

# Distinguished guests or agents of ingérence: foreign participation in Spanish Civil War grave excavations

## *Invitados distinguidos o agentes de injerencia: la participación extranjera en las excavaciones de la Guerra Civil Española*

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### ABSTRACT

*For the past eight years Spanish scientists have collaborated with Spanish social and political organizations in an effort to incorporate empirical evidence from unmarked graves into the recovery of historical memory of the Spanish Civil War. Some teams have requested the assistance of experienced professionals from other countries for training and consultation. Other teams reject the influence of foreigners and prefer to view the issue of the Civil War missing as an internal matter. This paper recounts the role of forensic archaeology and anthropology in human rights investigations globally, critically examines the likelihood that the methods applied and the experiences gained elsewhere are relevant to Spain, and explores whether the implantation of foreign experts is required to achieve objectivity in Spanish human rights investigations.*

**KEY WORDS:** *Spanish Civil War. Clandestine graves. Foreigners. Forensic anthropology. Forensic archaeology.*

### RESUMEN

*Desde hace ocho años científicos españoles han colaborado con organizaciones sociales y políticas para incorporar la evidencia empírica de fosas clandestinas a la recuperación de la memoria histórica sobre la Guerra Civil Española. Algunos de esos equipos han solicitado ayuda en forma de asesoramiento y entrenamiento a profesionales de otros países con experiencia en este tema. Otros equipos españoles han rechazado la injerencia de extranjeros y prefieren pensar en los desaparecidos de la Guerra Civil como una cuestión estrictamente interna. Este trabajo revisa el rol de la arqueología y antropología forense en las investigaciones sobre vulneración de los derechos humanos en el mundo, analiza críticamente la posibilidad de que los métodos aplicados y la experiencia de otros países sean pertinentes en España y evalúa si la concurrencia de peritos extranjeros es un requisito para obtener mayor objetividad en las investigaciones españolas sobre los derechos humanos.*

**PALABRAS CLAVE:** *Guerra Civil Española. Fosas clandestinas. Extranjeros. Antropología forense. Arqueología forense.*

**SUMMARY** 1. Introduction. 2. The nature of international human rights investigations. 3. Human rights investigations in Spain: methods and approaches. 4. Foreign archaeological experts in Spain. 5. Conclusions.

## 1. Introduction

Despite the non-intervention pact in effect during the Spanish Civil War that prevented (on paper) the involvement of foreign countries in the conflict, significant engagement by Nazi Germany, Italian fascists and communist Russia has been well documented (e.g., Payne 2004; Thomas 2003; Whealey 1989). During the war, people came from dozens of countries as medical or military volunteers, as military conscripts, representatives of private companies (e.g., oil and arms dealers), and as refugees from conflict or political repression in their own countries. Foreigners served on both sides of the Civil War and their motivations, roles, and experiences are quite varied (e.g., Orwell 1952; Hemmingway 1940).

Following the war, early efforts were made by the victors to exhume and memorialize those fighting for the Nationalist cause but Franco barred any investigation of Nationalist atrocities. Despite the return to democracy in 1975, there was little opportunity to recover the remains of victims of Nationalist oppression and execution due to a mutually agreed upon pact of silence imposed by the governments as a means of protecting a fragile peace (Badcock 2005; Davis 2005; Gassiot *et al.* 2007; Ruíz 2005). Now, however, seventy years after the inception of the war, a remarkable effort is being made to recover the remains of non-combatants (i.e., civilians and executed prisoners-of-war) who disappeared both during and after the war. In addition to identifying the victims, the evidence from the graves has far-reaching ramifications for families and the Spanish people in terms of recovering historical memory of the Spanish War—a process of re-evaluating the actors and actions of the war from a post-dictatorship perspective that potentially provides a more accurate alternative to the official story crafted by the Franco regime and rarely effectively challenged under recent years (Gassiot *et al.* 2007).

The movement to recover historical memory was initiated by Civil Society rather than the government and, for the past eight years, social organizations such as the Association for the Recovery of Historical Memory (ARMH) and its regional counterparts have teamed with scientists to locate and excavate graves and attempt to identify and repatriate the remains. The efforts have been successful in that over 3,000 victims had been exhumed from unmarked graves by the end of 2007, although only

about 8% of these individuals have been positively identified (Jiménez 2008). The low rate of identifications is due in part to the lack of antemortem records (resulting from a prolonged post-mortem interval and the probability that most individuals at that time did not have dental or medical records) and the limited accessibility to DNA technology. In addition to the identification issues, scientists face political challenges in that different governmental bodies often impede investigations by refusing to grant permission for excavations or withholding documentation concerning the location of graves and the names of those interred therein (cf. Gassiot *et al.* 2007 and Gassiot, this dossier). Despite these limitations, human rights investigations are gaining momentum in Spain and the work has attracted volunteer archaeologists and anthropologists from Europe, North America and Asia. However, given the scale of the work ahead, the political and methodological challenges faced by scientists, and the presence of an extremely qualified Spanish network of archaeologists and anthropologists, the role of foreign practitioners in Spain is not yet well defined and should be critically contextualized.

This article begins with an examination of the specific role of anthropologists in forensic human rights investigations in foreign countries. While well over one hundred anthropologists gained experience in mass grave excavation and personal identification in over thirty countries in the 1990s alone (Steadman and Haglund 2005), it is unclear how those varied experiences translate to recovery of memory in Spain. Thus, the second component of the paper examines how Spanish archaeologists and physical anthropologists can apply the technical and experiential knowledge acquired in other countries to the Spanish problem. For instance, the unique temporal and political situation in Spain causes confusion as to whether a forensic or historic approach is most germane. On a more practical level, identification standards developed from reference samples in other countries may not be applicable to Spanish individuals born around the turn of the 20<sup>th</sup> century. Finally, we examine the specific role of foreign archaeologists in Spain, the nature of their reception, and whether the involvement of international experts is necessary to achieve scientific objectivity in domestic matters.

Both authors—a Canadian and an American—have no formal ties with Spain, no family members who died fighting for the cause and, due in part to

their profession as forensic scientists, avoid overt political or national agendas. They do, however –and somewhat inexplicably– hold strong personal feelings about what they do and in particular about the challenge of recovering, identifying, documenting and repatriating the missing in Spain, a country that may be perfectly capable of managing without their opinion or assistance.

## 2. The nature of international human rights investigations

The effort in Spain to find and identify the missing follows that undertaken in other countries such as Argentina, Guatemala, Chile, Peru, Bosnia-Herzegovina and Kosovo. Contemporary efforts are ongoing in Iraq and Colombia, amongst other places, and all involve, or have involved, foreign experts. Foreign participation –as observers, advisors or directors– in grave excavations as part of human rights investigations has a well-established history in the modern era. Although Skinner *et al.* (2003) suggest that mass grave excavations began with anthropologists working for non-governmental organizations, there was a brief period prior to this where work was directed by governments in foreign countries that they were occupying. During World War II, medicolegal experts from around Europe and representatives of the Red Cross were invited to witness and attest to facts of clandestine mass graves being excavated by Nazi German specialists. Those responsible for the crimes (in this particular instance) were the Russian military in Vinnytsia (Ukraine), Ulla (Belarus) and Katyn (Russia) (FitzGibbon 1971; FitzGibbon 1975; Kamenestsky 1989). Following the war, the British conducted excavations of Nazi mass graves (Mant 1987). It should be noted that, to our knowledge, neither archaeologists nor biological anthropologists were involved in these efforts. In 1990 and 1991, mass graves in the Ukraine from crimes committed by the Nazis during WWII were jointly excavated by Russian and Australian authorities, including archaeologist Richard Wright. The work was conducted as part of a forensic investigation of a former prison camp guard, then living in Australia (Bevan 1994; Wright 1995; Wright 1996).

The history of forensic anthropological involvement in human rights atrocities is firmly rooted in Argentina and the involvement of foreign anthro-

pologists (Joyce and Stover 1991). In the mid-1980s a delegation of American forensic scientists, including anthropologist Clyde Snow, was invited to Argentina to assist with the search for approximately 8,000 desaparecidos –individuals who were illegally kidnapped, tortured and assassinated by the military dictatorship. The delegation helped establish the Equipo Argentino de Antropología Forense, EAAF<sup>1</sup>, which has gone on to assist with similar investigations in over 30 countries (Steadman and Haglund, 2005). Also in the 1980s, Physicians for Human Rights (PHR)<sup>2</sup> began their forensic program investigating human rights violations and in the 1990s started assisting with mass grave exhumations in many different countries such as Iraq, Rwanda and Somalia. PHR deploys experts from around the world to assist local personnel in the investigations in each country (Stover and Peress 1998; Stover and Ryan 2001).

More recently, we have seen a return to the excavation of graves by occupying foreigners that is reminiscent of WWII investigations –in the Balkans and Rwanda, as part of the United Nations' criminal tribunal prosecutions, and in Iraq as led by the U.S. Department of Justice-funded Regime Crimes Liaison Office. The International Criminal Tribunal for the former Yugoslavia (ICTY) was established in 1993 to investigate alleged crimes of genocide, war crimes and crimes against humanity in the Balkans. One year later, the International Criminal Tribunal for Rwanda (ICTR) formed with a similar purpose, though the death count in that country in three months was up to four times that of the four-year long Balkans war and the work of the ICTR has received remarkably less attention.

The UN-sponsored tribunals of the 1990s were the largest employers of foreign experts, including anthropologists, and served as the first investigative experience for many, including the first author. However, the objectives and methods of the UN tribunals can be much different than those of most regional teams, such as the EAAF and the Fundación de Antropología Forense de Guatemala (FAFG). The primary goals of the ICTR and ICTY were to document that mass graves contained the remains of civilian victims or prisoners of war, establish the number of victims, determine their ethnicities, and document the cause of death. Based on these goals personal identification was not a key consideration (Cox *et al.* 2008: 12-13). In this regard, it is important to consider the work of the International Com-

mission for Missing Persons<sup>3</sup>, based in Sarajevo, Bosnia-Herzegovina. The organization was formed with the assistance of various governments with the purpose of finding, identifying and repatriating persons missing as a result of the conflicts in the former Yugoslavia. ICMP has successfully extracted DNA from over 26,000 bone samples, resulting in matches between 13,655 people via comparison of DNA donated by family members of the missing (ICMP 2008). The success of ICMP demonstrates the possibilities of wide-scale grave excavation and identification programs that are fortunate to be supported by significant multi-government funding. ICMP has employed and continues to deploy dozens of archaeologists and anthropologists from many different countries to the former Yugoslavia.

Professional compositions of NGOs that include forensic anthropologists vary depending on the scope of issues tackled. For instance, Physicians for Human Rights<sup>4</sup> was initially founded in 1986 as a means to mobilize physicians to document and stop torture. Today PHR also mobilizes physicians and other health professionals to assist in regions ravaged by war, diseases (e.g. AIDS), and to address health in prisons and detention centers. The International Forensic Program began in 1987 and is not a team itself but rather deploys multidisciplinary teams of medical and scientific professionals to missions around the world. At times PHR operates under the auspices of international courts (e.g., ICTY, ICTR, Special Court of Sierra Leona) or by invitation of individual governments (e.g. Cyprus) and NGOs. Inforce, a British charity, has assisted with excavations of mass graves for both forensic and humanitarian purposes in Iraq and Cyprus, respectively. They have also provided unique training programs in the field using simulated mass graves (with teaching skeletons) and mortuary training exercises for students, police and practitioners of archaeology and anthropology (Cox *et al.* 2008).

In contrast, Latin American teams (e.g., EAAF, FAFG, and the Equipo Peruano de Antropología Forense [EPAF]) are comprised of a core group of full-time archaeologists and anthropologists who consult with international and in-country physicians, pathologists and other experts as needed. Given the extensive attention to excavations and skeletal analyses, and the desire to investigate their own past, most existing Spanish teams are adopting the some pattern of team composition, whereby archaeologists and physical anthropologists form the core

disciplines who request the assistance of other experts (e.g., ballistics, pathology, genetics) on a case by case basis.

An important issue foreign teams must consider is the nature of the representation involved in the investigation, specifically in terms of who has control of the results. For instance, the United States government has contracted mostly American archaeologists and physical anthropologists to investigate atrocities committed under Saddam Hussein's regime in Iraq (Rubenstein 2005). However, the results are controlled by the U.S. government. A symposium presenting the methodologies and results of different aspects of these grave excavations and anthropological analyses was given at the Society for Historical Archaeology annual meeting in the United States in February of 2008, but there have not yet been any major publications on the work performed. The EAAF have certain criteria concerning the nature and auspices of the work in which they engage. The lack of international organization oversight or direction and/or involvement of only one party in the investigation of a former conflict have been reasons for their refusal to assist in certain countries (Fondebrider, pers. comm. 2008). Although detailed results of many investigations are not released by the EAAF, they produce and widely distribute annual reports, available in Spanish and English and also via their website, that discuss their work in different countries.

Spanish investigators must look at the philosophical, ethical and methodological differences in the approaches and outcomes from other human rights investigations and adopt or modify them accordingly. For instance, if a Spanish organization envisions the recovery of historical memory as a matter of documenting the scale of the atrocities against the Republicans, then the logical objective would be to excavate as many large mass graves as possible, even if there is little chance the victims could be identified. Alternatively, if the goal is to provide a means for families to receive reparations for the extra-judicial execution of loved ones, the choice of projects may favour smaller graves containing individuals known via official documentation and/or oral history, or were registered prisoners, and would necessitate a greater infrastructure (e.g., laboratory facilities, storage facilities, DNA laboratories). Neither approach is morally, ethically or professionally incorrect but will certainly deliver different outcomes.

### 3. Human rights investigations in Spain: methods and approaches

The archaeological and anthropological experiences in other countries can certainly provide insight for such work in Spain –not only concerning how things *were* done, but how things *should have been* done. Of course, Spaniards know that a successful approach to one country's similar problem may require a very different solution in their own. This has been demonstrated time and again by the well-intentioned, though sometimes poorly employed assistance of foreigners in places such as Thailand (Walker 2006) or Kosovo (Baraybar *et al.* 2007). In both of these places, the suddenness of the events and multi-national response resulted in problematic coordination and collaboration.

The past twenty years of forensic involvement in human rights investigations has provided Spain with a number of methodological protocols to choose from for adoption. In 1991, several anthropologists assisted with the development of the so-called "Minnesota Protocols", adopted by the United Nations. This protocol "includes a comprehensive checklist of the steps in a basic forensic examination" (United Nations 1991). Section V of the Minnesota Protocols presents a model protocol for disinterment and analysis of skeletal remains and very briefly describes the minimum steps considered necessary for a controlled and well documented grave excavation. Unfortunately, a comprehensive list of steps in a *basic* [our emphasis] examination amounts to little in the case of grave excavation. It is perhaps important to note that these protocols were written before the active involvement of archaeologists in clandestine grave excavations in the former Yugoslavia and Rwanda. Based on their experiences investigating mass graves in the Balkans, Skinner *et al.* (2003) provided a thoughtful commentary on not only the specific expertise appropriate for such work, but on the international nature and interdisciplinary organization of grave excavations in the service of human rights investigations. At the opposite end of the spectrum from the Minnesota Protocols in terms of detailed instruction lies the newly released and weighty volume, *The Scientific Investigation of Mass Graves* (Cox *et al.* 2008). The authors put forth a proposal of recommended steps for controlled, effective and court-acceptable evidence recovery via archaeological grave excavation and anthropological analysis.

Scientific standards of personal identification are also included in the Inforce protocols but these, more than the excavation protocols, require intense scrutiny before being applied in Spain. Several recent forensic studies have suggested that population specific standards are needed in human rights contexts (e.g., Djuric *et al.* 2007; Jantz *et al.* 2008; Komar 2003). This is because most standards for estimating age, sex and stature have been developed from skeletal collections of people of known identity from the United States. Djuric *et al.* (2007) recently found that the American pubic symphysis methods underestimated the age of older Bosnian individuals and stressed the need for population-specific standards in human rights work. This work echoed that by Komar (2003) who found that less than half of the ages of identified Bosnians fell into the anthropologically estimated age ranges. The applicability of such anthropological standards for determining age in other countries, and particularly the stated error rates, was questioned by the defence counsel in the genocide trial of Radislav Krstic at the UN tribunal in The Hague, although the accused was convicted (Case No. IT-98-33) (Kimmerle *et al.* 2008).

The problem of age and stature standards, in particular, is especially acute in Spain given the temporal depth and demography of the victims –predominantly Spanish males born at or before the turn of the 20<sup>th</sup> century– for which little known comparative data exist. Lopez Merino (2005) showed that Pearson stature standards (developed from a 19<sup>th</sup> Century French reference sample) were more accurate than those developed by De Mendoca (2000) on a modern Portuguese sample when applied to individuals from a Spanish Civil War mass grave. This is not unexpected since to majority of the Spanish Civil War victims were likely born in the late 19<sup>th</sup> century. Given the well-demonstrated secular trends in stature (Meadows and Jantz 1995), the temporal structure of the reference samples is a very important consideration. However, the population component cannot be ignored as Ross and Konigsberg (2002) found that American standards of stature estimation were inappropriate for contemporary (and taller) Bosnians. Since new reference samples in the Balkans are unavailable, Ross and Konigsberg (2002) employed a Bayesian approach in which published heights from contemporary Bosnian 19 year old males were utilized as an informative prior. Such an approach would also be an appro-

priate avenue of research in Spain. The only current study of stature using modern Spanish living samples is a radiographic approach applying Pearson's regression formulae to long bones (Muñoz *et al.* 2001), but the measurements are difficult to apply reliably to dry bones.

Spanish input into aging methods has focused on the acetabulum (Rissech *et al.* 2006, 2007; Rissech *et al.* 2003; Rissech and Malgosa 2005; see also Rouge-Maillart *et al.* 2007 for French samples). While these efforts are currently hampered by very small sample sizes and the lack of validation studies, they are the only attempts to date that assess age variability in Spanish samples. Most recently, Powanda (2008) has evaluated the new acetabulum method derived from Spanish samples to methods based on the auricular surface (Lovejoy *et al.* 1985; Buckberry and Chamberlain 2002) and pubic symphysis (Katz and Suchey 1986) developed from American and British reference samples by applying them to over 100 modern Iberian individuals of known age. Not surprisingly, the method derived from Spanish samples (Rissech *et al.* 2006) "performs superiorly over methods based on foreign samples".

In an approach similar to the Bosnian study on stature, the key to the aging dilemma may not lie with providing new population standards per se but rather to discover the specific age structure of the target population (in this case primarily early 20<sup>th</sup> century Spanish males). Konigsberg *et al.* (2008: 542) argue that "much ink has needlessly been shed both in forensic and physical anthropology on the need for 'population specific' estimators, when in fact many of the perceived differences in aging between samples derive from the different age structures of the study populations." As more Spanish War victims are identified, their osteological data (e.g. pubic symphysis, auricular surface, acetabulum) would serve as the informative in prior in subsequent Bayesian analyses of age of unknown individuals. Such an approach could be done for any number of aging indicators, though most recently it has been accomplished for the Todd and Suchey-Brooks pubic symphysis techniques (Steadman *et al.* 2006; Konigsberg *et al.* 2008).

The second issue goes beyond protocols to the philosophy of the mission. While Cox *et al.* (2008) assert that both forensic and humanitarian objectives are the absolute rights of survivor communities, humanitarian and human rights/forensic investiga-

tions are more typically viewed as a dichotomy based primarily on the potential for legal action (e.g., Komar and Buikstra 2008; Cox *et al.* 2008; Dirkmaat *et al.* 2005). According to these authors, humanitarian projects are those for which identifications are sought, but for any number of reasons (e.g. lengthy post-war period, amnesties), prosecution of the perpetrators are unlikely or undesirable. On the other hand, human rights/forensic investigations make the recovery of forensic evidence for criminal investigations a primary objective and other considerations such as individual identification and repatriation of remains may be secondary considerations.

The human rights/humanitarian dichotomy is not simply an academic issue for Spain since the Spanish government and courts have few guidelines concerning jurisdiction of grave sites and human remains. For example, some judges have refused permissions for excavations because the investigation was not considered to be a criminal matter, while the departments that oversee cultural/historical projects (for example, in Catalonia) do not feel the investigation come under their jurisdiction based on the recent history and nature of the events (Gassiot *et al.* 2007; Gassiot, this dossier; Foro por la Memoria, this dossier). There is a basis to argue that passage of time has put the events under investigation beyond legal statutes of limitations or where actions predate relevant criminal laws. For instance, the Geneva Conventions of 1949 fail to apply to the actions during and immediately following the Civil War. The so-called "Law of Historical Memory," (Law 52/2007) passed in December of 2007 does not clarify this issue in that the executions carried out by the militaries, paramilitaries or other authorities during the War are deemed illegitimate but not illegal, which means the perpetrators cannot be criminally prosecuted (Gassiot and Steadman, in press). While social organizations are pushing families whose loved ones have been recovered to attempt civil litigation as a means of recourse, the authors are unaware of any proceedings that have taken place to date. If the legal aspect is castrated, the work may fail to be considered forensic, yet many traditional Spanish archaeologists and anthropologists may dismiss this work on the grounds that it is too recent to be of archaeological interest and importance (Gonzalez-Ruibal 2007).

The current excavations of Civil War graves in Spain vary significantly in approach and reflect the ambiguity concerning the forensic or humanitarian

nature of the task. Some excavations are carried out by teams of medico-legal professionals, sponsored by local or regional governments such as those by the Aranzadi Society of Sciences. Those conducted by UAB and SUNY-Binghamton have treated the scenes as forensic maintaining rigorous documentation and chain-of-custody (Steadman *et al.* 2007). Other excavations have incorporated the use of both professional and inexperienced Spaniards and foreigners and have been run as archaeological field-schools, where Spanish students earn academic credit and are excavating for the first time, such as the work at Uclés in Cuenca province. Others still have counted simply on the good will of local volunteers without employing archaeological methodologies and simply endeavour to get the bodies out of the ground (F. Etxebarria pers. comm.).

How teams deal with the issue of who has access to the data is also highly variable. Given the current lack of legal outcomes, most teams recognize that the Civil Society, not the state directs the process of recovering historical memory, such that public education and family involvement are among the primary objectives. As a reflection of this, the UAB (Autonomous University of Barcelona) / Binghamton University team recently established a protocol whereby reports on exhumations and identifications go first to the families who can ask questions of the experts and express concerns prior to releasing the findings to the public. This stands in stark contrast from the understanding of forensic practice as expressed by Cox *et al.* (2008) whereby they advise experts to “refrain from working with non-police or other informal investigative agencies” (p.25). To be sure, one needs to first clarify what Cox *et al.* mean by “informal investigative agency”. If such language included ARMH, Foro por la Memoria or other NGOs, then professional participation by foreign and Spanish archaeologists in Spain would seem to indicate that there is little agreement with this advice.

While the recovery of historical memory in Spain is largely a social movement, the sentiment, and the call for exhumations in particular, is not universal among Civil Society, nor is it opposed only by certain local or regional governments. The rights of the families require further exploration in every human rights context (Hunter and Cox 2005: 214; Cox *et al.* 2008: 22; Congram and Bruno 2007: 40). Civilian objectors to grave excavations are ubiquitous, and of particular importance are objectors whose

family members are likely to be amongst the bodies to be exhumed (Crossland 2002; Verdery 1999). What if the family of one presumed victim amongst many objects to an excavation? Is access to mass grave excavation only a matter of simple majority rules? Certainly those who decide to leave the bodies at rest deserve not to suffer more by enduring what they perceive to be an intrusion of the resting place (just or unjust) of their family member. For instance, the family of famed poet Federico García Lorca opposes a search for his body, despite the fact that the site of his execution has been unofficially memorialized and historical information suggests where he is buried alongside other victims (Beaumont and Espinoza 2007). A major problem with some multiple victim graves is therefore not only that some or all of the victims are presumed to be known (and the tenuousness of such presumptions) but that different stakeholders (i.e., family members) of different victims may favour opposing courses of action. Until graves are excavated and anthropological and DNA analysis used to demonstrate positive identity, the alleged victims remain of presumed identity. Nevertheless, it may be decided in some cases that simply memorializing the burial site is the most acceptable option.

If personal identification is not an objective, then other tactics can be used. Where cultural affinity and community links are clear but personal identification is considered unnecessary, as with Jews killed in the Ukraine during the Second World War, forensic investigation and excavation involved simply removing the overburden of the grave and examining the bodies *in situ*, to confirm cultural identity and determine cause of death in a way that was acceptable to both the courts and the Jewish community of survivors (Wright 1995; Wright 1996). These links of stakeholders and the appropriate compromise (if any) is something that must be decided on a case-by-case basis due to the different circumstances of each unique context and weight of evidence supporting allegations.

#### 4. Foreign archaeological experts in Spain

Despite more than thirty years having passed since the death of a dictator and adoption of a democratic state, Spain has been slow to investigate the missing of the Civil War. One might argue that this is a true sign of the success of their democracy

—there has been a significant sector of society opposed to grave excavations whose voice has been heard and heeded. Ultimately, however, a decision has been made—first at the grassroots level and then (more slowly) by the national government—to take on the task of examining the recent past through investigations of the missing. In many countries, such as those of the former Yugoslavia, this was an action taken immediately post-war and imposed by foreign nationals. The experience of one author (DC) has shown that citizens of these countries who are engaged in investigations themselves may resent the presence, approach and, often, ignorance of outsiders.

What, then, is the role of the anthropologist and archaeologist excavating graves in Spain and how are they received? As in any foreign context, the external archaeologists and anthropologists should be circumspect and question their own objectives, justifications and acceptability of their participation as well as their role. Do they come as privately motivated *brigadistas internacionales* to fight for an ideological cause, as objective scientists examining the forensic evidence to discern truth for justice, as curious academics in search of historic fact, or perhaps with a more paternalistic motive, aiming to demonstrate to the Spaniards how things ought to be done (i.e., as they have done elsewhere)? Given that most of the archaeologists conducting mass grave exhumations in Spain are already well trained in classic archaeological techniques but just lack forensic experience, we argue that the role of foreign archaeologists and anthropologists who have gained experience elsewhere should be as consultants, advisors and collaborators rather than as leaders or directors. Emphasis should be on specific forensic training and infrastructure building.

One important role of experienced foreign archaeologists may be training in the forensic collection of data and documentation of multiple bodies that may be commingled. Non-governmental organizations and universities in North America and the United Kingdom have staged mock grave excavations created with anatomical teaching skeletons as training exercises for students and other professionals as a means of preparing them for domestic and international forensic investigations. Civil War grave excavations in Spain, often conducted in association with student volunteers, are an improvement upon the mock graves and allow participants to confront directly the social significance and seriousness

of their work. To run excavations as a training ground, however, one must consider if the evidence recovered is expected to one day be used as part of a legal process. If this is the case, the excavation should only be done in a very controlled way, be directed by someone with extensive forensic practice, and involve those who already have experience in conventional archaeology and anthropology and who have been instructed on crime-scene protocols.

Among the foreign organizations that have contributed to the work of Civil War era grave excavations to date are EAAF and the State University of New York, Binghamton (SUNY-Binghamton). In 2005, representatives of EAAF went, at the request of ARMH, to Spain to advise on exhumations (EAAF 2005). A more formal collaborative effort was established in 2004 between SUNY-Binghamton and the Autonomous University of Barcelona (UAB), setting a successful precedent for foreigner-Spanish collaboration to tackle the tremendous task of recovering and identifying the missing in Spain (Gassiot *et al.* 2007). In the latter case, the U.S. anthropologists serve only for consulting and training for the UAB archaeologists and anthropologists who choose and administer the projects. While the authors have come across a few involved Spanish specialists who feel that foreign participation is unnecessary or even harmful to the process, our reception as foreign participants has been extremely positive and our Spanish colleagues have been extremely gracious. It is fruitful, however, to further examine what factors have led to successful foreign participation in Spain to date.

Encarnación (2008) makes the acute observation that it was the hypocrisy inherent in Spain's eagerness to try Chile's Augusto Pinochet for crimes against Spaniards while at the same time denying themselves the right to investigate very similar crimes committed in their own country by their own people, which acted as a catalyst for Civil War-era grave excavations. Another factor may be the passage of sufficient time and generations such that the past is no longer as threatening or politically charged. For instance, Encarnación (2008), Silva and Macias (2003), and Baviano (1980) address the controversy that resulted from limited exhumations in the 1970s in Extremadura and La Rioja. The momentum for exhumations was quickly halted following the attempted military coup of 1981, which threatened Spain's political stability. Encarnación



(2008: 43) suggests that the current-day revival of grave excavations has been successful because: “a new generation of Spaniards with fuzzier memories of the transition [to democracy] (and therefore less beholden to its political compromises) made delving into the past seem less threatening.” Likewise, Renshaw (2007) suggests that the involvement of younger generations of relatives of victims, people further removed from the direct acts of the war and subsequent repression make them less threatening to those opposing exhumations. It may be for this same reason—the detachment of foreigners from the Civil War context and politics and also the inability of Spaniards to assume foreigner politics—that makes participation foreign archaeologist seem acceptable and appropriate. That the second or third generation of victims and foreigners alike can more easily take on the responsibility of the search for the missing is supported by the work of author Eva Hoffman, whose parents survived the Holocaust in Poland. Her work addresses the transmission of traumatic events from memory into history and how memories cannot be transmitted inter-generationally (i.e., are unique to a person). The second [or third, etc.] generation can bring a more tempered perspective to the past, partly the result of the first generation’s failure to openly discuss the traumatic events out of fear of negatively affecting the subsequent generation via the transmission of trauma (Hoffman 2006).

In human rights context, there is an expectation that forensic experts be apolitical. Cox *et al.* (2008: 24) assert that investigators: “...be apolitical;... provide impartial advice... practice within current legal and regulatory frameworks... [and] respect the cultural and religious values of the host country, community or society.” This expresses a common perspective in the field of forensics in Spain and abroad and can be adopted for Civil War era grave excavations (and, in many or most cases has been). This helps ensure broader applicability and acceptability of the work. How sites and remains are memorialized post-recovery and analysis is another subject altogether but the work of search, recovery and analysis—should a forensic approach be adopted—is apolitical in essence.

The perception of objectivity may be another factor that may impact how foreign forensic experts are viewed. It is a commonly accepted expectation that forensic experts remain objective in their methodology and interpretation of their findings. Ob-

jectivity, in part, means that a forensic practitioner should be willing to offer his or her services to the defence counsel of an alleged serial murderer as easily as to the prosecutor of the same case. Along the same lines, the forensic expert in Spain should be willing to investigate both Republican and Nationalist graves. That is, the empirical evidence from a clandestine grave or trauma to a skeleton would attest to the same thing regardless of the political affiliation of those lying in the grave. However, this may be easier for the foreign investigator to accept and/or carry out than the Spanish archaeologist for a number of reasons. For example, that many exhumations of those who died fighting for the Nationalist cause were undertaken by the post-war Spanish government (Encarnación 2008) may lead one to argue that now is the time to equalize the situation by focussing only on the graves of those who died for the Republican cause (or for no cause at all, but were killed by those opposed to the Republicans). The innocence or guilt of many of those executed during and after the war, and the legitimacy of the judgement process can be re-examined in this manner. In addition, the detachment/ignorance (real or perceived) of the political context may make foreign investigators more accessible to families who wish to search for missing persons. For instance, although ARMH in at least one province has worked to find a missing Nationalist victim, a family member told one author (DC) that he wants to find his missing relative but does not want to have to ask the *izquierdistas* (i.e., the leftists, those searching for Republican victims) to do so. This may be an unfair judgement of the intentions and objectives of those seeking the missing (largely Republicans), but it reflects the animosity that some people—particularly those who are more closely connected to the war (e.g., the elderly and families of victims) feel about the work of exhumations and those conducting the work.

There is a trade-off for foreigner real or perceived objectivity: ignorance. The same detachment that may enable foreigners to apply a more objective perspective to the investigation of the missing in Spain will also contribute to their failure to recognize more subtle evidence. For instance, although a body buried face down in a grave or beyond the walls of a cemetery is a fairly obvious act of disrespect or political calculation, north-south orientation (i.e., contrary to Catholic custom) may initially be less obvious to practitioners from other countries. Similarly, the air of objectivity may appear cold and

distant to family members, especially those who come to the grave site daily and intently observe the work.

## 5. Conclusions

There is little doubt that forensic investigations of mass graves are successful in any sense of the word. Early on, the Argentine and Guatemalan teams have shown that controlled excavations, documentations and anthropological analyses are admissible in courts trying crimes against humanity and human rights violations. The ICTY has conducted many trials, resulting in both convictions and dismissals related to crimes in the former Yugoslavia. Even during the conflict the impact of the forensic investigations became widely known by the perpetrators as they began to move mass graves to further destroy evidence (Skinner *et al.* 2002). Evidence from Kurdish mass graves in Iraq assisted prosecutors in a trial of Saddam Hussein (although he was convicted and sentenced to death for crimes against Shi'ites). The humanitarian investigations in Cyprus have resulted in the repatriation of individuals to families. The number of Spanish Civil War victims exhumed and identified in less than eight years demonstrates that, despite some significant political challenges, Spain already has the capacity to succeed in recovering empirical evidence of the war both with and without foreign assistance.

The experience of Spanish professionals in excavating modern era clandestine and mass burials of victims of unlawful detention, torture and killing is now surpassing those who have spent months or years doing similar work in the Balkans. Spaniards are now just as experienced and knowledgeable in this type of investigation as most in other countries. Their experience has often been that of directly ser-

ving the families and communities of victims and often with very little resources and little or no governmental support. This experience is not unlike that had by so many well published North Americans and Western Europeans involved in other high-profile projects elsewhere (e.g., Kosovo) or the work of Latin American teams in their own countries or abroad.

Unfortunately, the interest of foreigners in Spanish Civil War grave excavations may not be entirely altruistic. There is an element of ex-patriot self-interest that may be seen with suspicion by Spaniards (in some cases perhaps correctly). Foreign intervention in the Spanish Civil War did not help Spain, it made things far worse. Seventy years later, the possibility exists that foreigners are merely getting involved because of the images they can take back (material and self) to develop and advance their own careers. Perhaps there is money to be made in the book they might write about how they helped save Spain. Of course, motivations are multiple. And perhaps a less appreciated example is that foreigners have been unable to investigate such crimes in their own country. The archaeological and anthropological evidence in Spain –as elsewhere, however, speaks for itself if we allow it to (Renshaw 2007). The collaboration of Spanish and foreign scientists towards the discovery, recovery, repatriation of Civil War and post-war repression victims serves so many fruitful purposes for the victim communities and researchers alike. One of the greatest benefits is in documenting and testifying to the “inhumanity” that, as archaeologists and anthropologists well know is –and has forever been– so very, uniquely human. We can only hope that such collaboration, in an increasingly global community, will work towards changing this very ugly aspect of our ancient and modern history.

## NOTES

1. [http://eaaf.typepad.com/eaaf\\_countries](http://eaaf.typepad.com/eaaf_countries)
2. <http://physiciansforhumanrights.org/forensic/about>
3. [www.ic-mp.org](http://www.ic-mp.org)
4. [www.physiciansforhumanrights.org](http://www.physiciansforhumanrights.org)

## REFERENCES

- BADCOCK, J. (2005): Saved by the War. *Index on Censorship*, 2: 68-71.
- BARAYBAR, J.P.; BRASEY, V.; ZADEL, A. (2007): The need for a centralised and humanitarian-based approach to missing persons in Iraq: an example from Kosovo. *The International Journal of Human Rights*, 11(3): 265-274.
- BAVIANO, J.M. (1980): El juicio contra el alcalde de Torremegía, el recuerdo de los fusilamientos de 1936. *El País*, June 22, 1980. [www.elpais.com/articulo/espana/badajoz/juicio/alcalde/torremegia/recuerdo/fusilamientos/1936/elpepiesp/19800622elpepinac\\_3/tes/](http://www.elpais.com/articulo/espana/badajoz/juicio/alcalde/torremegia/recuerdo/fusilamientos/1936/elpepiesp/19800622elpepinac_3/tes/).
- BEAUMONT, P.; ESPINOZA, J. (2007): Spain fights civil war's last battle. *The Observer*, Sunday November 4, 2007. <http://www.guardian.co.uk/world/2007/nov/04/spain.peterbeaumont> Date accessed: June 16, 2008.
- BEVAN, D. (1994): *A Case to Answer: The Story of Australia's First Prosecution*. Wakefield Printing, Kent Town, South Australia.
- BUCKBERRY, J.L.; CHAMBERLAIN, A.T. (2002): Age estimation from the auricular surface of the ilium: a revised method. *American Journal of Physical Anthropology*, 119: 231-239.
- COX, M.; FLAVEL, A.; HANSON, I.; LAVER, J.; WESSLING, R. (2008): *The Scientific Investigation of Mass Graves*. Cambridge University Press, Cambridge.
- CROSSLAND, Z. (2002): Violent Spaces: Conflict over the Reappearance of Argentina's Disappeared. *Matériel Culture: The Archaeology of Twentieth Century Conflict* (J. Schofield, W. G. Johnson and C. M. Beck, eds.), Routledge, London and New York: 115-131.
- DAVIS, M. (2005): Is Spain Recovering its Memory? Breaking the *Pacto del Olvido*. *Human Rights Quarterly*, 27: 858-80.
- DE MENDONÇA, M.C. (2000): Estimation of height from the length of long bones in a Portuguese adult population. *American Journal of Physical Anthropology*, 112(1): 39-48.
- DJURIĆ, M.; DJONIĆ, D.; NIKOLIĆ, S.; POPOVIĆ, D.; MARINKOVIĆ, J. (2006): Evaluation of the Suchey-Brooks Method for Aging Skeletons in the Balkans. *Journal of Forensic Sciences*, 52 (1): 21-23.
- DIRKMAAT, D.C.; CABO, L.L.; ADOVASIO, J.M.; ROZAS, V. (2005): Commingled remains and the mass grave: Considering the benefits of forensic archaeology. *Presentation to the 57<sup>th</sup> Annual Meeting of the American Academy of Forensic Sciences*, New Orleans, Louisiana, February 21-26, 2005.
- EAAF (2005): *Argentine Forensic Anthropology Team Annual Report*. Buenos Aires.
- ENCARNACIÓN, O.G. (2008): Pinochet's revenge: Spain revisits its Civil War. *World Policy Journal* Winter 2007/08: 39-50.
- ETXEBERRÍA, F. (2008): Personal communication with Dr. Francisco Etxeberria, professor of Legal Medicine and member of the Aranzadi Society of Sciences, director of Civil War grave excavations and anthropological analyses.
- FITZGIBBON, L. (1971): *Katyn*. Tom Stacey, London.
- FITZGIBBON, L. (1975): *Unpitied and Unknown; Katyn... Bologoye...Dergachi*. Bachman & Turner, London.
- FONDEBRIDER, L. (2008): Personal communication via email with founding member of the Argentine Forensic Anthropology Team (EAAF), May, 2008.
- GASSIOT, E.B.; OLTRA, J.; SINTES, E.; STEADMAN, D.W. (2007): The archaeology of the Spanish Civil War: recovering memory and historical justice. *Archaeology and Capitalism* (Y. Hamilakis and P. Duke, eds.), Left Coast Press, Walnut Creek, CA.
- GONZALEZ-RUIBAL, A. (2007): Making things public; archaeologies of the Spanish Civil War. *Public Archaeology*, 6(4): 203-226.
- HEMINGWAY, E. (1940): *For Whom the Bell Tolls*. Scribners, New York.
- HOFFMAN, E. (2006): Public lecture at the Kingston University conference: teaching and researching the politics of mass murder. London, 22<sup>nd</sup> to 23<sup>rd</sup> of June, 2006.
- HUNTER, J.R.; COX, M. (2005): *Forensic Archaeology*. Routledge, London.
- INTERNATIONAL COMMISSION ON MISSING PERSONS (2008) [online]: Available at: [http://www.ic-mp.org/?page\\_id=534](http://www.ic-mp.org/?page_id=534). Accessed: June 16, 2008.
- JANTZ, R.L.; KIMMERLE, E.H.; BARAYBAR, J.P. (2008): Sexing and stature estimation criteria for Balkan populations. *Journal of Forensic Sciences*, 53(3): 601-605.
- JIMÉNEZ, J. (2008): Oral presentation on Spanish Civil War exhumations. EQUITAS conference on missing persons, Bogotá, March 2008.
- JOYCE, C.; STOVER, E. (1991): *Witnesses From the Grave: The Stories Bones Tell*. Little, Brown and Company, Boston.
- KAMENETSKY, I. (ed.) (1989): *The Tragedy of Vinnytsia*. Ukrainian Historical Association, Toronto.
- KATZ, D.; SUCHY, J.M. (1986): Age determination of the male os pubis. *American Journal of Physical Anthropology*, 69: 427-435.
- KIMMERLE, E.H.; JANTZ, R.L.; KONIGSBERG, L.W.; BARAYBAR, J.P. (2008): Skeletal estimation and identification in American and East European populations. *Journal of Forensic Sciences*, 53: 524-532.

- KOMAR, D. (2003): Lessons from Srebrenica: the contributions and limitations of physical anthropology in identifying victims of war crimes. *Journal of Forensic Sciences*, 48: 713-716.
- KOMAR, D.; BUIKSTRA, J.E. (2008): *Forensic Anthropology: Contemporary Theory and Practice*. Oxford University Press, New York.
- KONIGSBERG, L.W.; HERMANN, N.P.; WESCOTT, D.J.; KOMMERLE, E. (2008): Estimation and evidence in forensic anthropology: age-at-death. *Journal of Forensic Sciences*, 53: 541-557.
- LOPEZ MERINO, L. (2005): *El conocimiento de las poblaciones del pasado a través de sus restos óseos: estimación de la estatura de los individuos exhumados en la fosa de la Guerra Civil de Villamayor de los Montes (Burgos)*. Proyecto de fin de carrera. Universidad Autónoma de Madrid. Available at: [http://www.uam.es/personal\\_pdi/ciencias/armando/investigación/PFC/lara\\_lopez\\_merino.pdf](http://www.uam.es/personal_pdi/ciencias/armando/investigación/PFC/lara_lopez_merino.pdf). Date accessed: July 3, 2008.
- LOVEJOY, C.O.; MEINDL, R.S.; PRYZBECK, T.R.; MENSFORTH, R.P. (1985): Chronological metamorphosis of the auricular surface of the ilium: a new method for the determination of adult skeletal age at death. *American Journal of Physical Anthropology*, 68: 15-28.
- MANT, A.K. (1987): Knowledge Acquired from Post-War Exhumations. *Death, Decay and Reconstruction; approaches to archaeology and forensic science* (A. Boddington, A.N. Garland and R.C. Janaway, eds.), Manchester University Press, Manchester, 10-21.
- MEADOWS, L.; JANTZ, R.L. (1995): Allometric secular change in long bones from the 1800s to the present. *Journal of Forensic Sciences*, 40: 762-767.
- MUÑOZ, J.I.; LIÑARES-IGLESIAS, M.; SUÁREZ-PEÑARANDA, J.M.; MAYO, M.; MIGUÉN, X.; RODRÍQUEZ-CALVO, M.S.; CONCHEIRO, L. (2001): Stature estimation from radiographically determined long bone length in a Spanish population. *Journal of Forensic Sciences*, 46 (2): 363-366.
- OLMEDO, I.; ALONSO, E. (2002): Fosas comunes, los desaparecidos de Franco. *El Mundo*, número 351, July 7, 2002. <http://www.elmundo.es/cronica/2002/351/1026114970.html>. Date accessed, May 23, 2008.
- ORWELL, G. (1952): *An Homage to Catalonia*. Harcourt, Brace & World, New York.
- PAYNE, S.G. (2004): *The Spanish Civil War, The Soviet Union and Communism*. Yale University Press, New Haven, CT.
- POWANDA, A. (2008): *A comparison of pelvis age-estimation methods on two modern Iberian populations: Bioarchaeological and forensic implications*. MA Thesis, Department of Anthropology, New York University.
- RENSHAW, L. (2007): The iconography of exhumation. *Archaeology and the Media* (T. Clack and M. Brittain, eds.), Left Coast Press, Walnut Creek, CA, 237-251.
- RISSECH C.; GARCÍA M.; MALGOSA, A. (2003): Sex and age diagnosis by ischium morphometric análisis. *Forensic Science International*, 135: 188-196.
- RISSECH C.; MALGOSA, A. (2005): Ilium growth study: applicability in sex and age diagnosis. *Forensic Science International*, 147: 165-174.
- RISSECH, C.; ESTABROOK, G.F.; CUNHA, E.; MALGOSA, A. (2006): Using the acetabulum to estimate age at death of adult males. *Journal of Forensic Science*, 51(2): 213-229.
- RISSECH, C.; ESTABROOK, G.F.; CUNHA, E.; MALGOSA, A. (2007): Estimation of age at death for adult males using the acetabulum, applied to four Western European populations. *Journal Forensic Science*, 52(4): 774-779.
- ROUGE-MAILLART, C.; JOUSSET, N.; VIELLE, B.; GAUDIN, A.; TELMON, N. (2007): Contribution of the stud of acetabulum for the estimation of adult subjects. *Forensic Science International*, 171: 103-110.
- ROSS, A.H.; KONIGSBERG, L.W. (2002): New formulae for estimating stature in the Balkans. *Journal of Forensic Sciences*, 47: 165-167.
- RUBENSTEIN, P. (2005): The Iraq Mass Graves Team: USACE Leads a Team of Scientists to Learn the Truth About the Killing Fields of Iraq. *Planning Ahead*, June 8(6). US Army Corps of Engineers.
- RUIZ, J. (2005): Reflections on the Francoist Repression after the Spanish Civil War. *Contemporary European History*, 14(2): 171-191.
- SILVA, E.; MACÍAS, S. (2003): *Las Fosas de Franco*. Temas de Hoy, Madrid.
- SKINNER, M.; YORK, H.P.; CONNOR, M.A. (2002): Postburial disturbance of graves in Bosnia-Herzegovina. *Advances in Forensic Taphonomy: Method, Theory and Archaeological Perspectives* (W.D. Haglund and M. H. Sorg, eds.), CRC, Boca Raton, FL: 293-308.
- SKINNER, M.; ALEMPIJEVIC, D.; DJURIC-SREJIC, M. (2003): Guidelines for International Forensic Bio-archaeology monitors of mass grave exhumations. *Forensic Science International*, 134: 81-92.
- STEADMAN, D.W.; HAGLUND, W. (2005): The Scope of Anthropological Contributions to Human Rights Investigations. *Journal of Forensic Sciences*, 50(1): 1-8.
- STEADMAN, D.W.; ADAMS, B.J.; KONIGSBERG, L.W. (2006): Statistical basis for positive identification in forensic anthropology. *American Journal of Physical Anthropology*, 131: 15-26.
- STEADMAN D.W.; OLIART, C.; BAUDER, J.M.; SINTES, E. (2007): *Report of anthropological analyses of twenty-two skele-*

- tons from the Spanish Civil War recovered from La Guijarrosa and Santaella cemeteries.* Binghamton University, Binghamton, NY.
- STOVER, E.; PERESS, G. (1998): *The Graves: Srebrenica and Vukovar.* Scalo, Zurich.
- STOVER, E.; RYAN, M. (2001): Breaking bread with the dead. *Historical Archaeology*, 35(1): 7-25.
- THOMAS, H. (2003): *The Spanish Civil War.* Penguin, London.
- UNITED NATIONS (1991): Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, U.N. Doc. E/ST/CSDHA/.12. <http://www1.umn.edu/humanrts/instree/executioninvestigation-91.html>. Date accessed: May 26, 2008.
- VERDERY, K. (1999): *The Political Lives of Dead Bodies: Reburial and Postsocialist Change.* Columbia University Press, New York.
- WALKER, G. (2006): Role of SIM and DVI in a global environment: ethical considerations. Oral presentation at the 8<sup>th</sup> Annual British Association for Human Identification (BAHID) Meeting, The Netherlands, March 30<sup>th</sup>- April 1<sup>st</sup>, 2008.
- WHEALEY, R.H. (1989): *Hitler and Spain: The Nazi Role in the Spanish Civil War, 1936-1939.* University Press of Kentucky, Lexington, Ky.
- WRIGHT, R. (1995): Investigating War Crimes; the archaeological evidence. *The Sydney Papers*, 7(3): 39-44.
- WRIGHT, R. (1996): War Crimes: the archaeological Evidence. *International Network on Holocaust and Genocide*, 11(3): 8-11.

