iraq have led to frequently heated debate in the archaeological community that has touched on issues extensively examined in humanitarian aid. The so-called ‘new wars’ of the 1990s led to a development in humanitarian aid referred to as ‘new humanitarianism’. This human-rights-based policy noted that, in modern conflict, the sovereignty of a state was no longer regarded as sacred, a stance that allowed international civil society to take sides in a conflict and intervene on behalf of those whose rights were being seriously violated. This was diametrically opposed to the views of the proponents of ‘classical humanitarianism’, who maintained their belief in neutrality as an essential strategy to reach all those who suffer during an armed conflict. In the debate on humanitarianism the notion of ‘neutrality’ plays a key part as it is defined differently by the various stakeholders – the individuals and institutions who are involved by choice or default and who need to be taken into consideration.

## CLASSICAL HUMANITARIANISM

In 1965 national Red Cross and Red Crescent societies, the International Committee of the Red Cross (ICRC), and the International Federation of the Red Cross and Red Crescent Societies (IFRC) proclaimed their new fundamental guiding principles.<sup>1</sup> Encompassing ideas dating back to the 18th century (see, for example, Trevelyan 1964, 103), the four humanitarian principles of humanity, impartiality, neutrality and independence formed the basis for the policy. As in the past, the principles underpinned a philosophy directed towards practical efforts to improve the lives of the most weak.

During the 1960s, international development assistance gained momentum. In particular, the New Left and the liberal Christians of the booming welfare states in the West felt it irresponsible not to share their wealth with the starving populations in the South and the East. A decade later many development organisations were dissatisfied with the results. Young Western idealists who identified with the oppressed, struggling for survival, demanded immediate and concrete results – humanitarian action became a tool that satisfied their demands and there was a proliferation of humanitarian non-governmental organisations (NGOs) that, unsurprisingly, lacked any field experience.

<sup>1</sup> For the full text see: <http://www.icrc.org/Web/Eng/siteeng0.nsf/htmlall/fundamental-principles-commentary-010179> [accessed 20 November 2010].

Though these NGOs moved centre stage, there was surprisingly little debate about the theoretical premises and content of their humanitarianism. Their standards, if any were professed at all, were based on vaguely formulated ethics (ICRC 2004). In the course of time these NGOs threatened the integrity of humanitarian action itself.

Until the 1990s most of these NGOs worked on rural development and disaster relief and not in conflict situations. Relief work was considered only a temporary alleviation of suffering and always a poor substitute for development work; the latter was perceived as the correct way to give support to the weak and address their universal human rights. However, as conflicts in the Balkans and Kuwait/Iraq developed, concerns grew about the role of humanitarian aid in times of conflict and, in particular, about the principle of neutrality.

In response, the International Red Cross and Red Crescent Movement and Non-Governmental Organisations in Disaster Relief issued their 1994 *Code of Conduct* (Red Cross CoC).<sup>2</sup> The Code built on the four guiding principles noted above from classical humanitarianism and added development standards such as accountability, partnership, participation and sustainability. The supposition was that the basis of humanitarian and developmental assistance could be reconciled on a practical level. In hindsight, the error was that the focus was on relief during natural disasters, with armed conflicts treated as a footnote only – despite the well-known fact that conflict produces many more casualties than natural disasters (Teygeler 2001, 103 *et seq*). Today over 450 NGOs are signatories to the Red Cross CoC and accept it as a statement of professional standards. However, before the Code was launched, while most NGOs claimed that the principles were incorporated implicitly into their work most were using it only as an evaluation and training tool (Hilhorst 2004).

#### NEUTRALITY IN CLASSICAL HUMANITARIANISM

In general, ‘neutrality’ in the humanitarianism debate means that assistance must be provided without engaging in hostilities or taking sides in controversies of a political, religious, or ideological nature (see, for example, VENRO 2005, 4). It does not mean, however, that a relief organisation cannot adopt particular political or religious opinions so long as assistance is not dependent on the adherence of the recipients to any particular political or religious creed. According to the Red Cross the main reason to maintain neutrality is confidentiality: ‘in order to continue to enjoy the confidence of all, the Red Cross may not take sides in hostilities or engage at any time in controversies of a political, racial, religious or ideological nature’ (Pictet 1979). This principle of neutrality has been criticised by some NGOs for a long time. During the Biafra crisis (1967–70) French and Biafran health workers were attacked and witnessed a purposely organised famine and the killing of many innocent civilians. The French doctor Bernard Kouchner, witness to the atrocities, condemned the Red Cross for its seemingly complicit behaviour. Pointing out that neutrality and justice are sometimes even incompatible (Plattner 1996, 1), in 1971 Kouchner, with his colleagues, started a new aid organisation, Médecins Sans Frontières (MSF) that

2 For the full text see: <http://www.ifrc.org/publicat/conduct/code.asp> [accessed 20 November 2010].

would step away from neutrality. In order to better serve the welfare of victims, MSF chose to break the silence, thus giving up the notion of confidentiality, much earlier than the Red Cross.

*Médecins Sans Frontières (MSF)*

The refusal by the Red Cross to denounce violations of the law in public is what made Kouchner choose a different path. His action was based on two premises: that neutrality imposes silence and, from the standpoint of justice, silence is reprehensible. This view is fuelled by research on the behaviour of the International Red Cross in World War II and the 2003 Iraq War. There is now compelling evidence that the Red Cross had knowledge of the genocide of the European Jews before anyone else, but decided not to publicise their knowledge in order not to violate the principle of neutrality (Favez 1988). A similar report, of a definitely lesser magnitude, is of a more recent date. On 7 May 2004 the Wall Street Journal published excerpts of a report by the ICRC on the violations of International Humanitarian Law (IHL) in Iraqi detention centres, including Abu Ghraib prison. The report, based on frequent visits to prisoners of war and civilian internees between March and November 2003, had been presented to the Coalition Forces in February 2004. It documented brutal behaviour and called some of the abuses ‘tantamount to torture’.<sup>3</sup> Throughout 2003 ICRC officers had, unsuccessfully, repeatedly pressed for changes in the prison regime. It was not until 13 January 2004, when a soldier at the Abu Ghraib prison turned over copies of incriminating pictures to investigators, that the US started to investigate the allegations properly. At a press conference the ICRC stated that its reports are strictly confidential and are only intended for the authorities to whom they are presented so as to prevent humanitarian issues from becoming politicised: thus referring to their neutrality.<sup>4</sup> The ICRC believed that its visits made a difference: ‘had we not [thought so], we would maybe have come to another conclusion and taken other measures’.<sup>5</sup> The criticism that silence can turn into complicity is, in these cases, not easy to put aside. However, the Red Cross has demonstrated that confidentiality is not unconditional: for example, in the case of breaches of IHL in the Gaza Strip it recently publicly called upon Israel and the Palestinian parties to adhere to IHL (ICRC 2008).

Yet ‘silence has never been set up as a principle by the ICRC. The question has always been considered from the angle of efficiency in achieving the objective set by the principle of humanity’ (Sandoz 1992, 8) and the ICRC ‘subjects denunciations [of humanitarian law violations] to certain conditions, notably the requirement that any such publicity be in the interests of the persons or populations affected or under threat’ ((International Review of the Red Cross 1981, 81). The ICRC ‘does not raise its working principles to the status of absolute values’ (Plattner 1996, 1), nor does it deny the antithesis between justice and neutrality: for the ICRC neutrality has never been regarded as an end in itself but as a means of carrying out its mandate on behalf

3 For the full text of the ICRC report and a summary see: [http://www.globalsecurity.org/military/library/report/2004/icrc\\_report\\_iraq\\_feb2004.pdf](http://www.globalsecurity.org/military/library/report/2004/icrc_report_iraq_feb2004.pdf) [accessed 20 November 2010].

4 See: <http://www.icrc.org/web/eng/siteeng0.nsf/html/5YRMYC> [accessed 20 November 2010].

5 Ibid.

of victims of armed conflict and internal disturbances. Neither should neutrality and the silence it imposes be confused with indifference, as the ICRC tries constantly to convince concerned parties to stop violating IHL. In this respect Pierre Bourdieu made an interesting observation by differentiating between ‘disinterest’ as a stance that implies the acceptance of the ‘rules of the game’, in this case the IHL, and ‘indifference’, ‘where one is so detached that the difference between the rules and what is beyond them is not even perceived’ (1999, 77). With these definitions, the ICRC stance can under certain circumstances be categorised as ‘disinterest’.

## NEW WARS

After the fall of the Berlin Wall in 1989 the world changed dramatically. For one, the new wars, such as in former Yugoslavia, were of a totally different character to previous conflicts (see, for example, Kaldor 1999; Chandler 2002). The battlefield was no longer divided into clearly identifiable warring parties. Regular armies turned into paramilitary units, local warlords, criminal gangs, corrupt police forces or even looting and raping military forces. There was an absence of ‘the full control of the structures of war’ (Anderson 1999, 12) with no distinction between war, organised crime, and human rights violations. As traditional military control failed the political impact of conflict mutated. A World Bank discussion paper described the status of failing states as ‘a stable situation of instability ... that leads to ... political economies of threat and combat’ (Michailof *et al* 2001, 3). To establish political control, fear and terror became decisive weapons and in this process all people of a different identity became targets. ‘The other’ became subjected to fierce violence and their symbols destroyed, leading to cultural genocide: the deliberate destruction of the cultural heritage of a people or nation for political or military reasons. It is estimated that over 90% of the victims of new wars are civilians (UN 2002).

## COMPLEX EMERGENCIES

As a result of new wars, humanitarian emergencies became increasingly complex. The Inter-Agency Standing Committee<sup>6</sup> 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’ (McHugh and Bessler 2006, 7). The deliberate targeting of civilians and their heritage causes a large number of the affected population to flee their home and their community. This forces humanitarian organisations to operate in war-torn societies where conflicting parties, often openly contemptuous of traditional humanitarian norms, also consistently fail to comply

6 The Inter-Agency Standing Committee (IASC) is a unique inter-agency forum for coordination, policy development, and decision-making involving the key UN and non-UN humanitarian partners. The IASC was established in June 1992 in response to United Nations General Assembly Resolution 46/182 on the strengthening of humanitarian assistance. General Assembly Resolution 48/57 affirmed its role as the primary mechanism for inter-agency coordination of humanitarian assistance.

with IHL, thus directly endangering the lives of those who seek to bring relief (see OCHA and IRIN 2003, 2). Negotiating neutrality becomes ever more cumbersome and at times simply impossible.

Under these changing circumstances NGOs faced real problems. On occasion they were criticised harshly for their lack of effectiveness and even accused of exacerbating the conflict, as it became all too clear that humanitarian aid had the potential to preferentially support one of the parties in a new war conflict (Anderson 1999). In a failing state the central government is incapable of providing basic services; the economy largely breaks down, as do most of the fundamental social structures, with mass starvation a frequent result. To respond to such calamity with traditional relief assistance is inadequate. Humanitarian actors, often the sole providers, have been forced to interfere with society in an intense and deliberate way. If they want to be effective they have to accept societal and political constraints as the new reality that shapes their programmes to a considerable degree. In a discordant country where (threatened) identities play crucial roles it does not take much for aid distribution to disrupt any delicate ethnic or religious balance. Simply delivering food and shelter or basic health care is no longer enough, as 'aid can reinforce, exacerbate, and prolong the conflict' (Anderson 1999, 1). For example, giving food to starving women and children in a refugee camp can support the warring parties, which come in at night and take the food away. In short, relief aid in the context of a violent conflict becomes part of that context itself. Humanitarian NGOs no longer control 'humanitarian space'. These factors seriously limit the humanitarian space – the freedom that secures 'the independence and neutrality from military and political forces that has allowed NGOs ... to provide lifesaving aid to needy civilians on all sides of a conflict' (Olson 2006, 10) – of NGOs working in a new war armed conflict. Given this, it is now common practice for humanitarian NGOs to conduct a conflict analysis before they start their programmes. The aim is to ascertain the two realities in a conflict: dividers and connectors. According to Anderson (1999), dividers are those factors that people are fighting about or which cause tension, while connectors bring people together and/or tend to reduce tension. By providing assistance, NGOs have the – perhaps unintentional – potential to impact on both dividers and connectors.

#### POLITICISATION OF HUMANITARIAN AID

Since the launch of the 'global war on terror' in 2001, the field of humanitarian assistance has become shared between political agencies, civil/military units, and humanitarian NGOs, while the distinction between these actors has progressively faded. The relationship between politics and humanitarian aid is not new, as donor states are not equal to charity organisations: funds are regularly allocated to disaster areas for national security reasons or to stimulate the donor state's own national economy, and indirect state funding can also be used as a mechanism to influence NGOs' policies. More important is the emergence of many other actors in the field of humanitarian aid; the traditional relief organisations are no longer the only players. Multinational military forces and private contractors, some posing as NGOs, have become active partners in

the humanitarian enterprise.<sup>7</sup> Numerous activities in a disaster-struck region are today marketed as humanitarian action. The problem is that some of this action conflicts with the basic principles of classical humanitarianism, including neutrality, independence, and impartiality, and are instead motivated by religious or political beliefs. Even several profit-making corporations describe their work as humanitarian. One could wonder how neutral or impartial these ideological or money-driven parties are. Furthermore, state agencies are increasingly incorporating humanitarian assistance into their political strategies to legitimise military or political intervention. Not without reason, the humanitarian agencies fear losing their humanitarian space.

The new situation described above challenges IHL. In countries in transition, such as Iraq and Afghanistan, relief and reconstruction are considered to be of essential political importance because security is directly related to rebuilding the country. At the basis of this thought lies the 3-D policy, which stipulates that to solve a conflict in a complex emergency actions need to be taken simultaneously in Defence, Development and Diplomacy (see, for example, Gabriëlse 2007). The realisation that complex emergencies cannot be solved by military means alone is a significant change to earlier military ideology and can only be welcomed. However, it becomes problematic when the lines between the 3 Ds become blurred.

#### MILITARY HUMANITARIANISM

The politicisation of humanitarianism by the military – ‘military humanitarianism’ – has been heavily criticised by NGOs. In general they do not blame the military for providing humanitarian aid in itself, but question the political and military interest behind military kindness and its impact on their own work.

Humanitarian organisations have worked with the military for a long time. In disaster areas, NGOs, International Organisations (IOs) and military forces often work together. Over time, problems that arose out of this relationship were dealt with in several clear-cut guidelines (see, for example, Oslo Guidelines 2006; UN/IASC 2004; UN/MCDA 2006; UN/OCHA 2008. More country-specific guidelines can be found at <http://ochaonline.un.org/>). These guidelines seek to protect the humanitarian character of relief operations and maintain a strict and unambiguous distinction between military and humanitarian actors. Some of the key principles and concepts in these guidelines are:

- adherence to the Red Cross Code of Conduct: humanity, neutrality, impartiality and independence
- missions maintain their civilian character and stay under civilian control
- no aid from belligerent forces
- limited, complementary, and no direct assistance
- military assistance on request only, at no cost and as a last resort
- avoid reliance upon the military
- acceptable markings on vehicles and all military staff unarmed

<sup>7</sup> References to the military in this article relate exclusively to multinational military involvement and not to domestic armed forces.

It is clear from the first point that these strict rules are in concordance with classical humanitarianism. Only in highly exceptional cases will relief organisations approach non-belligerent forces for support to reach the victims of disaster that otherwise could not be reached. Even the Red Cross does not entirely discard this possibility: ‘When it is a matter of saving lives, a pragmatic approach must be taken. It is not inconceivable that in certain situations the military may be in a better position than the ICRC to carry out certain humanitarian tasks’ (Struder 2001, 386). Despite these agreed guidelines, the movement of military peacekeepers into humanitarian work is of great concern to relief organisations, and the development of civil/military cooperation and so-called ‘hearts and minds’ campaigns are viewed with anxiety by those who defend classical humanitarianism. True, military and humanitarian actors have certain features in common: they operate in the same discordant theatre with its many strategic and political interests; they use more or less the same logistical techniques; they are frequently funded by the same government: but it is impossible for the military to be neutral. With the ‘peace-building’ operations, the days of ‘neutral’ UN peace-keeping missions are over (see also Struder 2001, 371ff). Neither are military forces independent; they represent the national state or an inter-governmental body. This is in great contrast to relief organisations that stress the rights of individuals over those of the state and who adhere to the principles of neutrality and independence (VENRO 2005, 4).

A further issue is ‘cross-dressing’, in which armed forces mix military and civilian identity. According to the Law of War, merging civilian and military roles on the battlefield is not allowed. A similar situation arises when the military act as relief workers – and most definitely when they wear civilian clothing. Such actions undermine the position of those NGOs providing humanitarian aid. Humanitarian workers in a conflict-ridden country have traditionally been able to tread where others cannot because they do not take sides. Besides, for many victims, it is often too humiliating to accept kindness from the enemy and in any case the population cannot always trust such help to be without malice in some way. Also, the recipients of humanitarian aid administered by the military run the risk of being targeted by opposing forces. Consider the case where US forces simultaneously air-dropped food and political propaganda in Afghanistan at the beginning of war in 2001: a clear example of military-driven aid.

The main role for the military in terms of humanitarian aid is to provide security and stability – in effect to facilitate, or rather anticipate, the work of relief workers. Through their solely humanitarian values, experience and expertise, NGOs are much better equipped to deliver relief aid. This said, ‘everyone can and should be humanitarian in war’ (Slim 2003, 2), and there are circumstances where the military, working within IHL, are obliged to give support to the victims of war: for example, when the host nation itself fails to provide basic services and when civil society is essentially absent for security reasons. This was the case in Iraq after the bombing of the UN headquarters in Baghdad in 2003 and was still the case in southern Afghanistan in early 2010. It can only be hoped that, under such circumstances, the armed forces seek advice from humanitarian NGOs before delivering humanitarian

aid. Some militaries, such as the Dutch CIMIC (civil–military cooperation) units, try to understand the implications of humanitarian action and even use the Sphere Handbook ('The Sphere Project' 2004) as a standard reference.<sup>8</sup> Still, Struder (2001, 375) writes that 'the greatest contribution ... the military can make to humanitarian action is to restore order and security, which will help create a situation conducive to humanitarian activities while at the same time dealing with the causes of the crisis'. He continues by stating that 'in a post-conflict situation ... the "humanitarian" role of the military should be looked upon with fewer reservations', as in such a situation there is no risk of soldiers being identified with one party in the conflict.

Thus the idea that civil society exclusively 'owns' humanitarian action and that they are the ones to set the ethical boundaries is not entirely supported in reality. Providing that military forces operate distinguishably and strictly as military, and do not use relief work to serve war aims, they too can, and do, play a modest humanitarian role. *In extremis*, and despite the reluctance to accept aid from the military noted above, some of those who need food and shelter or other substantial assistance do not really care what that help is being called and from whom it comes, so long as it is fair and effective. Such aid may be easier to accept if it is offered by an *internationally sanctioned* military intervention. This raises the issue of the international legitimacy of any military intervention in a new war situation. My suggestion is that only under the express condition of sanction by an international political body should armed forces enter a new war conflict.<sup>9</sup>

#### NEW HUMANITARIANISM

On 14 July 2008 the prosecutor of the International Criminal Court (ICC) applied for an arrest warrant for the president of Sudan, Omar Hassan Ahmad al-Bashir, on charges that included genocide, crimes against humanity, and war crimes (ICC 2008). In doing so, the prosecutor relied on the human-rights-based politics of the new humanitarian order. The atrocities in new wars, according to Mamdani (2008), lead to 'an international humanitarian order that promises to hold state sovereignty accountable to an international human rights standard'. The United Nations' decision to officially adopt this new policy at the UN 2005 World Summit was instrumental to the development of this new world order. It claims that the responsibility for the protection of the weak and vulnerable belongs to the international community and in particular to the UN Security Council. In 1991 the UN Secretary General, Perez de Cuellar, in his last annual report, had called for the first time on the UN to 'reinterpret

<sup>8</sup> The Sphere Project was launched in 1997 with the participation of 700 individuals from over 200 organisations in over 60 countries. 'It is a tool for humanitarian agencies to enhance the effectiveness and quality of their assistance, and thus to make a significant difference to the lives of people affected by disaster' (The Sphere Project 2004, 14).

<sup>9</sup> Although this raises the question of how to define international legitimacy: for example, in Afghanistan the US-initiated military intervention (Enduring Freedom) was sanctioned by the international community at some point after the operation began. The military intervention in Iraq (Operation Iraqi Freedom) was initiated by a 'coalition of the willing' led by the US and the UK and was partly sanctioned by the UN Security Council (UNSC Resolution 1483, May 22 2003) some months later, after the initial attack.

[the] charter principles of sovereignty and non-interference in domestic affairs to allow for intervention on humanitarian grounds' (Weiss and Chopra 1995, 89). One year later the president of the UN Security Council, Boutros Boutros-Ghali, stated in a note on the *Agenda for Peace* (UNSC 1992) that 'the non-military sources of instability in the economic, social, humanitarian and ecological fields have become threats to peace and security. The United Nations membership as a whole, working through the appropriate bodies, needs to give the highest priority to the solution of these matters'; hence the military 3-D policy that specifies that only through progress in Defence, Development and Diplomacy can an armed conflict be ended. War became, above all else, a humanitarian crisis.

Humanitarianism thus not only entered the world of international relations and foreign policy but formed the basis of the new politics. The new order departed markedly from the old principle of foreign policy laid down at the Peace of Westphalia (1648), which recognises that sovereignty of the nation state is based on two principles: territoriality and the exclusion of external actors from domestic authority structures. Criticism of this interpretation of international politics arose in relation to the alleged failed states of Yugoslavia, Afghanistan, Iraq and Sudan. International military interventions became justified on humanitarian grounds. The principle of sovereignty was overridden not only to prevent imminent genocide or large-scale loss of life but also because of the threat failed states posed to peace in the region and in the world more widely.

While new war conflicts were screaming for an answer, a serious and sincere response to the humanitarian problems being long overdue, the opportunity to reinterpret the notion of humanitarianism was based on opportunism as well as principles. For some it is a 'value', for others an 'interest'. To date, the UN military operations in the name of peacekeeping, peace-enforcement, post-conflict peacebuilding and humanitarian assistance could perhaps better be described as humanitarian experiments, and the UN has not thus far produced any agreed, universal criteria for military humanitarian interventions. For some nations, such as Canada and Norway, human security is a priority in their foreign policy: they value human rights above the nation's right of non-intervention. However, the Italian philosopher Giorgio Agamben suggests that the victims in a conflict are in fact dehumanised by being treated as apolitical suffering bodies – what he calls 'bare life' (Agamben 1998). Nobody asked them if they wanted help and, once confronted with Western charity, it is hardly possible to turn it down. More importantly, the victims cannot reciprocate, which leaves them indebted for the rest of their lives. This reveals the ethnocentric element in the human rights discussion. It is the West that constructed the declaration of universal human rights (UN 1948) and it is the essentially Western-based humanitarian industry that time and again labels people as victims without entering into a discussion with the affected people themselves. The human rights group African Rights recognises the operations in the new humanitarian era as liberated from the 'Cold War' straitjacket but at the same time characterises the new era as 'a reckless period of "humanitarian unbound" in which assertive humanitarian policies have often done more harm than good' (African Rights 1994, 1).

Indeed, since the US interventions in Afghanistan (2001) and Iraq (2003), one could seriously question the sincerity of the higher principles behind humanitarianism and wonder if the real reasons for intervention were not simply dictated by the promotion of geo-political and economic interests. Regardless of the truth, humanitarianism remains a good basis for building public support. Despite the fact that the US invasion of Afghanistan in 2001 was justified on the grounds of self-defence after the September 11 attacks in the same year, and not on violation of human rights, the campaigns in 2001 and 2003 were permeated with ideological rhetoric promoting 'democracy' and the 'free-market economy'. For the US neo-conservatives, simply a lack of (Western) democracy may foretell future humanitarian crises; they may even feel that democracy constitutes a human right on its own. One could argue that the new humanitarians are, at least to a certain extent, the cause of today's crisis of humanitarian aid. Armed with the new humanitarian discourse, political leaders justified their preparations for war in ethical terms. Violations of human rights were to be punished with war, preferably waged by a coalition of politically associative countries. To (re-)establish justice, 'just war' became an accepted instrument in the hands of politicians and their militaries. The typical language of the new order departs markedly from traditional language of law and citizenship. Whereas the language of sovereignty is profoundly political, the language of new humanitarian intervention is profoundly apolitical and at times even straightforwardly anti-political and moralistic.

In times of complex emergencies the simple provision of relief to sufferers appears to be no longer enough. The arguments promulgated by the state and civil society in 2001 and 2003 went far beyond classical humanitarianism based on need, as the new humanitarians found their basis in human rights. As Greenaway (2000) points out, 'the new humanitarianism may accordingly be characterised as a conceptual space permitting deontological, but not teleological, rupture with classical humanitarian thought'. Complex emergencies obviously need complex responses.

#### NEUTRALITY SUMMARISED

It is clear that the principle of neutrality is central to this debate, given that, in new wars, the politicisation of aid and the growing complexity of emergencies means that it is very hard for civil society to remain outside politics and thus to stay neutral. In situations where the international community is paralysed and a warring party refuses to acknowledge the limits of war, many humanitarian workers wonder whether the concept of neutrality is still effective. In the light of these developments neutrality has increasingly 'become a dirty word' (Slim 2004, 196). In an attempt to crystallise the debate, Brubacher (2004) identified the following approaches for civil society to neutrality:

- Classicist Approach – Preserve Neutrality
- Solidarity Approach – Abandon Neutrality
- Utilitarian Approach – Operational Neutrality
- Rights-Based Approach – Redefining Neutrality

### *Classicist Approach: Preserve Neutrality*

Following the ICRC 1965 principles and 1994 CoC, the advocates of the Classicist Approach, based on IHL, maintain their distance from political action. From the start the Red Cross CoC was subject to criticism, as historical examples proved that neutrality through silence can lead to complicity. Still, the Red Cross feels that neutrality is the key to reach the victims of war. Neutrality itself is unmistakably a political choice and to assure confidentiality it is a strategic choice.

At the time of the reformulation of the CoC in 1994 the focus was on natural disasters, and armed conflict was hardly taken into consideration. Together with a progressively more politicised view of humanitarian aid, the concept of neutrality has become increasingly untenable.

### *Solidarity Approach: Abandon Neutrality*

To give up neutrality and take a clear stance in the conflict is also fraught with problems. The solidarity movements from the 1960s and 1970s appear now to have been rather presumptuous. On the surface, solidarity as an answer to Bourdieu's 'disinterest' makes sense, but solidarity on the basis of ideology can turn into zealotry and nepotism. The approach allowed new actors in the humanitarian field who had overt, non-humanitarian agendas. In the end, abandoning neutrality can corrode the fundamentals of humanitarianism itself: to assist *all* of those in need of assistance in dire times.

Abandoning neutrality also implies the rejection of the notion of consent as a prerequisite for intervention. This resulted in humanitarian aid organisations delivering aid that was not asked for. This 'religious' urge for charity – to do good – has been rightly criticised by Agamben (see above) as in traditional societies this means that those on the receiving end will for their rest of their lives be dependent on their well-doers without being able to pay them back.

The United Nations accepts that an NGO can be motivated by ideology (including religion) to provide aid, but stresses that any such NGO has to support *all* of those who are in need and not only the followers of that ideology. When MSF chose to follow their own path in 1971 it was not because they wanted to take sides on an ideological level but merely to take 'the side of the weak and oppressed'. In a similar way, the Norwegian People's Aid (NPA) classifies itself as independent but not neutral and impartial, as their work is grounded in the idea of solidarity with the people it helps. The early solidarity movements, however, did deliberately take sides on the political/ideological level and some NGOs still do today (see, for example, Medical Committee Netherlands – Vietnam;<sup>10</sup> Un ponte per...<sup>11</sup>) These NGOs fail to see that the political context of every conflict is different and that logically solutions, political or not, are different for every conflict. However, the contribution of the solidarity organisations to the debate is important as they were the first to understand that working in a conflict zone is working in a political context.

10 <http://www.mcnv.nl/index.php?id=home&L=1> [accessed 20 November 2010]: since its foundation in 1968, the Vietnam War era, the Medical Committee Netherlands – Vietnam has given practical and material medical aid to the people of Vietnam. There were many others in the past as Solidarity movements for Cuba, (Maoist) China, El Salvador, Nicaragua.

11 <http://www.unponteper.it/index.php> [accessed 20 November 2010]: this voluntary movement started in 1991 in Italy to stop the bombing of Iraq.

### *Utilitarian Approach: Operational Neutrality*

In the Utilitarian Approach NGOs admit that their interventions are not neutral, but they position themselves in theatre as neutral actors for the benefit of their programmes. This attitude partly reflects the results of Anderson's 1999 study *Do No Harm*, as the utilitarians accept the notion that aid can exacerbate tensions in the conflict. However, this is a half-hearted solution, as frequently they do not follow Anderson's conclusion through in separating dividers from connectors and planning accordingly. Also, in practice, a number of NGOs today realise that in the recent conflicts there has been much to gain when they cooperate with the military while not always being willing to admit as much in their home countries. For these 'hypocritical' NGOs it works the other way around, as they claim neutrality in public but in theatre are not neutral. For the same reasons some contractors list themselves as NGOs to keep up the appearance of neutrality, while in fact they work as for-profit organisations. All these uses and abuses are the result of what I call the 'battle for neutrality' and attempts have been made to address them in the various guidelines mentioned above. However, most of these guidelines refer to natural disasters and only a few pay attention to the specific problems of civil/military relations in a conflict zone. Still, as Brubacher (2004) states, preserving operational neutrality – if ever achievable – does not address the root problems underlying the challenges to wider NGO neutrality.

### *Rights-based Approach: Redefining Neutrality*

The Rights-based Approach has been the most debated response of development agencies to the classicist approach when searching for alternative, objective standards that can be applied impartially. However, unlike UN agencies and the ICRC, which explicitly base their actions on IHL, NGOs have struggled to determine the basis for these rights and have been unable to identify a credible process of developing IHL as it currently stands.

Clearly, collective rights have been substituted for individual rights, and the general lack of clarity has resulted in the blurring of humanitarian aid itself and of the roles the many new aid workers play. As noted above, governments and military forces have increasingly used humanitarianism, some say improperly, as an argument in the justification of armed intervention. Military humanitarianism as such is seen as acceptable; but the reasons behind it have been repeatedly questioned. Indeed, in Iraq and Afghanistan, Coalition forces use humanitarian action as one of the 'lines of operation' to bring security and stability. The UN, which stimulated human-rights-based international politics, has failed to come up with straightforward guidelines for humanitarian military intervention. A redefinition or a new legal basis for neutrality is an absolute necessity for the international community to guide them in emerging conflicts. So far human-rights-based policies are too confusing and leave too much room for interpretation.

The many challenges to 'the moral high ground' (Brubacher 2004) that face NGOs and IOs today need to be addressed if humanitarian aid organisations want to continue to play a significant role in the increasingly state-dominated agenda of

humanitarianism. There is no doubt that, in modern conflicts, security is tightly interwoven with development, (re)construction and governance. This realisation is unquestionably a step forward in international conflict resolution: being right no longer comes from the barrel of a rifle. How to adapt humanitarian principles, in particular neutrality, and how to redefine humanitarian space under these changing circumstances is a tough assignment for the humanitarian world but one that should have the highest priority.

#### ARCHAEOLOGY AND NEUTRALITY

The ethical problems that archaeologists encounter in cooperating with armed forces can be compared to the problems humanitarian workers have faced since the 1990s, as outlined above. As with humanitarian aid, a central issue in the archaeological debate must be neutrality; the four possible ways of dealing with it identified by Brubacher (2004) provide a good starting point. Archaeologists need to reflect on whether they should preserve, abandon, redefine, or adhere to operational neutrality. Before discussing these questions, a few observations are in order.

##### *Preconceived notions*

The intense debate within archaeological circles on possible cooperation with the military has been somewhat muddled and limited. It is different from the debate surrounding anthropology's concerns regarding Human Terrain Systems (HTS) and, although there are similarities in the two issues, this chapter does not deal with the latter.<sup>12</sup> From the outset, the archaeological debate was focused within the English-speaking academic community, with the result that 'the military' was almost entirely equated with the armed forces of the US and UK. This left little room for a divergent stance by academics from other countries who had decided to cooperate with their national armed forces and/or join a multinational military mission. It should be understood that every army has separate rules and opportunities for cooperation. Some, like the Dutch army, stand at the centre of CIMIC, having already taken part in many ethical discussions over previous decades. The opportunities to actually join the army and the consequent position of a militarised expert also differ between countries. For example, the dependency of a Dutch reserve officer on his employer is totally different to the position of a reservist in the US army.<sup>13</sup> Another

12 The whole debate regarding Human Terrain Systems is outside the remit of this chapter but see, for example: AAA Commission on the Engagement of Anthropology with the US Security and Intelligence Communities, final report 4 Nov 2007 ([http://www.aaanet.org/\\_cs\\_upload/pdf/4092\\_1.pdf](http://www.aaanet.org/_cs_upload/pdf/4092_1.pdf) [accessed 20 November 2010]). Also see the discussion on the website *Inside Higher Ed*: Secrecy and Anthropology, 3 December 2007 (<http://www.insidehighered.com/news/2007/12/03/anthro> [accessed 20 November 2010]). Finally see an overview by Lindsay Beyerstein, Anthropologists on the Front Lines, 30 Nov 2007 ([http://www.inthesetimes.com/ARTICLE/3433/ANTHROPOLOGISTS\\_ON\\_THE\\_FRONT\\_LINES/](http://www.inthesetimes.com/ARTICLE/3433/ANTHROPOLOGISTS_ON_THE_FRONT_LINES/) [accessed 20 November 2010]).

consequence of the US/UK focus of the debate is that the discussants frequently referred to ‘war’ as synonymous with the current confrontations in Iraq and Afghanistan, which were waged, initially at least, with very limited international consensus. Some European countries did not, and do not, take part in those wars, or participated only after international support was forthcoming. As observed above, the wider neutrality debate was raised after a totally different war – the Biafra crisis (1967–70) – and in a complete different era. The debate within archaeology should not focus entirely on the recent interventions in the Middle East and Central Asia, as these are only examples within a much wider discussion: the legitimacy of military intervention and any associated archaeological role.

### *Legitimacy*

Discussion of legitimacy has been neglected in the current debate. Some protagonists happily gloss over the fact that the international community frequently agrees to enter a conflict with a multinational armed force through the UN Security Council or other recognised international political bodies such as NATO, the European Union, or the African Union.<sup>14</sup> Such international support should at least reduce the burden on the shoulders of archaeologists, as it can be argued to remove the implication of specific national self-interest. Nonetheless, it does not discharge them of personal responsibility. If my above suggestion that only under the express condition of sanction by an international political body should armed forces enter a new war conflict is accepted then, consequently, archaeologists should only under those circumstances assist the military in wartime.

### *Responsibility*

It has been suggested that one of the main duties of archaeologists is ‘to preserve, protect, and enhance the archaeological record for the benefit of those who no longer have voice’ (Williams 2008). This can be easily compared to the responsibility to protect people at risk of genocide (see International Peace Academy 2004). The deliberate mass starvation, targeting or massacre of a specific ethnic group, who are innocent and helpless victims of a war, and the subsequent non-intervention of the international political community has, in the past, led to worldwide indignation. Where the State fails to protect, or is incapable of protecting, their own, it becomes the international community’s responsibility to attempt to protect the weak and

13 A Dutch reserve officer can join and leave the army more or less whenever he chooses to. He is not dependent on any form of social security, education or pension and he is only paid when on active duty. The Dutch reserve officer is treated as an expert and can join a mission or refuse to go. Of course, he should not refuse too often or his superior will ask him why he joined the forces. In the US a reservist often joins the army at a young age to gain the benefits of a paid education and social security. He has to serve for a great number of years in order not to lose these benefits. In Iraq and Afghanistan, reservist units were deployed without the soldiers being asked for their consent. They had no way of refusing the call to active duty without suffering legal consequences.

14 For example, the NATO mission in Bosnia and Herzegovina called Stabilization Force (SFOR), the EU mission in Bosnia and Herzegovina called the European Union Force Althea (EUFOR Althea), the African Union Mission to Somalia (AMISOM).

prevent such carnage. Without elevating the loss of artefacts and monuments to the same level as the loss of lives, the destruction of cultural heritage in an armed conflict can be considered as part of the same issue as genocide. Numerous recent conflicts have provided clear evidence of the vulnerability and fragility of the heritage of the innocent victims of war. The term to describe the deliberate destruction of the cultural heritage of a people or nation for political or military reasons is ‘cultural genocide’. Where the State is, for whatever reason, incapable of preventing cultural genocide, the international heritage community has the responsibility to protect – in this case – the material and immaterial culture of those who have been silenced.

This responsibility to protect encompasses three broad elements: the responsibility to prevent; the responsibility to react; and the responsibility to rebuild.<sup>15</sup> I have made a similar distinction in heritage protection in a conflict zone: pre-conflict, peri-conflict and post-conflict (Teijgeler 2006, 136). Almost all preventive actions are taken before the conflict breaks out (pre-conflict). The protection of heritage during the conflict can only be translated into reactive measures on the ground: you have to be there to intervene directly (peri-conflict). When most of the fighting is over, attention can be focused on the reconstruction of the heritage (post-conflict). Post-conflict reconstruction still covers the major body of action plans designed by heritage preservation organisations; however, the reality of new wars forces us to reconsider this model. Sadly, many conflicts are fixed or ‘frozen’ for decades at the peri-conflict stage, with alternating periods of relative peace and mounting violence. This situation makes the questions archaeologists should ask themselves even more pressing.

The question is to what extent archaeologists have accepted their responsibility to protect. In general the archaeological community is present in the pre- and post-conflict phase. However, unlike the humanitarian sector, archaeologists have rarely taken part in direct action on the ground (peri-conflict), with or without military support. The number of heritage NGOs or IOs known to be operating in a conflict area is usually very small. Heritage NGOs and IOs consistently leave the country when violence, and thus the chance that they will be attacked, increases. For example, when UNESCO was invited by the Iraqi minister of culture in 2005 to assist in making an inventory of the damage at the site of Babylon, it refused, citing the insecurity of the country. Later, however, UNESCO did preserve the minaret of Jam and the Bamiyan Buddha statues in Afghanistan under very difficult circumstances. The Italian NGO *Un ponte per...* was instrumental in the reconstruction of the INLA. After the kidnapping of the Italian staff of this NGO in 2004 the local staff continued the work. This course of action has been criticised by some because the local staff continue to be exposed to violence in-theatre, while Western staff are safe in their home offices, yet claiming organisational presence in the country in conflict. Likewise, only a few heritage professionals working for government agencies work to safeguard threatened heritage during an armed conflict.<sup>16</sup> For example, the governments of the

15 Of course, there are strict rules before the international community, on grounds of their ‘responsibility to protect’, intervenes with an armed force: Just Cause Threshold; Precautionary Principles; Right Authority; Operational Principles. For full details see ICISS 2001.

UK and Italy provided technical conservation staff on an individual basis in 2004 and 2005 to train and work with staff of the Iraq National Museum. It goes without saying that no archaeologist is to blame for being unwilling to be employed in violent surroundings, but the above observation does limit the present discussion enormously. As such it is no surprise that, in contrast to the situation with humanitarian/military relations, hardly any rules and procedures have been developed for archaeologist/military relations.

*Archaeology to preserve neutrality*

A question often raised is whether employment by the military affects the neutrality of the scholar. Is an archaeologist taking sides when he takes a job with the army? What of the archaeologist working indirectly for the army on a project financed by the MoD? Is there a difference between those colleagues working in contract research for any company or those directly working for multinational construction or oil companies? Here it seems that the ethical debate takes a different turn. Apparently some think in terms of 'good' and 'bad' employers. Williams (2009) notes that the present ethical systems 'based primarily on utilitarian principles manifested in ethical codes or standards, are deficient because they fail to establish the embedded archaeologist as an objective professional'. Indeed, those working for the military are confronted with their colleagues' mistrust. Williams (2009) continues that they 'fail to address adequately the matrix of duties and beneficiaries thereof, and fail to identify and develop the virtue of "trust" that ensures objectivity across the interests of all stakeholders'.

Williams refers specifically to embedded archaeologists, which are only part of the problem. Comparisons with embedded journalists show us that there is a high risk of 'going native' and thus losing professional objectivity, though this does not always have to be the case (see Teiggeler 2008). Perhaps the question should be put differently by differentiating between employment in peacetime and in times of war. Is neutrality jeopardised if an archaeologist works for the military in peacetime? There is no indication that any archaeologist working for the military in times of peace is less objective than his colleagues who are employed elsewhere. However, do the special circumstances under which an archaeologist has to work in a violent area introduce the risk of biased results? There are other professionals, such as humanitarian workers and civil servants, who work under the same conditions. They experience the same stress and are generally faced with the same problems. Are the products of their work biased as well?

According to many professional codes of conduct, archaeology, as any other empirical social science, attempts to maintain its neutrality in research. One could wonder whether the activities an archaeologist undertakes for the military would

16 The position of senior cultural adviser to the Iraqi Reconstruction Management Office at the US embassy in Baghdad was filled by several people. I served as the last adviser from July 2004 until March 2005 (see also Teiggeler 2005 and 2008). My four predecessors were from the USA and Italy. Though I was militarised, those before me were all civilians. In addition, the Polish army in Iraq employed three militarised archaeologists.

consist of 'research'. Again, a distinction should be made between employment in times of peace and war: 'to preserve and protect' during a violent conflict hardly includes research within the area of conflict but it does imply the application of archaeological, conservation and heritage management knowledge (see Teijgeler 2006). One of the golden rules at the peri-conflict stage, accepted by the majority of archaeologists, is: thou shalt not excavate!<sup>17</sup> It is irresponsible to excavate during a violent conflict for a number of reasons, not least because it shows the less well-intentioned where possible 'treasures' can be found and thus looted. Indeed, to prevent looting and illegal trade in artefacts is also in the interest of the military: for example, soon after the invasion of Iraq in 2003 it became clear that the revenue from the illicit trade in artefacts was one of the three main sources of income for the insurgents (Bogdanos 2008a, 124; 2008b, 57–62; Russell 2003). In peacetime, on the other hand, archaeologists frequently conduct research for the military in their home country (see Rush, Chapter 9; Scardera, Chapter 10). The 1999 Second Protocol to the Hague Convention obligates the States Party to work on prevention of war damage to cultural heritage in their own country during peacetime, which is often carried out with the assistance of the military.<sup>18</sup> However, as part of the preparations for military deployment overseas, archaeologists may be asked to prepare a list of the most important sites, monuments and heritage institutions that should be protected in that particular mission-country. Still, the majority of the tasks to be performed by an archaeologist working within, or for, the military at all times lies more in the fields of applied archaeology, heritage management and conservation sciences than in that of academic research. Nevertheless, it holds that any credible academic, whoever the employer, should adhere to the common rules of empirical research, including neutrality.

One of the rationales for preserving neutrality is that humanitarian organisations can obtain better access to the stakeholders under threat. That is why archaeologists should question whether they would gain better access to endangered heritage and its stakeholders by preserving their neutrality – and thus should not work with the military. Unfortunately there are too few examples to answer this question, as hardly any archaeologists have worked independently in a conflict zone, and it can be argued that it would be extremely difficult in a war-ridden region to get access to remote archaeological sites and monuments without the help of security units. On the one hand, preserving neutrality might give archaeologists better access to the heritage stakeholders, but on the other it would be extremely difficult to reach all stakeholders in the context of war (see Barakat *et al* 2004; Hilhorst and Jansen 2005). Instead of seeking official military protection, archaeologists could employ the assistance of private security forces, as practised by many NGOs and IOs. However, involvement with private security companies is very problematic following the criticism these

17 In 2003, during the Iraq war, Polish archaeologists tried to excavate at Babylon but they were soon stopped, as was an Italian expedition near Nasiriya a year later.

18 The Second Protocol of the Hague Convention (1999) also outlines measures for safeguarding cultural property to be undertaken in peacetime. These include: the preparation of inventories, the planning of emergency measures for protection against fire or structural collapse, the preparation for the removal of movable cultural property or the provision for adequate *in situ* protection of such property, and the designation of competent authorities responsible for the safeguarding of cultural property.

companies received in Iraq (see, for example, Scahill 2007). The harsh reality of new war is that any aid worker needs protection in a war zone as neutrality in itself does not shield them from attacks by some warring parties.

### *Archaeology to abandon neutrality*

As in humanitarianism, there are social theories, such as Marxist social science and Action research, which maintain that the researcher should side with the weakest of their research subjects.<sup>19</sup> In archaeology 'Archaeologists for Global Justice' (AGJ), inspired by the actions of 'Archaeologists Against the War', who opposed British involvement in the 2003 Iraq War, have abandoned their neutral stance and taken up a clear political position. According to their manifesto, members have the 'obligation to oppose those forces that are anti-humanitarian, unsustainable or destructive of human life and society'; their fourth principle reads 'we believe in world peace and as archaeologists we will not provide any direct or indirect support to armed interventions, whether led by governments or other organisations, unless this is justified by extreme cases of self defence' (Archaeologists for Global Justice 2010). Clearly, these archaeologists will not cooperate with the military, although the last part of the principle leaves room for discussion – the more so as self-defence is exactly the argument the USA used to justify their invasion of Afghanistan in 2001. The contrast with an NGO such as MSF, the first to criticise neutrality, is that MSF did not abandon its neutrality out of ideological reasons but to take the side of those who suffer the most. AGJ, on the other hand, seems to have left neutrality mainly for ideological reasons rather than to better preserve and protect the threatened heritage in a (future) conflict.

One of the main arguments for the Solidarity Approach is that it empowers its adherents to speak out in public and not be silent, as silence may lead to complicity. In most cases archaeologists are keen to point out the injustice of destruction and their reactions to cultural genocide have been instantaneous and effective in raising significant media coverage. Archaeologists working for the military in times of conflict do not have the same opportunity to criticise as, in principle, they gave up their neutrality to join one of the parties involved, so constraining their manoeuvrability. To speak up in public is very difficult when wearing a uniform. However, this, of course, holds for everyone who exposes their own employer in public.

To abandon neutrality also implies a rejection of the notion of consent. Solidarity-driven archaeologists need to ask what is more important: their conception of reality or the interpretation and views of those concerned. From my own discussions with the staff of the Iraqi Ministry of Culture, Iraq National Museum, Iraq National Library and Archives, and the State Board of Antiquities and Heritage during my work as senior cultural adviser in Iraq from July 2004 until March 2005, it is clear that some Iraqi colleagues initially welcomed the US invasion while others were more cautious. After a while all felt abandoned by the international archaeological community. They

19 Here I am thinking in particular of the work of Theodor Horkheim, Theodor W Adorno and Herbert Marcuse of the Frankfurter Schule, and Radical Sociology. For discussion of Action Research see the Center for Collaborative Action Research: <http://cadres.pepperdine.edu/ccar/> [accessed 20 November 2010].

did not care much for all the well-intended protests and statements but were yearning for assistance on the ground. Later their criticism of the occupying forces grew, but they could see no alternative but to work with them. Of course, asking consent of all the stakeholders in a country in turmoil is very difficult, if not impossible. One characteristic of working in conflict situations is that often one is forced to make quick decisions based on very few facts. As Williams (2008) points out, ‘modern war-fighting thrusts the archaeologist into a maelstrom of complex and difficult situations that may erode the prime duty of trust-making’. This is made more complex as, in many new war situations, sites and monuments representing different identities are contested, with many groups claiming ownership of a particular heritage. Still, in a peri-conflict setting, extensive consultations with the authorities of the host nation are essential and a prerequisite for any archaeological action. For example, in my work in Iraq I discussed all issues concerning cultural heritage with the appropriate staff of the museum, library, archives, Antiquities Board, or the Ministry of Culture. I referred heritage-related requests, mostly from army units outside Baghdad, to the local antiquities authority. It was my standard policy to leave all final decisions to the proper Iraqi authority. When the then-director of the national library asked me to represent him (and Iraq) in the USA because he did not want to deal with his US colleagues, we had a heated discussion when I turned down his request. Such an approach does not, of course, guarantee the correctness of any actions but does, at least, reduce the risk of ethnocentrism.<sup>20</sup>

#### *Archaeology and operational neutrality*

Most archaeologists appreciate that their actions are not neutral and that their own backgrounds and biases will inevitably affect their field of study, although their work is guided and objectified by standardised research methods and tools. Archaeology is all about context and politics. It can be questioned if archaeologists conduct sufficient research into the effects of their work on the conflicts themselves, as humanitarians did through the Local Capacities for Peace Project (see Anderson 1999). What are the connectors and dividers in heritage protection in a particular conflict? Can archaeology really claim neutrality without knowledge of the context of our work in general? Hamilakis (2009, 44) presents an interesting view on Iraq. He shows how some archaeologists imitated the narrative of their government, hid behind their ‘professional duty’, and had ‘perhaps a desire to demonstrate complete neutrality’. Especially during war, safeguarding archaeological sites is extremely sensitive and political in situations where identities are contested and redefined and their symbols destroyed. For example, during my time in Iraq, most of the staff in the US embassy in Baghdad were Bush apologists and for them Babylon chiefly stood for the physical evidence of the Old Testament; while, for many Iraqis, Babylon represented a heroic Iraq, long before Saddam’s reign, with which all denominations and ethnicities could easily identify.

20 When I tried to make an effort to save Saddam Hussein’s legacy during my work in Iraq in 2004, I experienced much opposition from the undersecretary of culture. She argued that the recent historical past of Iraq was not to be compared with the tragic history of World War II. A few years later, under another minister of culture, Iraq decided to make plans for a Saddam Hussein museum to show future generations of Iraqis what Saddam Hussein meant to Iraq.

Whatever archaeologists claim in theory or carry out in practice, they should at all costs prevent confusion within their role. Half-hearted solutions, such as claiming operational neutrality while knowing your actions are not neutral, cannot be an option. Those who choose to work for the military should not hide that fact and those who work from within the military as a soldier should at all times be identifiable as such. The several guidelines for civil/military relations in humanitarian action are very clear and archaeologists should study these. To work covertly for any organisation should be totally out of the question.

### *Archaeology to redefine neutrality*

Since the wilful destruction of cultural heritage during the violent confrontations in former Yugoslavia, Iraq and Afghanistan, one could wonder if cultural genocide is also grounds for armed intervention by the international community in the same way that the violation of human rights is viewed by the new humanitarians (see Riedlmayer 2000a; 2000b; and the present discussion on the Tamil heritage in Sri Lanka<sup>21</sup>). One aspect of human rights is cultural rights, which often refer to cultural rights of minorities and indigenous peoples – the right to express culture – and in more general terms the right of cultural diversity.<sup>22</sup> Addressing cultural rights is complex (see, for example, Francioni and Scheinin 2008) as they are the least understood and developed of the rights guaranteed under international law.<sup>23</sup> One source of the complexity is the varying understandings of ‘culture’. Cultural rights are often an inextricable part of other rights while at the same time frequently being in a state of tension with them. Furthermore, cultural rights are intimately related to values – to what we believe is important and what is insignificant, what is good and what is bad. As with all international human rights, cultural rights were historically produced mainly by Western nations and embody the cultural values of those powers. To redefine neutrality in terms of cultural rights seems an even more difficult undertaking than a redefinition in terms of human rights. There are simply too many open ends and contingencies, and all the more so since some societies are unwilling to enshrine purported cultural rights as legal rights in themselves, seeing them only as needs that society or government might provide.

Could cultural genocide, like human genocide, be a basis for reformulating neutrality? Within the articles of international treaties on cultural rights very few references are found to the right to protect and preserve cultural heritage. There are, however, important and explicit international conventions on the protection of cultural property: The 1954 Hague Convention and its Second Protocol of 1999; the 1970 UNESCO *Convention on the Means of Prohibiting and Preventing the Illicit*

21 <http://www.tamilnet.com/art.html?catid=79&artid=30908#> [accessed 20 November 2010].

22 Often cultural rights are taken together with economic and social rights, which, abbreviated as ESCR, relate to the conditions necessary to meet basic human needs.

23 International legal provisions for cultural rights are, among others: Universal Declaration of Human Rights (1948 – art 27); International Covenant on Economic, Social and Cultural Rights (1966 – art 15); The Convention on the Prevention and Punishment of the Crime of Genocide (1948 – art 2); UNESCO Principles on International Cultural Cooperation (1966 – art 1); The UN Declaration on the Right to Development (1986 – art 1); The Mexico City Declaration on Cultural Policies (1982 – Principle 2); The Vienna Declaration and Programme of Action (1993).

*Import, Export and Transfer of Ownership of Cultural Property*; the 1995 UNIDROIT *Convention on Stolen or Illegally Exported Cultural Objects*; and the 1977 Additional Protocols of the Geneva Conventions.<sup>24</sup> Ironically, one of the consequences of the destruction of Iraq's cultural heritage after the 2003 invasion and the turmoil that followed was that finally numerous Western countries decided to become signatories to these international treaties or to ratify them. This resulted in a firm legal basis but, as yet, no cases stemming from Iraq have been tried and it is unlikely that any will be, as ratification is not retrospective. In general, the legal history of cultural war crimes is limited. The earliest example is the sentencing to death of Nazi officials for a plethora of violations that included the destruction of cultural property at the Nuremberg Trials after World War II (Vrdoljak 2009); following that precedent, the International Criminal Tribunal for Former Yugoslavia was empowered to prosecute individuals deemed responsible for the 'seizure of, destruction or wilful damage done to institutions dedicated to religion, charity and education, the arts and sciences, historic monuments and works of art and science'.<sup>25</sup> The former Yugoslav president Slobodan Milosevic and other officials were indicted for the destruction of cultural and religious heritage in Kosovo and Croatia. Thus, from an IHL point of view, to rest neutrality on cultural genocide rather than on cultural rights might give better results. Nevertheless, this is contentious and perhaps dangerous ground, as there is no international agreement on who decides when destruction of cultural property becomes cultural genocide or how many destroyed monuments or looted archaeological sites are required. Besides, is armed intervention justified when a country does not suffer from war but systematically eradicates the cultural property of one ethnic group? And what of intangible heritage, which is accepted to be as much a part of cultural heritage as is tangible property. UNESCO can try to objectify monuments and artefacts in terms of universality, and list them according to their importance, but it does not take away the emotions and feelings of those who identify with their cultural symbols. Cultural heritage is so closely tied with shared norms and values, and can thus become an integral part of the conflict itself, that it is next to impossible to develop new approaches to neutrality by way of cultural genocide. What would we have thought if the USA had invaded Afghanistan after the Taliban's demolition of the Bamiyan Buddhas in 2001 under the pretext of safeguarding and protecting Afghanistan's cultural heritage?

24 For details see the *Convention for the Protection of Cultural Property in the Event of Armed Conflict* (The 1954 Hague Convention): [http://portal.unesco.org/en/ev.phpURL\\_ID=13637&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.phpURL_ID=13637&URL_DO=DO_TOPIC&URL_SECTION=201.html) [accessed 20 November 2010]; 1977 Additional Protocols of the Geneva Convention: <http://www.icrc.org/ihl.nsf/7c4d08d9b287a42141256739003e636b/f6c8b9fee14a77fdc125641e0052b07> [accessed 2010]; 1970 UNESCO *Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property*: [http://portal.unesco.org/en/ev.php-URL\\_ID=13039&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=13039&URL_DO=DO_TOPIC&URL_SECTION=201.html) [accessed 20 November 2010]; 1995 UNIDROIT *Convention on Stolen or Illegally Exported Cultural Objects*: <http://www.unidroit.org/english/conventions/1995culturalproperty/1995culturalproperty-e.htm> [accessed 20 November 2010].

25 For details see: <http://www.icty.org/> [accessed 20 November 2010].

## CONCLUDING REMARKS

Over the past half-century our humanitarian colleagues have gained a tremendous amount of experience delivering aid under the most difficult of circumstances. However, the development of their activities and duties has not gone without debate. The recent discussions on relations between archaeologists and the military are very similar, with the concept of neutrality playing a key role in both discussions. The relationships of both humanitarian workers and archaeologists with the military are subjected to varying pressures from politics, international relations, the military, IOs, NGOs, the academic community, and, crucially, the local community. Still, there are differences in the two debates. The archaeological community is undeniably short of practical experience in bringing emergency relief to the heritage sector in wartime. Because of this, the discussion in our community remains quite academic. Perhaps that is the reason why our exchange of views is dominated, on occasion, by prejudices – partly fed by a basic lack of knowledge of ‘new war’, complex emergencies and the politicisation of aid, and partly by anti-war and anti-militarist principles. One thing should be very clear: colleagues cooperating with the military or even from within the military do not necessarily have to be proponents of war. Both groups, working inside and outside the system, engage in the hope of making a positive contribution to the protection of cultural heritage in times of war. At times they risk their lives to do so.

The discussion surrounding neutrality is unresolved. If archaeologists are to take their responsibility to protect cultural property seriously they will have to react *in situ* at the peri-conflict stage. Facing the daily difficulties of working in a war, they will have a hard time preserving their neutrality, all the more so as their work will be very practical. A job based on the needs of those concerned cannot be fulfilled without support from somewhere. To abandon neutrality is certainly a possibility, but is not one without risks. To give up a neutral stance for solidarity reasons does not necessarily mean to lose impartiality and objectivity unless one is blinded by ideology or ethnocentrism; equally, to work with the military does not mean archaeologists necessarily lose their impartiality or objectivity. That the military is, in principle, a morally bad employer is an untenable position nowadays. However, during a conflict, embedded archaeologists run the risk of losing their objectivity by sympathising too greatly with their employer. Guidelines for these archaeologist/military relations are, therefore, badly needed. On the Utilitarian Approach we can be very clear: there is no future whatsoever in claiming neutrality in theatre while admitting the actions are not neutral. To redefine neutrality on the basis of the concept of cultural genocide is another possibility, but as values and ideas are mixed it remains a contentious option.

From the previous discussions various conclusions can be drawn:

- General
  - Archaeologists have the responsibility to protect endangered cultural heritage
  - Archaeologists are not the only players in a complex violent emergency
  - Archaeologists should never excavate in a conflict zone
- On archaeologist/military relations
  - Archaeologist/military relations need to be regulated by professional standards or guidelines

- An absolute condition for archaeologists' cooperation with the military in an armed conflict is the sanctioning of military intervention in that conflict by an international political body
- Archaeologists working for the armed forces, thus inside the system, should at all times be identifiable as such (no 'cross-dressing' (see above, p 92))
- On neutrality
  - Both to preserve or abandon neutrality are options for archaeologists
  - The Rights-based Approach to neutrality to prevent cultural genocide remains a slight option for archaeologists
  - The Utilitarian Approach to neutrality is no option for archaeologists
  - Archaeologists working for the armed forces are not neutral as they work for one of the warring parties
  - Archaeologists' neutrality does not guarantee better access to cultural heritage and the stakeholders
  - Archaeologists' neutrality is no guarantee of their physical safety.

First and foremost, archaeologists must realise that any aid delivered in a conflict zone is part of the context of the conflict itself. The 'cultural space' can be defined only if all factors contributing to the conflict, especially the political context, are considered. Archaeologists should also address the issue of how essential cultural space is in a conflict zone in comparison to humanitarian space and security space. Without a conflict analysis archaeologists will be unable to identify the connectors and dividers and in the end will fail to achieve their goal of safeguarding cultural heritage. In an era of new wars, increasingly complex emergencies and the politicisation of aid, the archaeological community has to understand that actions in a conflict zone are not neutral. In theatre they will meet new players, including the military, and they should wonder how to deal with them, and consequently ask themselves if they are the exclusive owners of cultural space. It is essential to maintain a clear distinction between the various players and for all to realise that the protection of cultural heritage is not the primary responsibility of the armed forces. Internationally agreed guidelines will be of enormous assistance in dealing with these complex problems. Archaeologists should also investigate at what point the mitigation of the effects of war on the endangered heritage should be attempted: pre-conflict, peri-conflict, or post-conflict. Then they will find out what they can do and with whom. During and immediately following the conflict they will discover that it will be extremely difficult to reach the more remote sites and monuments and most of their stakeholders. To refuse the support of the armed forces under those circumstances will almost inevitably mean leaving heritage to its own devices.

From a disaster management point of view it only makes sense to prepare in peacetime. To assist the armed forces in the pre-conflict phase and help them to fulfil their statutory obligations is a choice some of us make without jeopardising our neutrality. You do not have to put on a uniform to educate the military. Even the Red Cross and UN, along with many other IOs and NGOs, help to educate the military. Most take it a step further by participating in major international military exercises and none of them perceive their neutrality to be compromised. The mistrust of fellow

archaeologists, especially of the archaeologists' objectivity, for those who teach and train the military is to some extent a witness of academic hauteur and conceit.

Reality changes quickly. Today, the armed forces employ numerous advisers in the field, including in the areas of politics, law, development and culture. This fits the comprehensive approach or 3-D policy. Many of these advisers are civilians supplied by the relevant ministries or hired on a temporary basis. In fact, practice shows that in the case of advisers it does not make that much difference if they are wearing a uniform or not, although it must be said that knowledge of the military organisation and the ability to 'speak its language' is a great advantage. Experience tells us that NGOs, IOs, and international security forces are working more closely. Nonetheless, the fact remains that, by putting on a military uniform, an individual definitely abandons neutrality and for embedded colleagues there remains a high risk of bias. Given this, archaeologists should perhaps give preference to cooperating with the military in future conflicts as informed civilian experts.

The realities of new wars and complex emergencies are something with which we have to come to terms. We need clear guidelines for archaeologist/military relations, the sooner the better. Perhaps more importantly, we need the debate to be open and ongoing. Ideological disputes will in the end just obstruct the exchange of views; headstrong opinions will take us nowhere. While the debate unfolds, archaeologists who do get involved will have to stand the continuing pressure. I strongly believe that we need, and will be able, to redefine cultural space in times of conflict. Only then can we adjust to the changing world around us.

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