CANTING THE CRADLE:

THE DESTRUCTION OF AN ANCIENT MESOPOTAMIAN

CIVILIZATION

by

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DECLARATION

Student Number: 5330491

I, Jane Elizabeth Marston, declare that *CANTING THE CRADLE: THE DESTRUCTION OF AN ANCIENT MESOPOTAMIAN CIVILIZATION* is my own work and that all the sources that I have used or quoted have been indicated and acknowledged by means of complete references.

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SUMMARY

Iraq is a country of great cultural significance as it is where civilization first began. As a result of its lengthy occupation, it is virtually one large archaeological site. In spite of numerous warnings to the governments of both the United States and the United Kingdom, no efforts were made to protect the Iraqi National Museum in Baghdad when the American-led coalition unlawfully invaded Iraq. Indeed, orders were given not to interfere with the looting. During the occupation that followed, the United States failed to take steps to protect Iraqi cultural property. In terms of international law, it was obliged to protect Iraq's cultural property. The United States also chose to exacerbate its unlawful conduct by occupying archaeological sites and damaging them further by illegal construction. As a result many significant sites have been irreparably damaged or destroyed. Their conduct was the result of complete indifference to the Iraqi cultural heritage. Although their actions render them in breach of international law, it is unlikely that the United States will ever be prosecuted for its actions.

KEY TERMS

Iraq, Mesopotamia, cultural property, inventions, excavation, invasion, Iraqi Museum, Baghdad, looting, destruction of archaeological sites, occupation of archaeological sites, efforts to recover looted property, efforts to aid Iraq Museum

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CHAPTER ONE

INTRODUCTION

Prior to its independence, Iraq was referred to as Mesopotamia, a Greek term which referred to the area between the Tigris and Euphrates rivers. With independence however, a new name to distinguish it from its colonial past was required. The name 'Iraq',[1] first used after the Muslim conquest of 637 ACE (Foster & Foster 2009:5), was chosen.

Iraq has a long and culturally important historical past, for it is the area in which civilization first began. Although its earliest inhabitants were hunter-gatherers, it is here, around 10 000 years ago, that small groups began to settle, building mud-brick houses and domesticating animals and wild grains. The changes in lifestyle led to the development of new technologies, and around 5800 BCE, 'Ubaid settlers established villages, dug ditches, built dams and invented an early version of the plough. As food surpluses grew from improved agricultural methods, the redistribution of surpluses developed into extensive trade networks.

Although Sumerian culture is chiefly known for *ziqqurats*, cylinder seals and the cuneiform script, their achievements, and those of their early successors, include the plough, the wheel, certain metallurgical techniques, aspects of mathematics and engineering, and legal codes. The ancient cultures which inhabited that region for thousands of years provided us with inventions and innovations which are still in use, and whose influence is still felt today.

Iraq is thus virtually one large archaeological site. Archaeology in that country went through three distinct phases (Bernhardsson 2005:10). The first phase, which lasted from the 1830s to World War I, was characterized by Western domination during which antiquities were exported freely (Bernhardsson 2005:10). Western interests were presented as enlightened and benevolent: western archaeologists were

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[1] Although Arabic, the meaning and etymology of the name are obscure. Explanations by medieval Arab geographers were guesswork, and the explanation most widely accepted today - that it means "arable land along a major river," is generally considered to have been reasoned backwards from the geography of Iraq (Foster & Foster 2009:5).

discovering, rescuing and preserving historical treasures from a barbaric, unenlightened people who lacked the interest, knowledge and erudition to appreciate and care for these antiquities.[2]

The second phase, which covered the period between World Wars I and II, saw the beginning of national involvement. Although Western interests were still favoured, the export of antiquities was curtailed, and the division of antiquities was more rigorously applied (Bernhardsson 2005:11). During the third phase following independence, the republican government passed a law protecting cultural property and prohibiting the export of antiquities (Bernhardsson 2005:12).

The Ba'ath Party and Hussein in particular, utilized Iraq's Mesopotamian past as an ideological tool in the creation of an Iraqi national identity. In an effort to unite the ethnically diverse population, Hussein sought to link modern Iraq to ancient Mesopotamian civilizations on a cultural basis (Baram 1991:48). He also pursued personal aggrandisement by associating himself with ancient heroes, portraying him as their successor. In stage managed events, he promoted himself through slogans like "Yesterday Nebuchadnezzar, today Saddam Hussein" (Baram 1991:48).

Hussein's decision to politicize archaeology and cultural property had an unfortunate consequence. Cultural property became associated with the regime, and an attack upon cultural property was seen as an act of opposition to its oppression. During the 1991 Gulf War, nine of the thirteen regional museums were looted, and some were burned. Over 4 000 items were looted, and few have been recovered.[3]

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[2] Rather than being perceived as an objective scientific study, archaeology was initially perceived to be part of an imperialist strategy in terms of which westerners plundered all of the benefits available in the country (Bernhardsson 2005:17). Later it was exploited by Hussein, both for nationalist and personal purposes (Baram 1991:48). Its association with politics is a long one.

[3] Looting during warfare has a long history and was not unfamiliar in Mesopotamia. Indeed, even the prized stele upon which the laws of Hammurabi were inscribed was taken back to Susa by the Elamites after they conquered Babylon in 1160 BCE (Rothfield 2009:4). Subsequent conquerors were just as acquisitive.

However, criticism of looting is not a recent moral stance. Even during the Roman period, when looting was common, it was not universally sanctioned. During the second century BCE, the Roman historian Polybius questioned the plundering of Syracuse, which he considered to be excessive (Foster, Foster & Gerstenblith 2005:247). In 70 BCE Cicero raised this concern during the prosecution of Gaius Verres, the governor of Sicily, who was prosecuted for corruption and the pillage of religious art (Foster, Foster & Gerstenblith 2005:247).

During his conquests, Napoleon looted on a grand scale across Europe. His 'vision' was to create a new centre of world culture in Paris; one which could properly care for these treasures (O'Keefe 2006:15). His actions were fiercely criticised by Antoine Quatremere de Quincy, who in 1796 published a series of open letters condemning the removal of art treasures from Italy, on the basis that they `belong[ed] to all of Europe, and were no longer the exclusive property of one nation'. Since they belonged to the world, Napoleon's actions constituted a 'violation of common property' (O'Keefe 2006:15). After Napoleon's defeat,

With the imposition of sanctions and no-fly zones following the invasion of Kuwait, the ability of the Iraqi State Board of Antiquities and Heritage to fulfil its functions was severely compromised. Sanctions also made it impossible to acquire the skills, equipment and chemicals necessary to maintain its cultural property. The poverty, lack of food and medical supplies resulted in skilled workers leaving the country in order to pursue job safety and personal security elsewhere. By the time of the 2003 invasion, the number of skilled personnel in museums and number of guards at sites had rendered it practically impossible to protect and preserve the nation's cultural property, or even to record it properly.

Although Hussein's punishment of captured looters was draconian, in one instance he televised the execution of ten wealthy businessmen (Rothfield 2009:19), it had very little effect as poverty increasingly gripped the nation and the popularity of Mesopotamian antiquities on the international market increased.

When it became increasingly clear to the cultural community and archaeologists that an American-led invasion of Iraq was inevitable, extensive efforts were made to alert both the American and British governments to the dangers of looting that would inevitably follow. The importance of the Iraqi National Museum in Baghdad was highlighted in these discussions and the Museum was placed second on the list of institutions to be protected (Johnson 2005:4); a list subsequently drafted by the American authorities prior to the invasion of Baghdad. In spite of this, no attempts were made to protect the institution. Indeed, orders were specifically given not to stop the looting (Conroy & Martz 2005:223). This unlawful conduct was exacerbated by the military occupation of archaeological sites, and a general failure to protect the cultural property of Iraq.

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the Duke of Wellington refused to take any art as war booty and the French were required to return the art works they had looted by the Treaty of Vienna (Foster *et al* 2005:247). Antonio Canova, negotiating the return of looted items to the Papal States, argued in support of Quatremere's view: '[e]verything belonging to the culture of the arts and sciences is above the rights of war and victory' (O'Keefe 2006:16). Lord Castlereagh, the British Foreign Secretary, asserted that Napoleon's actions were 'in contravention of the Laws of modern War', an argument accepted in 1812, when a British Court of Vice-Admiralty in Halifax, Nova Scotia, stated that

> '[t]he arts ... are considered not as the *peculium* of this or of that nation, but as the property of mankind at large, and as belonging to the common interest of the whole species' and accordingly were 'admitted amongst all civilized nations, as forming an exception to the severe rights of warfare, and as entitled to favour and protection' (O'Keefe 2006:16).

The arguments of Cicero and the action of the Duke of Wellington find support in the modern principles of warfare in respect of cultural property. Francis Lieber, who served as a young Prussian soldier at the Battle of Waterloo and later became a law professor at Columbia University, was requested in 1863 to draft a code of military conduct by President Lincoln. In the Lieber Code, he distinguished between public property and other movable property, excluding the former from appropriation as war booty (Foster *et al* 2005:247).

There are international conventions that seek to protect cultural property during time of war. The most important is the 1954 Hague Convention on the Protection of Cultural Property in the Event of Armed Conflict, which seeks to prevent the destruction of this heritage during wars and occupation. Whether the United States had an obligation to protect the Museum and archaeological sites depends upon whether the relevant provisions of the Convention had achieved the status of customary law, as neither the United States nor the United Kingdom had ratified the Convention at the time of the invasion. It will be argued that the relevant provisions had achieved this status, and that the United States had a legal responsibility to protect the Museum and to protect and prevent the looting of archaeological sites.

The unstable situation in Iraq makes it a prime target for looting: the presence of prized and collectable cultural property, a breakdown of local law and order, the poverty of local inhabitants and a lucrative international market for its cultural property makes it almost inevitable.

There are those who argue that looting does no harm and is the inevitable consequence of restrictive laws passed by countries that seek to retain their cultural heritage. Dealers and collectors seek to place the blame for looting squarely on the shoulders of those who wish to restrict the exportation of the cultural property located within their borders. How else are they to obtain the antiquities, which they consider to be works of art, for display? The same argument can be used to justify housebreaking, and should, I suggest, attract the same disapprobation.

As long as collectors treat archaeological artefacts as works of art and remain willing to pay large sums of money to have private ownership of them, looting will be the inevitable consequence. Laws alone are not enough, without practical application they are meaningless. At present the political will to enforce these laws strictly appears to be largely absent in the countries with the most collectors. Tighter import controls are required, as are increased policing and a campaign to create a public awareness that private ownership of unprovenanced antiquities is unacceptable.

In September 2001, the Bush administration began talking up a war with Iraq, leading to the invasion which commenced on 20 March 2003. On 10 April 2003, the Iraqi National Museum in Baghdad was entered, and the looting commenced. During the period that followed, archaeological sites were looted, occupied, damaged and/or destroyed. The United States left Iraq on 18 December 2011.

The Iraqi National Museum was not the only museum looted – it was one of many. It was however the most significant Museum in the country, with unique holdings which traced the rise of civilization. As a result, it was the one upon which archaeologists and other concerned persons had focussed in their

dealings with the United States and United Kingdom governments. It is beyond the scope of this dissertation to deal with all the museums and important national institutions that were looted, just as it is beyond the scope of this dissertation to deal with every damaged and/or destroyed archaeological site in Iraq.

1.   RESEARCH QUESTIONS

The aim of this dissertation is to answer the following research questions:

- Is the cultural property of Iraq important and has it/can it contribute to the acquisition of knowledge? Has the looting, damage, and/or destruction of the archaeological sites caused permanent damage to Iraqi cultural property, and has it resulted in the permanent loss of knowledge?
- Did the actions of the United States contribute to the looting and/or damage to Iraqi cultural property? Was the looting and damage to archaeological sites foreseeable, was there a duty upon the United States to take steps to prevent it, and, if so, did the United States take appropriate action? If not, was its failure factually and/or legally excusable? If it is found that the United States is culpable, can and should the United States be held accountable for its actions?
- What efforts have been made to recover the looted antiquities, and/or to restore the Museum and archaeological sites?

2.   HYPOTHESIS

This dissertation is about the cultural property of Iraq: its existence, its importance, its destruction, and the consequences of its loss. It will also consider how and why cultural property was destroyed, with specific reference to the political and legal context in which the invasion and occupation took place.

In an effort to investigate and answer the research questions, it is necessary to examine the ancient culture of the country as well as the context in which these events occurred. Accordingly, in addition to the cultural importance of the country and the contribution to knowledge that archaeological discoveries in the country have made, the political background against which the invasion took place, and which subsequently prevailed during the subsequent occupation of the country, must also be considered and

evaluated. One also cannot overlook the law, for the obligation of the United States to comply with international law is an important factor in considering its obligations and culpability.

This dissertation will examine the importance of Iraq, the impact of the invasion on the cultural property of that country,[4] and in particular the looting of the Iraqi National Museum in Baghdad and the archaeological sites situate across the country. In so doing, the author will question whether the United States had a legal obligation to protect the cultural property of the country it invaded, and whether it discharged that obligation. The author will further examine the role, if any, which the United States played in the looting, damage and/or destruction of the cultural property in that country, and further whether the law failed cultural property in this instance.

The author will seek to establish whether the American-led invasion of Iraq, illegal and based purely upon self-interest, resulted in the cultural devastation of that country, and a loss of knowledge from which we may never recover.

3   METHODOLOGY

In deciding upon the appropriate methodology for this dissertation, it was necessary to establish whether a quantitative or qualitative approach should be followed. As indicated by Fitzpatrick, Secrist & Wright (1998:22), a qualitative approach "assumes multiple constructions of reality, or no single truth. It is a systematic, empirical strategy...for answering questions about people in a bounded social context" (Fitzpatrick *et al* 1998:23). A quantitative approach is more suited to a dissertation which seeks to "look at the measureable effects of a treatment or to look at attributes, differences, or change over a period of time given some baseline data" (Fitzpatrick *et al* 1998:23).

The nature of this dissertation requires that a qualitative, rather than a quantitative approach be adopted. This dissertation will seek to establish certain facts by taking into account the viewpoints of many different players who, in the sources that will be considered and discussed, all present a sequence of events either based upon their own experience, or upon their own investigations.

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[4] There appears to be a perception that by focusing upon cultural property the suffering of the Iraqi people is either condoned or trivialized. This is not the case. The unlawful invasion of Iraq by Coalition forces, while the rest of the world stood by, which resulted in the deaths of hundreds of thousands of Iraqis is something for which we all share moral responsibility. Their deaths have shamed us all, particularly since the suffering of those who lived through and survived the invasion and occupation continues. The fact that no action has yet been taken against those countries who invaded Iraq is inexcusable.

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It is already factually established that American-led Coalition forces invaded Iraq, that the Museum was looted, and that archaeological sites have been looted and suffered damage. It is the purpose of this dissertation to explain why it matters; that Iraq has cultural property of great value which has already greatly contributed to the advancement of the knowledge of mankind, and had the ability to continue to do so. The dissertation will also seek to establish how and why the property was looted, damaged or destroyed, by "attempting to understand observed realities, patterns, commonalities and/or themes in what people do, say, and report as their experience"– which is the essence of qualitative research (Fitzpatrick *et al* 1998:22).

4.   SOURCES

These sources, once consulted and considered, will enable the author to provide a coherent account of whether Iraqi cultural property was worthy and legally deserving of protection, whether the importance and risk to this cultural property was brought to the attention of the relevant governments prior to and during the relevant period, whether it received such protection, whether it should legally have received such protection, the reasons for such failure, if so, and the consequences of this failure.

In its investigation, the dissertation will adopt a holistic approach, examining the views of those involved in the events covered by this dissertation. Secondary sources, such as specialised books and articles written on aspects of the issues will be considered, and tertiary sources, such as dictionaries, encyclopaedias and internet articles will also be consulted and discussed.

4.1   ARCHAEOLOGICAL SOURCES

These sources are consulted in order to set the stage. It all starts with archaeology, which provides us with accurate information on the many ancient cultures buried in the sands of Iraq. These sources are used to establish that Iraq has, within its borders, cultural property of great importance. Archaeological discoveries have provided us with the artefacts from which scholars have brought balance to ancient textual sources, revealed forgotten civilizations such as the Sumerians, and mapped the rise of mankind to civilization with its diverse cultures, technological discoveries and innovations.

It is also these sources that provide information on the devastation to the cultural property of Iraq, and the resultant restricted ability to learn from damaged and/or destroyed sites.

Archaeological sources are therefore consulted in order to provide accurate information on the existence and destruction – the before and after. The reports of field archaeologists are supplemented by those who specialise in translation and interpretation, and who are able to interpret and tease meaning from these artefacts.

The primary sources considered are the records and/or reports of archaeologists who have excavated Mesopotamian sites located in Iraq, as well as those of archaeologists and other experts who have, subsequent to the invasion and during the occupation, travelled to Iraq and have investigated the state of the archaeological sites there. The prognosis of these experts for the future of excavations in Iraq is recorded.

Secondary and tertiary sources, in the form of dictionaries, encyclopaedias and specialised books, which record and discuss the early excavations within the borders of modern Iraq, are consulted as are the archaeological discoveries which are recorded, analysed and discussed by experts in these fields.

4.2   POLITICAL SOURCES

When news of the looting broke, many asked how this could have happened. As Rothfield (2009:2) points out:

> ...the museum's looting raised serious questions about the commitment of Iraq's liberators to the values of civilization. America's enemies had done better in similar situations: Russian communist revolutionaries had secured the Hermitage; the Iranian revolutionaries in 1979 had recognized that the full of the shah's regime created an atmosphere of chaos that posed a threat to Tehran's museums and sent students with guns to guard them even Saddam, on the first day of the Iraqi occupation of Kuwait in 1900, had posted guards in front of the Kuwait National Museum to prevent looting. Yet the United States and its allies had failed to take similar steps. (Rothfield 2009:2)

This dissertation will examine the political context in which the invasion and the looting took place, for it is the belief of the author that the political context may have had an influence upon the decisions taken prior to, during and after the invasion, which in turn may have negatively impacted upon Iraq's cultural property. The sources will also be considered when evaluating whether the destruction was avoidable, and whether a different political approach might have had a less damaging effect upon the cultural property of Iraq.

Although primary sources, in the form of statements made by political figures, government departments and military officials are consulted, most of the sources relied upon are secondary and tertiary, in the form of books, interviews and newspaper articles.

4.3   TEXTUAL SOURCES

Textual sources are consulted for a number of reasons:

- To supplement and provide information on the value and importance of archaeological discoveries made within the borders of Iraq, and the knowledge that has been gleaned in consequence;
- To provide information on the efforts made by scholars, archaeologists, groups, organisations, interested parties and members of the international community to alert the American and British authorities to the dangers of looting;
- To provide information on the foreseeability of looting based upon the experiences of the First Gulf War and other factors;
- To provide information on the sequence of events during and after the attack on Baghdad and their effect upon the National Museum of Baghdad;
- To provide information on the occupation of Iraq by the Coalition forces, and the impact that their decisions had upon Iraqi cultural property.

The primary sources used are those of scholars, archaeologists, collectors and witnesses who were involved in the process, as well as the reports of journalists and an army tank commander, who were in Baghdad at the time, and who have written of their personal experiences.

The dissertation will also consider the reports of Colonel Matthew Bogdanos, who conducted an official investigation into the looting of the Iraqi National Museum in Baghdad on behalf of the United States.

Other secondary and tertiary sources consulted provide the general background and context of the events leading up to the invasion and what happened thereafter. The books and articles also deal with primary sources and the authors of many of these books and articles have placed their own interpretation of events based upon these facts. These views are considered and discussed.

Newspaper reports and articles on the internet, which deal with events which took place in Iraq as well as the efforts to assist in the recovery and reconstruction of that nation's cultural heritage, are also taken into account.

4.4   LEGAL SOURCES

In order to establish whether the United States had a legal obligation to protect Iraqi cultural property and whether it discharged this obligation, it is necessary to consult international treaties and United Nations Resolutions. Accordingly the Conventions, Regulations and Resolutions passed by the United Nations and its subsidiaries are consulted and discussed in light of the facts. In addition, the opinions of specialists in international law, contained in books and articles, are examined and applied.

The dissertation will consider a number of research papers and unpublished dissertations written upon the invasion and occupation of Iraq and upon the obligation of the United States as an occupying force to protect archaeological sites, as well as the legality of their military occupation of such sites.
International law is also consulted in order to establish whether the actions of the United States gave rise to legal culpability, and the likelihood of prosecution in the event that such culpability exists.

5.   OUTLINE

Chapter 1 sets the tone of the dissertation and introduces the topic. It establishes what the dissertation will address, and the methods that will be followed in order to achieve this aim. It also introduces the reader to the nature of the sources that will be used in order to address the research questions and to arrive at the conclusions which follow in the final chapter.

Chapter 2 will consider the importance of Mesopotamia, which lies largely within the confines of the borders of Iraq, and its unique position in the transition from hunter-gathering to a settled agricultural lifestyle and the development of civilization. The chapter also examines the principal inventions and achievements of the ancient civilizations that inhabited this area, which achievements still resonate within our modern society.

Chapter 3 discusses the political context in which the decision to invade Iraq was made, and whether this decision was based upon self-interest or international obligation. It also reveals the efforts made by scholars, archaeologists and cultural organisations to bring the dangers of looting to the attention of the

relevant government departments, and the governmental assurances that were provided. It also deals with whether the Iraqi National Museum complied with its international obligations to safeguard its cultural property in anticipation of an invasion.

Chapter 4 deals with the taking of Baghdad, the actions which led to the looting of the Museum, and the response and the excuses proffered for the failure to protect the Museum. It will examine the losses suffered by the Museum, and the loss of knowledge occasioned thereby.

Chapter 5 focuses upon archaeological sites, and the damage caused to such sites as Ur, Babylon, and Samarra by military occupation, and the damage caused by looters to such sites as Nimrud, Nineveh, Nippur, Umma, Isin, Hatra. It will consider whether the United States qualified as an occupying power, and whether as such it had an obligation to protect archaeological sites. It will also examine the legality of military occupation of sites. Thereafter it will consider whether knowledge has been lost as a result of the damage and looting of archaeological sites.

Chapter 6 will examine the reactions and responses of governments, public and private bodies as well as individuals to the looting of the Museum and archaeological sites, and consider the impact that these interventions have had. It will evaluate the obstacles to the eradication of looting, and the role that international sanctions and the decisions of the Coalition Provisional Authority played in this regard. It will also consider official Iraqi attitudes and the impact that dealers and collectors of antiquities have had upon the looting of cultural property in Iraq. It will discuss whether the Unites States is culpable for its actions, and the likelihood of any sanction being imposed upon it in such an event.

Chapter 7 analyses the evidence which has been presented in response to the research questions, and draws conclusions from the discussions and assessments of the sources which have been undertaken in the earlier chapters. It will seek to address the questions relating to the destruction of cultural property, the loss of knowledge, the events which gave rise to this destruction and further seek to establish whether it was preventable, whether the law failed Iraqi cultural property, and whether culpability for this destruction exists.

CHAPTER 2

THE IMPORTANCE OF IRAQ

Civilization began in the part of Mesopotamia that lies within the borders of Iraq. It is in this region that certain animals and plants were first domesticated, and the steps towards the building of cities began. It is in Iraq that we find the first villages and towns, the first written language and the first empires. It also to this region that we are indebted for, inter alia, the wheel, irrigation-agriculture, monumental architecture, organized religion, kingship, social stratification, industrial production of goods, large-scale trade, law, administration, cities, schools, epic literature, poetry, medical and mathematical texts, geometry, astrology and astronomy. These innovations had a great influence upon the ancient world, and are still relevant today.

1. INTRODUCTION

Iraq is virtually one large archaeological site.[5] Its importance cannot be over-estimated, for this is where civilization began. Although the earliest inhabitants of the mountain valleys of the Zagros were hunter-gatherers (Crawford 2005:52), some 10 000 years ago small groups began to settle in the foothills of the mountains and upon the plains of an area now known as the Fertile Crescent, where certain wild grains[6] and wild animals occurred naturally (Nissan & Heine 2009:9).

Goats[7] were the first animals to be domesticated,[8] probably around the 7th millennium BCE followed by sheep, pigs and cattle (Reed 1959:1632). By the third millennium BCE, the breeding of cattle was

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[5] The Department of Antiquities has a file of 10 000 sites, but this list is not exhaustive and is comprised only of those that have yielded significant artifacts. Gibson (2003:1848) conservatively estimates that there are probably 25 000 major sites, each of which is surrounded by small towns or villages. Only about 15% of the country has been surveyed, and on each occasion, some 10-50 additional sites have been found within a 10 kilometer radius of the major site. He thus believes it reasonable to assume that there are hundreds of thousands of archaeological sites in Iraq (Gibson 2003:1848).

[6] Some believe that the Fertile Crescent was chosen because it is the only place where emmer wheat, einkorn and two-row hulled barley occur naturally (Roux 1966:43).

[7] Evidence from the remains of campsites indicates that goats played an important role in diet as well as other aspects of daily life. In addition to milk and meat, they provided dung for fuel, tallow for light and medicine, bones for tools, hide for clothing and sinew for ties (Polk 2005:15).

established, and oxen were used for ploughing, threshing and pulling wagons (von Soden 1994:94). The dog was also domesticated during the 7th millennium BCE (Reed 1959:1632), and served to protect both herd and hearth. Donkeys (around 3500 B.C.E), horses (the early second millennium BCE) and camels (the first millennium BCE) followed much later (Crawford 2005:52).

These early subsistence farmers were successful in raising crops of grain, which included barley, wheat, lentils, and peas (Crawford 2005:53).

The changes in lifestyle led to the development of new technologies in tools, baskets and textiles. Although the earliest attempts at pottery are dated to around 8000 BCE in Syria, pottery was produced in Mesopotamia in the sixth millennium BCE (Knapp 1988:277). Pottery had many uses: transportation, storage, food preparation and cooking (Foster & Foster 2009:45). The pottery was soon embellished with designs.[9] Further innovations followed, such as a primitive lathe (Nissan & Heine 2009:34) and the potter's wheel, around 4000 BCE (Knapp 1988:277).

Around 5800 B.C.E, 'Ubaid settlers moved farther south and established villages[10] between the Tigris and Euphrates (Polk 2005:15). In order to provide irrigation for their lands, they dug ditches, built dams and invented an early version of the plough (Polk 2005:15). Early houses were built with bricks made from mud and straw (Polk 2005:16).[11] It is believed that the classic Ionic column finds its origin in the early reed structures of southern Mesopotamia (Knapp 1988:274).[12]

As food surpluses grew from improved agricultural methods, the redistribution of surpluses developed into trade networks which stretched as far as modern Bahrain (Starr 1965:31).

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[8] The domestication of plants and animals is difficult to stipulate with accuracy in light of the fact that there are so few known and excavated sites from the period immediately prior to domestication (Reed 1959:1630). Archaeological evidence indicates that both agricultural and animal domestication in the Near East took place along the Zagros, Lebanese and Palestinian mountains (Reed 1959:1632).

[9] The mid-seventh millennium BCE Hassuna ware of northern Iraq is generally decorated with incised patterns. The later Samarra AND Halaf wares from northern and central Iraq are finer, with decorative patterns that are painted rather than incised. From around 5500 B.C.E the pottery portrays animals and people; the interiors of bowls often depict stylized horned animals. The Halaf pottery from the mid-sixth millennium is the first known polychrome ware, and features geometric designs in red, black and white (Foster & Foster 2009:10).

[10] The earliest known 'Ubaid community is Tell al 'Ouelli, near Larsa, which dates to around 5800 BCE (Fagan 2004:361).

[11] Later, during the fourth millennium BCE, the Babylonians invented air-dried and burned bricks (von Soden 1994:113).

[12] This fluted column is drawn from the bundles of tall reeds tied together to form a building post. These building posts are still used by Marsh Arabs in southern Iraq (Knapp 1988:274).

Evidence of shrines and small temples has been found in early settlements from around 4500 BCE (Crawford 2005:59). The temples, such as that in Eridu first erected around 4750 BCE, indicate that builders already possessed a considerable knowledge of practical mathematics and engineering (Crawford 2005:59).

Around this time, the Sumerians[13] began to exploit the marshes, cultivating and artificially pollinating the date palm (Roux 1992:9). The importance of the marshes was reflected in the motifs they portrayed on their cylinder seals, which depict elaborate reed huts and reed bundles (Kuhrt 1995:19).

The ancient city of Uruk, established between 4600 and 3800 BCE, was built around a *ziqqurat* or tiered tower, and it is believed that it is in this city that this structure, which became ubiquitous throughout Mesopotamia, originated (Roux 1966:70). By 3500 BCE, life in Uruk revolved around the temple, which employed hundreds of specialised craftsmen (Fagan 2004:361). Cylinder seals from this period reflect animals, aspects of daily life or mythological subjects, and provide information on daily life and occupations - depicting the massacre of prisoners (war), cattle walking in herds or gathered in pens (domestication), cattle being attacked by lions (presence of lion in the area, and the problems faced by farmers), and religious ceremonies conducted by priests (the existence of a priesthood and their employment in rituals) (Roux 1966:72).

By 3000 BCE, household sewage was being carried through an elaborate system of clay pipes directly into the watercourses (Kriwaczek 2010:82). Unfortunately, this engineering feat had an obvious disadvantage – the watercourses became unsafe to drink, leading to another great invention: beer. Sterilized through its alcohol content, beer became the safest drink. There were a number of varieties brewed to different strengths. In ancient Sumer a portion of the servants' wages was paid in beer (Kriwaczek 2010:83).

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[13]There are various theories as to the origins of the Sumerians. Although Woolley (1928:28) believed that they were immigrants who "brought with them from abroad the germs of culture", von Soden (1994:17) is of the view that they immigrated from the east. However, Roux (1966:48) rejects the idea that Sumerian civilization was "imported ready-made into Mesopotamia from some unknown country at some ill-defined date", preferring the view that it was "a mixed product shaped by the mould into which its components were poured over many years." In support of his view, Roux (1966:67) points to the lack of a clear break between the 'Ubaid and Uruk cultures and the absence of any evidence of invasion or destruction. Foster & Foster (2009:16) support his view based upon a lack of a visible break in the material culture. Kuhrt (1995:23) is of a similar view, asserting that there is no "persuasive evidence" that the Sumerians immigrated into the area at a particular time or that they were ever the only ethnic group in the area. She believes that they probably lived together with other groups in the region from early times. Crawford is of the view that this civilization was made up of disparate people of "different linguistic and geographic origins", the majority of whom spoke Sumerian (Crawford 2004:214).

2   ACHIEVEMENTS

Although Sumerian culture is renowned for three particular achievements: *ziqqurats*, cylinder seals and the cuneiform script, which was used for over 3 000 years, there are other achievements as well: the plough, the wheel, certain metallurgical techniques, aspects of mathematics and engineering, writing and legal codes.

In his book, Kramer lists some 39 Sumerian 'firsts'. Among others, he lists the first bicameral congress (Kramer 1981:30), the first legal precedent (Kramer 1981:56), the first pharmacopoeia (Kramer 1981:60), the first 'farmer's almanac' (Kramer 1981:65) and the first cosmogony and cosmology (Kramer 1981:75). He also provides evidence of the first fables (Kramer 1981:124), proverbs and sayings (Kramer 1981:116), as well as other firsts which can be traced to numerous biblical (Kramer 1981:141), mythological (Kramer 1981:168) and literary borrowings (Kramer 1981:181) and parallels.

2.1   WRITING

Although the date when cuneiform was first used is unknown, the earliest known pictographic inscriptions date to the first quarter of the third millennium BCE and were found mostly in Erech and near Jemdet Nasr (Kramer 1975:58.3).[14] Some 400 tablets, which bear archaic signs, the forerunner of Sumerian, from the second quarter of the third millennium BCE, were excavated mostly at Ur (Kramer 1975:58.3).[15]

Although clay counting stones, which had objects and symbols scratched upon them and were placed inside clay envelopes or *bulla*, had already been in use for hundreds of years (Knapp 1988:54), they had proved inadequate. The principal drawback of the *bulla* was that they concealed their contents, which could only be verified by their destruction (Knapp 1988:55). To overcome this difficulty, tradesmen began to impress the clay surface with the number and rough shape of the tokens inside. These were found at Uruk[16] and wherever its influence was felt (Cooper 2004:74). Numerico-ideographic tablets[17]

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[14] Fourteen recent carbon dates have placed its origins between 3400 and 3300 BCE (Biggs 2005:106).

[15] Many of the tablets state the occupation of the individuals named in the tablets, and provide the first indication of the existing social hierarchy and labour specialization (Kramer 1975:58.5).

[16] The earliest known clay tablets were found in "temple contexts" in Uruk (Trigger 2003:588).

were however only found at Uruk and Susiana. At the end of the Late Uruk period (ca. 3200 BCE), tablets reflect complex numerical entries and hundreds of different signs (Cooper 2004:74).

It was only during the Early Dynastic period that attempts were made to record speech. However, grammatical elements that were considered unnecessary or obvious to Sumerian speakers from context were omitted (Trigger 2003:588). Trigger (2003:588) is of the view that a fully developed written language was probably created in order to assist those who spoke Akkadian at a time when Sumerian was dying out as a spoken language. Over time, the curved lines were straightened (Cooper 2004:85), the directions and lengths of the wedge-shaped marks became more standard and more abstract (Trigger 2003:590), with no visual link to what they represent (Cooper 2004:86). The number of signs used was also reduced (Trigger 2003:591).

It took 600-800 years for the marks to develop into a script which could record language (Trigger 2003:596). Royal inscriptions first appear ca. 2700 BCE, letters ca. 2400 BCE and literature almost a century later (Cooper 2004:83). The last known cuneiform text dates to 75 ACE (Biggs 2005:119).

2.2   SCHOOLS AND SCRIBES

The idea that it was possible to capture a language by means of writing traveled along the trade routes to the west and east, and soon schools were established. Basic literacy was more widespread in Mesopotamia than in any other civilization (Trigger 2003:596). Although evidence of the first schools has been found in the Sumerian city of Erech, it was during the latter half of the third millennium BCE that the Sumerian school system became more established (Kramer 1981:3).[18]

The scribes that emerged from these schools formed the first bureaucracy (Polk 2005:22); their skills were initially employed to record inventories, administrative and commercial transactions.[19] It was only as time progressed that these skills were put to more political and creative uses,

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[17] These consisted of "simple numerical notations" with "the inclusion of one, at most two of a group of ideograms, common to both regions, which represent discrete objects", and are considered to be the "missing link between numerical notations...and the mixed notations of numerical signs and ideograms which mark the inception of proto-cuneiform" (Cooper 2004:74).

[18] The student population generally came from wealthy families; it appears that the poorer sections of the population were excluded through financial and time constraints (Kramer 1981:5).

[19] By the old Babylonian period many merchants were literate (Trigger 2003:596).

enabling kings to record triumphs and to compose literature and poetry (Fagan 2004:364). Their records have provided us with information on the economic and social organization of contemporary society, as well as the hopes, desires, laments, aspirations, mythology and religion of its components.

It was during the Ur III period, often called the "Sumerian Renaissance" that the Uruk epics, such as the Epic of Gilgamesh, were rendered in the classic Sumerian form (Kuhrt 1995:59).[20] The Babylonian Epic of Creation dates to the fifteenth century BCE (Kuhrt 1995:338). The Babylonian use of language and the translation of Sumerian documents resulted in the study of grammar and syntax by the early second millennium BCE, some 1 500 years before the Indian scholar Panini, to whom the introduction of such studies were previously credited (Dalley 1998a:18).

2.3   MATHEMATICS

Trade dictated the need to count and write down numbers, and the arithmetic system was based either on units of 10 or 60. Trade also required the measurement and weighing of items, and the weight used, a talent of 60 minas, remained in use into the Greek era (Starr 1991:36). Practical geometry was employed to measure and divide fields and construct buildings, and enabled architectural innovations such as true arches and vaults (Starr 1991:37).

According to Eleanor Robson (2007:418), Babylonia "has had a well deserved reputation as the home of the world's first 'true' mathematics, in which abstract ideas and techniques were explored and developed with no immediate practical end in mind."

Numeracy predated literacy by several centuries, and counters were used in the early fourth millennium BCE. School mathematic exercises from the Early Dynastic III and Sargonic periods indicate an emphasis upon calculations involving squares, triangles, rectangles and irregular quadrilaterals. By the Sargonic period, the sexagesimal system was already in use (Robson 2007:419).

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[20] Another feature of this was philology, the study of words and language. Kassite philologists examined words and cuneiform signs in order to explain both their meaning and significance (Foster, Foster & Gerstenblith 2005:60).

Tablets also indicate that students were required to learn multiplication tables (Robson 2007:422) and undertake arithmetical calculations (Robson 2007:422). In order to facilitate division, multiplication and the calculation of squares, cubes, square roots[21] and cube roots, multiplication and reciprocal tables were prepared from as early as the Old Babylonian period (about 1800-1600 BCE) (Kriwaczek 2010:193).

A mathematical tablet recording a proof of the Pythagorean Theorem indicates its use in Babylon some 2000 years before the birth of the Greek mathematician to whom it is attributed (Werr 2005:32).

The corpus of mathematical problems addressed by students was comprised of concrete algebra and a form of quantity surveying, with some overlap between the two (Robson 2007:423). Half of the known corpus of Old Babylonian mathematical exercises in geometry or geometric algebra involves problems associated with building works and agricultural requirements, such as the building of earthen walls or the repair of canals (Robson 2007:424). Although the numerical values remained constant throughout these exercises, the parameters varied – the table of Pythagorean numbers was one such parameter (Robson 2007:424).

2.4   RELIGION, ASTROLOGY AND ASTRONOMY

The Sumerians had some 3 600 gods, who attained their power primarily because they were believed to control nature and to be responsible for maintaining order in the universe. Chance played no part in the Mesopotamian worldview. Man formed part of an ordered universe, and since his lot was decreed by the gods it was important to establish what the future held in order to proceed in the most advantageous manner, and to perform the necessary rituals or magic in order to change it, if necessary (Rochberg 2010:26). Divination was not "an expression of fatalism" or "listless resignation", it "concretized the future which could then be furthered or prevented by specific actions" (Maul 2007:363).

As Polk (2005:20) points out, some people claimed to have a gift of prediction and persuaded the community of the existence of an alleged talent, leading to the establishment of a profession upon

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[21] They were able to calculate the square root of 2 with only a very minute error (1.414213 instead of 1.414214) (Roux 1992:363).

which members the community relied to supervise the necessary ceremonies to win and maintain divine favour. So the priesthood was born.

Omens were seen as a channel of communication between man and the gods. The most popular methods of foretelling the future were liver divination[22] and the study of the stars – for the sky was considered to be a mirror image of the earth, and its signs applied universally (Maul 2007:364). Terrestrial signs were of local interest only, unless they occurred in places visited by the king (Maul 2007:364). The reliability of the omens was never doubted, only the powers of individual diviners (Maul 2007:365).

Although their belief in omens was misguided, their belief was based upon a particular worldview. As Kriwaczek (2010:197) points out, they believed that there was "an underlying order and logic to the universe, which careful observation had the power to disclose. Today we call that science."

Created by the gods to serve them, man's destiny was already written. Astronomical phenomena were considered to be "dazzling pictograms, drawn in the sky by the gods to announce their decisions" (Bottéro 2001:190). The first known astrological texts date from the eighteenth century BCE (Bottéro 2001:185). Both Asarhaddon (680-669 BCE) and Assurbanipal (668-627 BCE) provided astrologers with their own observatories so that they could guide the king in his governance (Bottéro 2001:194).

Although Mesopotamian astrology bore little relationship to the astrology of the Greeks - to horoscopes as we know them - astrology was used to predict the future of individuals based upon the moment of their birth. The oldest example of such a 'horoscope' is dated to 401 BCE, preceding Greek examples by over two hundred years (Bottéro 2001:196).

Babylonian cuneiform tablet BM 36746 contains evidence of a number of astrological theories known previously only from later Greek sources (Rochberg-Halton 1984:118).[23] It is a collection of twelve lunar eclipse omens, although only seven are preserved, and uses the names of the zodiacal

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[22] The surface of the liver was seen as a text, which described the human world. The phenomena had to be observed and interpreted, as they often had more than one meaning, through careful consideration of context (Maul 2007:369). A reading could be auspicious, inauspicious or unclear. In some cases, where certain signs were absent from the liver, it was believed that the god was absent and refused to communicate with the diviner (Maul 2007:369).

[23] These are: "1) the trine relationship between the position or sign of the eclipsed moon in the zodiac and the position of a (malefic) planet, either Saturn or Mars; 2) the presence or absence of a (benefic) planet, either Jupiter or Venus, in the moon's sign is also noted; and 3) the system by which each of the four triplicities is associated with one of the four winds and in this way indicates the country affected by the ill portent of the eclipse" (Rochberg-Halton 1984:123).

constellations (Rochberg-Halton 1984:120). It is noteworthy that the 12 signs of the zodiac with their equal 30-degree length had their origin in fifth century BCE Babylonian astronomy, not divination, where they were used to measure the daily/monthly progress of the sun and the planets (Rochberg-Halton 1984:121).[24]

Observers established during the second millennium BCE that movements in the skies were periodic (Pingree 1998:125), and by the first millennium B.C.E mathematical principles were used to predict astronomical phenomena (Pingree 1998:126). Since the instruments available were rudimentary,[25] observation and the careful analysis of the data was essential. Without local skill in mathematics, Babylonian lunar and planetary theory could not have developed as it did (Neugebauer 1945:11). The Babylonians were very skilled in this area, and the calculations of the fifth century BCE Babylonian astronomer, Nabu-rimanni, were more accurate than those of Ptolemy, Copernicus or Kepler before the use of the telescope (Olmstead 1938:123).

The MUL.APIN, which dates from the early seventh century BCE, is the most famous cuneiform astronomical treatise. Written over two clay tablets, it contains detailed observations of lunar, solar, stellar and planetary phenomena, as well as other scientific observations, measurements, and calculations. It also includes predictions of weather and human events, as well as obscure astrological[26] and mythological material (Watson & Horowitz 2011:2).

A precise list of eclipses was kept after 747 BCE, enabling astronomers to predict solstices, equinoxes, lunar and solar eclipses,[27] as well as other phenomena (von Soden 1994:170).

The Babylonians divided the year into 12 months, comprising some 354 days. Occasionally, a 13th month was added to bring the calendar into line with the seasonal calendar (Olmstead 1938:115). For centuries,

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[24] There is a common misconception that astronomy developed from astrology. The evidence from Babylon, Egypt and Greece indicates that astronomy grew from a desire to resolve problems associated with the calendar – seasons, time, and lunar festivals (Neugebauer 1945:14). Olmstead (1938:114) considers Babylonian astronomy to be the ancient near East's most important contribution to "higher intellectual life", and that although astrology contributed to astronomical terminology, it may in fact have hindered its scientific development.

[25] They used the gnomon (a sundial), the clepsydra (a clock which worked through the flow of water) and the polos (an instrument registering the shadow projected by a minute ball suspended over a half-sphere) (Roux 1992:365).

[26] Ancient astrology bears no resemblance to modern horoscopes, it was rather "the study of the impact of the celestial bodies – Moon, Sun, mercury, Venus, Mars, Jupiter, Saturn, the fixed stars and sometimes the lunar nodes – upon the sublunar world" (Rochberg-Halton 1984:116).

[27] The total solar eclipse on 15 June 763 BCE was predicted, and Thales of Miletus used Babylonian observations to predict the solar eclipse on 28 May 585 BCE (von Soden 1994:170).

the difference between the solar and lunar year was arbitrarily resolved by the reigning monarch (Roux 1992:365). However, when it was established by astronomers that 235 lunar months equated to nineteen solar years,[28] the reigning king Nabu-nasir decreed in 747 BCE that seven extra months were to be intercalated in nineteen lunar years. This calendar was standardized between 388 - 367 BCE (Roux 1992:365).

The sexagesimal system led to the division of the hour into 60 minutes, the minute into 60 seconds, and the periphery of the circle into 360 degrees (Neugebauer 1945:12). The Babylonians also divided the day and night into twelve equal parts each. According to Herodotus, the Greeks learned of this, the polos and the gnomon from the Babylonians (van der Waerden 1951:26). The Greeks also employed Babylonian methods to compute planetary positions numerically (van der Waerden 1951:32), and to establish the time by rising zodiacal signs (van der Waerden 1951:34).

2.5   MEDICINE

According to Geller (2007:389), the misconception that Babylonian medicine was "influenced by magic and less rational than its Greek counterpart" arises from a time when there were few published medical texts. The earliest known Sumerian medical text dates from ca. 2100 BCE and was discovered at Nippur (Levey 1955:11). The remedies inscribed on this tablet incorporate botanical, zoological and mineral elements, demonstrating that Sumerian chemical technology was already well advanced in the third millennium BCE (Levey 1955:11). Although the ingredients are specified, the quantities are not (Levey 1955:12). Further, the tablet contains no contains recipes, but no incantations (Geller 2007:389). Numerous letters from court physicians, which make no reference to magic, have been identified in the remains of the Kassite archives at Nippur (Foster *et al* 2005:61).

Bottéro (2001:162) stresses that although there were two different techniques, one for doctors and one for 'magi', both had a therapeutic purpose. It was believed that disease could be caused by either immediate or divine factors - for example, either because the patient was bitten by a dog, or because he had angered the gods (Geller 2007:391). Although medical incantations were addressed to the former

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[28] Around 375 BCE, the Babylonian astronomer Kidinnu calculated the duration of the solar year making an error of only 4 minutes and 32.65 seconds, an error smaller than that made by Oppolzer in 1887 (Roux 1992:365). It is believed that Kidinnu may also have invented System B, the arithmetical method which represents deviations from the mean solar, lunar, and planetary movements. It is still in use today (Dalley 1998b:48).

and magical texts to the latter, both had a psychological dimension. Geller (2007:397) believes that the difference between the two lies in their context and composition. The medical corpus addressed the physical symptoms through the prescription of drugs and potions, the magical incantations were intended to solve other problems, which related more to the patient's anxieties and fears.

According to Bottéro (2001:167), the magi dealt with suffering caused by demons. As with standard medical treatments, there were precise 'recipes' to ward off the suffering imposed by these supernatural forces, but these were accompanied by a ritual or exorcism in terms of which appeals were addressed to the gods to command the demons to desist (Bottéro 2001:169). Bottéro (2001:170) points out that unlike the medical treatments, the recipes had only a 'mystical' relationship with the evils to which they were addressed. Some people preferred to employ both, or go on to the other when one proved ineffective (Bottéro 2001:174). On some occasions, he believes that the two 'contaminated' each other (Bottéro 2001:175). Like Geller, he is of the view that the magical side of medicine was used to address the age old question "Why me?" (Bottéro 2001:182).

Doctors prescribed medicine in many forms – "potions, foods, salves, bandages, poultices, powders, pills, tampons, enemas, suppositories, drops, lotions, insufflations of drugs, inhalations and fumigations" (Böck 2010:116). Böck (2020:127) points out that the techniques employed in these preparations were an exact science, as was the case with the recipes for the manufacture of glass, perfume and beer. Some doctors specialized: reference has been found to an 'eye doctor', and women also practiced medicine (Bottéro 2001:163).

The authors of a recent translation of Babylonian medical texts point out that the success of such treatments lay in the fact that they were the result of hundreds of years of careful experimentation and observation (Yuste & Garrido 2010:80). Indeed, some are still effective: where pus develops between the lungs and chest wall of a pneumonia patient it was and is surgically drained. The instructions to "make an opening in the fourth rib with a flint knife" in order to insert a drainage tube for this purpose remain an appropriate response (Yuste & Garrido 2010:80).

It is obviously difficult to appraise the efficacy of Babylonian treatments where their names for diseases are unfamiliar. However, where the symptoms are described they can be identified. Diseases observed include Parkinson disease, dementia, and chorea, Tourette's syndrome, autism, fainting, coma, narcolepsy, cataplexy and Huntington's, which was recognized as fatal (Yuste & Garrido 2010:80).

Mental disorders, such as paranoia, psychosis, depression, mood swings, anti-social personality and even love-sickness were noted (Yuste & Garrido 2010:81).[29]

The Code of Hammurabi set the fee charged for certain operations and made provision for mutilation or even death in the case of professional negligence (Roux 1994:367). The Code indicates that broken bones were set and surgery was performed (Knapp 1988:275). A legal text from the first half of the second millennium BCE indicates that Caesarean sections were already being performed (Oppenheim 1960: 292). It was also recognised that some diseases are contagious.[30]

JoAnn Scurlock and Burton Anderson, after studying cuneiform medical texts, are of the view that patients in Assyria received more efficacious treatment than did people living in Europe prior to the 19th century ACE (Carraway 2005:1), over 3 500 years later.

2.6   ROYAL INNOVATIONS

Around 2400 BCE a new ruler assumed the throne in Lagash, basing the legitimacy of his rule upon his ability to put an end to the corruption of, and exploitation of the people by the palace and temple. His reforms[31] were based upon morality and justice (Kriwaczek 2010:101).   One cuneiform tablet records the

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[29] Babylonian medicine was documented in two books, each consisting of forty tablets divided into five sections: ominous signs observed on route to treat the patient, symptoms divided into categories dealing with organs, syndromes and diseases, gynaecological and infant diseases (Roux 1994:368). These had an influence on both the Near East and on the Greeks (Nissan & Heine 2009:104). Numerous medical texts were found in the remains of the library at Nineveh, and related texts exist from much earlier periods. These texts fall into two categories: descriptions of symptoms and lists of remedies (von Soden 1994:164). A text from the Neo-Assyrian period lists the names of certain plants, the diseases for which they were prescribed, and the manner of administration (Knapp 1988:275).

[30] This is confirmed in a letter from the King of Mari, who lived around 1780 BCE, to his wife, in which he stated: "I have heard that the lady Nanname has been taken ill. She has many contacts with the people of the palace. She meets many ladies in her house. Now then, give severe orders that no one should drink from the cup where she drinks, no one should sit on the seat where she sits, no one should sleep in the bed where she sleeps. She should no longer meet many ladies in her house. This disease is contagious" (Roux 1994:370).

[31] Urukagina abolished some taxes, and reduced others. He attempted to address inequalities in power by ending the oppression of the poor and freeing those who had fallen into debt. He also freed those falsely accused of crimes (Kriwaczek 2010:102).

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wide-ranging reforms introduced to end numerous oppressive bureaucratic practices, and it is here for the first time that we find mention of the word "freedom" (Kramer 1975:58.5).[32]

Around 2334 BCE, Sargon captured Uruk, Ur, Lagash, Umma and various other cities, appointing himself ruler of both Sumer in the south and Akkad in the north. He was the first ruler to found an empire by the creation of an imperial policy of incorporating disparate territories into one state (UNISA 1999:22).

The appearance of landscapes during the reign of his grandson Naram-Sin was an innovation designed to convey Akkadian might, as they conquered foreign and exotic lands and peoples (Foster & Foster 2009:56).

Ur-Nammu (ca. 2112-2095 BCE) was responsible for the erection of *ziqqurats* (Kriwaczek 2010:155). The best preserved is that in Ur, which gives an impression of lightness in spite of its size. This is attributable to its perfect proportions and to the curvature of its lines; an innovation called *entasis* erroneously attributed to the Greek architects of the Parthenon some two thousand years later (Kriwaczek 2010:155).

During the imperial expansion which took place in the ninth century BCE, Assyrian monarchs boasted of their conquests on their palace walls. The decoration of the halls of the palace complex built by Ashurnasirpal II (883-859 BCE) yielded the first large cycle of epic-narrative reliefs of Neo-Assyrian art (Kuhrt 1995:504).

The annals of these kings, which begin around 1300 BCE, are also considered by some to be the first truly historiographic documents, for in addition to recording geographic and military tactics and campaigns and generalizing about foreign people and their countries, they also analyzed political events and individuals, attributing and criticizing motivation (Knapp 1988:269).

There is evidence that one of these kings, Sennacherib (705-681 BCE), invented the water raising machine now referred to as the Archimedes screw in light of its erroneous attribution to a third-century BCE Greek (Foster & Foster 2009:121). He also built an aqueduct which carried water into his city, a

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[32] Previous monarchs had generally justified their rule by military success, quasi-divine status, or simply imposed it by a rule of terror (Kriwaczek 2010:103).

distance of some 30 kilometers (Knapp 1988:97), and a *qanat* which carried the water underground (Dalley 1998a:28).

His grandson Assurbanipal (668-627 BCE) collected thousands of tablets and writing boards in his palace library at Nineveh. Although Mesopotamian libraries had existed as early as the mid-third millennium BCE, his is the largest ancient library to survive (Foster & Foster 2009:124). Much of our knowledge of Mesopotamian literature is attributable to the discovery of this library.

2.7   LEGAL CODES AND LAW

To the Mesopotamians, law was part of the cosmic order and the gift of the gods. The king was responsible to the gods for maintaining cosmic order, and thus it was to him that the laws were given by the gods (Speiser 1963:537).

The earliest legal code was promulgated by Ur-Nammu,[33] and dealt with both civil and criminal issues (Kriwaczek 2010:148). There was provision for capital punishment in criminal offences such as murder, robbery, deflowering another man's virgin wife, and adultery when committed by a woman. For other offences, a penalty payable in silver was prescribed (Kriwaczek 2010:148).

The laws subsequently passed by Lipit-Ishtar of Isin, who ruled from 1868-1857 BCE, are located on four fragments found at Nippur (Steele 1948:426). Although the prologue is badly damaged, it records that Lipit-Ishtar was selected by Anu and Enlil to "establish justice in the land" and "bring well-being to the Sumerians and Akkadians" (Steele 1948:426). The undamaged portions deal with property, servitude, the royal fief, rights of inheritance, marriage, and penalties for accidents to rented oxen (Steele 1948:430).

During the Amorite period (ca. 2000-1600 BCE), Mesopotamia was divided into two main territories: the southern area of Sumer and Akkad became Babylonia, and the north Assyria.

The first to promulgate laws in Babylonia was Dadusha of Eshnunna who, in 1735 BCE, published sixty paragraphs dealing with trade, construction, family, slaves, injuries and animals (von Soden

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[33]However it appears from a recently discovered tablet that the author was his son, Shulgi (Kuhrt 1995:64). Shulgi was a distinguished ruler: he instituted an accounting system in the temple and palace, rearranged the calendar, standardized weights and measures, and completed the ziqqurat at Ur (Kramer 1975:58.10).

1994:134). The death penalty is prescribed five times, although in two it could only be imposed with the consent of the king. As with earlier Sumerian laws, mutilations, beatings and banishments were not imposed (von Soden 1994:134).

Although a number of legal tablets have been found in Assyria from the time of Tiglath-Pileser (ca. 1114-1076 BCE), only three are capable of decipherment. These laws, dealing with crime, punishment, property and debt, prescribed extremely harsh punishments (Kriwaczek 2010:224).[34] We have no record of whether these punishments were imposed or whether, like the image of savagery that the Akkadians liked to portray, they were intended as a deterrent (Kriwaczek 2010:225).

The code of Hammurabi,[35] king of Babylon from 1792-1750 BCE, is the most famous of all the law codes. Its 282 sections deal with court procedure, property, persons, inheritance, adoption, civil liability, and slavery (Pfeiffer 1920:310). The prologue bears a strong similarity to that of Lipit-Ishtar (Steele 1948:446), as do the closing paragraphs and epilogue (Steele 1948:449).

This is not a law code in the sense that we understand it. Rather than set out a comprehensive set of legal principles, it records instead a list of paradigms and model cases,[36] providing a body of precedent. The criminal provisions differ from its Sumerian antecedents in that rather than impose financial penalties, the *lex talionis* is introduced.[37] The laws also distinguish between social classes (Frymer-Kensky 1980:233).

As many of the provisions contained in these laws were not consistent with contemporary practice (Goetze 1949:116), it has been alleged that they are rather a reflection of legal philosophy than prescribed sentences. However, a study of contemporaneous documents indicates that some were of practical application (Frymer-Kensky 1980:231).

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[34] They also exhibit a prejudice against women. Men could freely divorce their wives and evict them from the home with nothing; wives had no right to divorce their husbands (Kriwaczek 2010:225). Although women were liable for their husbands' debts and punished for their husbands' crimes, it was not reciprocal. Public separation of the genders was strictly enforced. It is in these decrees that we first identify the requirement for women to wear the *hijab* (Kriwaczek 2010:225). The palace decrees went even further, and many can still be found in the beliefs of modern orthodox Jews and Muslims (Kriwaczek 2010:226).

[35] It has been suggested that this is an example of royal self-praise and not a legal code at all. This view considers it an account of the king's earthy accomplishments given to the gods. However, it appears that the labour-wages fixed in the law code were referred to, and supported, in correspondence (Kuhrt 1995:112).

[36] Hammurabi referred to his individual laws as *dinat misarim,* "cases of justice" (von Soden 1994:131).

[37] Frymer-Kensky (1980:233) believes that this innovation could be attributable to West Semitic migration.

Mesopotamian law had a strong influence on neighbouring states, and can be seen in the laws adopted by the Assyrians, Elamites, Mitanni, Ugarits, Hittites, and certain Syrian states such as Alalah (Speiser 1963:539).

An innovative legal practice of the Kassite era was the official public proclamation of land sales between private persons. If no objection was raised by a third party, the transaction became official and was registered in the archives (Knapp 1998:157). Accurate land surveys were included in these documents (Knapp 1998:158).

2.8   OTHER INNOVATIONS[38]

Sumerian innovations include the metal- and wood-tipped plough (Fagan 2004:366), and the *cire perdue* (lost wax) and *repousse* techniques employed in the manufacture of items from bronze and precious metals (Roux 1992:129). The Sumerians also invented the first artificial material, faience,[39] as a substitute for the imported lapis lazuli (Foster & Foster 2009:45). This led to the development of glass and glazed ceramics in the mid-second millennium BCE (Foster & Foster 2009:45).

The earliest use of the cylinder seal[40] dates to the beginning of the second half of the fourth millennium BCE (Collon 1987:13).[41] They were originally rolled across the clay nodules used to seal the locked doors of storerooms and warehouses, as well as packages of goods and the tops of containers. They indicated authority and/or ownership.

These seals reflect the changes taking place within society, and provide both economic and social evidence of their times. Seals were essential for any individual who participated in economic life, and for obvious reasons had to be unique to their owner. With the number of cylinder seals in

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[38] The innovations are far too numerous to deal with in detail here, and go beyond the scope of this dissertation. The author has thus chosen merely to highlight some of them.

[39] This material was created by mixing silicates, colorants and sodium carbonate binding agents, and subjecting the mixture to high temperatures (Foster & Foster 2009:45).

[40] Cylinder seals are small cylinders, made of stone or another hard material, some three to five centimetres long with images, figures of humans, gods, animals or designs engraved *intaglio* on their curved surface (Collon 1987:5). Rolled into soft clay surfaces, they leave a continuous impression in relief (Collon 1987:13).

[41] Although the origin of cylinder seals is unknown, it is believed that they were invented in Uruk, when the stamp seal proved inadequate to meet increasing demands. Collon considers it "scarcely a coincidence" that relief carving is also found on the curved surfaces of stone vessels at this time (Collon 1987:14).

circulation increasing exponentially with increased economic activity, by the mid-third millennium BCE it had become necessary to add the owner's name to the seal (Collon 1987:105). By this time, the wealthy were buying and selling land and sale contracts, the first in history, had to be drawn, signed and witnessed (Foster & Foster 2009:42).[42]

Cities soon had walls (Polk 2005:21)[43] and, as economic success led to wars, cylinder seals began to bear scenes with prisoners of war (Fagan 2004:364). These cities required the implementation of rules in order to avoid and resolve conflict between its inhabitants, and cylinder seals from the Uruk period demonstrate the existence of a system of hierarchy (Collon 1987:15).

2.9   INFLUENCES IN THE ANCIENT WORLD[44]

Evidence of the translation of Babylonian texts has been located in tablets in numerous museums. These tablets have Babylonian cuneiform written on one side, and a Greek transcription with phonetic approximation, on the obverse. The texts comprise lexical lists, syllabaries and literary pieces (Dalley 1998b:41).

Even after the demise of Mesopotamian civilization, which endured for over three thousand years, we still benefit from its legacy. The knowledge which the nations of Mesopotamia passed on to their successors is still found in mathematics, astronomy,[45] astrology, literature, art and iconography.

The influences of Babylon and Assyria upon the Achaemenid monarchy and administration are recognizable in the winged disc,[46] throne and footstool, crown, sceptre, as well as the titles, epithets,

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[42] These documents were unfortunately illegally excavated, and as a result nothing is known of their context (Foster & Foster 2009:42).

[43] From the late second millennium BCE crenellations were commonly employed on palaces, temples, and city walls. This design was so effective in repelling attackers that it became standard across the Near East, and remained in use until the introduction of gunpowder (Dalley 1998a:28).

[44] Such influences are widespread and numerous, and beyond the scope of this dissertation. I shall thus restrict myself to only to dealing with a few of them.

[45] 'Seleukos the Babylonian' claimed that the Sun was the centre of the universe and that tidal movements were affected by the Moon (Dalley 1998b:48).

[46] This emblem of royalty was associated with the national deity (Dalley 1998b:38).

military and ritual duties (Dalley 1998b:38). They adopted the road and courier systems of their predecessors, and continued the practice of allocating fields as a reward for military service. Cyrus decorated his new palace at Pasargadae with reliefs similar to those at Nineveh, a decorative style also employed at Persepolis (Dalley 1998b:38).

Certain Mesopotamian magic and religious rituals, such as purification rites, the burial of foundation deposits beneath a building, the substitute of effigies for intended victims, the use of a scapegoat[47] and divination all found their way to Greece (Dalley & Reyes 1998:100).

Cuneiform dream books, particularly those from Uruk, which provide systematic rules for the interpretation of dreams, were popular, particularly in Rome and Byzantium (Dalley & Reyes 1998b:121). Their influence can also be found in Sigmund Freud's *Interpretation of Dreams* (Dalley & Reyes 1998b:121).

Music theory has its roots in ancient Mesopotamia, for musical scales were used as early as the Old Babylonian period (Knapp 1988:273). By the first millennium BCE, knowledge of music theory and practice had spread across the Levant and to ancient Greece (Knapp 1988:273). The so-called Pythagorean system of tuning was in use and recorded in writing in the Middle Bronze Age, more than a thousand years before his birth (Dalley 1998a:19). No evidence has yet been found to support the claim by Iamblichos that musical proportion was yet another Babylonian discovery incorrectly attributed to Pythagoras (Dalley & Reyes 1998:103).

The Greeks believed that their mathematical knowledge found its origins in Babylonian sources (Dalley & Reyes 1998:103). Cuneiform mathematical texts had already been compiled by 612 BCE, often from much older sources. By the sixth century BCE, Thales and Pythagoras were already aware of the essential elements of Babylonian mathematics (Dalley & Reyes 1998:103). The Greeks also translated Babylonian astronomical tables, and Babylonian astronomy, geometry and metric algebra played an important part in the development of Greek science (Foster & Foster 2009:155).

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[47] Plutarch records that Alexander promoted a gardener, Abdalonymos, to become the Cyprian king of Paphos. Dalley and Reyes believe that this record is based upon a misunderstanding of the Babylonian royal substitution ritual in terms of which a man was appointed as a substitute for the king until danger had passed (Dalley & Reyes 1998b:113). There were benefits for the substitute, for in one instance when the king, Erra-Imitti died, the erstwhile gardener Enlilbani became king (Dalley & Reyes 1998b:113).

The concept of paradise is also believed to have originated in this area (Polk 2005:25). Gardens were a luxury enjoyed by the rich and powerful, referred to by the Persians as places "surrounded by a wall" - *pairi-daeza.* Alexander's Greek soldiers spread this concept abroad (Polk 2005:25).

There are also numerous Mesopotamian elements detectable in the Bible. The number of corresponding motifs between the legend of the flood in the *Epic of Gilgamesh* and that described in *Genesis,* which also took place in Mesopotamia, are so numerous that direct connections are likely (Dalley 1998c:66).[48] Another similarity in *Gilgamesh* and the Bible is the use of a serpent to deprive both Gilgamesh and Adam and Eve of their immortality (Dalley 1998c:66). Other similarities exist between the story of the Tower of Babel in *Genesis* and the Sumerian story *Enmerkar and the Lord of Aratta,* in which everyone worshipped Enlil with one voice until Enki, like Yahweh, introduced diversity and contention into language (Dalley 1998c:67).[49] Polk is of the view that the similarity between Hammurabi receiving the laws from Shamash and Moses receiving the laws from Yahweh is "too striking to miss" (Polk 2005:6).

Legends about Sargon of Akkad, written in cuneiform from at least as early as the second millennium BCE, are ascribed in *Exodus* to Moses, in which the infant was concealed and placed in a basket, and the dreams Joseph interpreted in *Genesis* resemble Sargon's interpretation of the dreams of the king of Kush (Dalley 1998c:68).

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[48] There are a number of similarities between the flood story in the epics of *Atra-hasis* and *Gilgamesh* and that in *Genesis.* Although the *Gilgamesh* epic does not provide reasons for the flood, in *Astra-hasis* the gods wish to silence noisy people, and in *Genesis* God wishes to punish mankind for being evil (Dalley 1998c:66). In both *Gilgamesh* and *Genesis*, the protagonist is warned by Ea/God and given detailed instructions for building a boat which will save the lives of his family and various animals. (There are some differences in the exact measurements of the boat, and the animals saved.) In the Mesopotamian epics the flood lasts for seven days (the biblical flood lasts for forty days according to version J, or a year and ten days according to version P) before the boat runs aground on Mount Nimush (or Mount Ararat in the biblical version) (Dalley 1998c:66). In *Gilgamesh* Ut-napishtim sends out a dove which returns, then a swallow which also returns, and finally a raven which does not. (Noah in the biblical version sent out a raven, a dove, and another dove (which returns with an olive leaf) and finally another dove which did not return). After the Flood, in all three versions the protagonist offers a sacrifice to the gods/God. In the Mesopotamian epics, Ea rebukes Enlil for his injustice in killing all of the people for the evil of some, and suggests in future that minor calamities rather than universal floods would be more appropriate. In *Genesis* God makes this decision unilaterally (Dalley 1998c:66). The close similarities have led to general acceptance that the Mesopotamian epics and the biblical story are connected. Although there are minor differences, the main elements of the earlier versions are all present (Dalley 1998c:66). Other similarities, such as the use of the word for `pitch' "*kopher",* which is used in the ark's construction does not appear elsewhere in the Hebrew Bible, although its Akkadian cognate "*kupru"* is found in the Mesopotamian epics. Further, Dalley (1998c:66) points out that pitch, which occurs naturally in Mesopotamia, is not found in Palestine and such widespread and destructive floods were common in the flat river plains of the former but not in the hills of the latter.

[49] According to *Genesis*, humans settled in the plain of Shinar after the Flood and began to build a city and a tower towards the heavens. The description of the tower, which was built from brick and bitumen, resembles a *ziqqurat* (Dalley 1998c:67).

Hammurabi's individual laws are formulated in the third person in two ways: "If a man does this, that shall be the consequence" and "He that does this, shall endure that consequence." (Dalley 1998c:69) After the laws, the text ends with curses and blessings. Certain groups of laws in the Hebrew Bible are also comparable – in particular the Covenant Code[50] in *Exodus* and the laws in *Deuteronomy* (Dalley 1998c:69).[51] It is here that we have the first reference to touching a sacred object while swearing an oath by a god (Dalley 1998a:19).

In the second millennium BCE, a focus upon moral and ethical dilemmas resulted in the creation of a new literary genre – "wisdom literature", which was popular in both Babylonia and Egypt (Dalley 1998c:74). These stories, dialogues, proverbs and fables dealt with man's earthly relationships as well as his relationships with the gods. Many of these dialogues and proverbs have biblical counterparts (Dalley 1998c:74).

Subsi-mesre-Sakkan, a courtier who served the Kassite king around 1292 BCE recounts his undeserved suffering and his restoration in the favour of Marduk in the *Poem of the Righteous Sufferer* (Dalley 1998c:74). This is probably an adaptation of the Babylonian *Theodicy*, a dialogue between a sufferer and his friend, which was written by Saggilkenam-ubbib, a sage who served Nebuchadnezzar I (1124-1103 BCE). These have been compared with the *Book of Job* (Dalley 1998c:74).

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[50] Dalley (1998c:69) points out that the laws in the Covenant Code are formulated either: 'If you do this, that shall be the consequence' and 'You shall/ shall not do this', or: 'If a man does this, that shall be the consequence' and 'He that does this, shall endure that consequence' (Dalley 1998c:69). Although the penalties varied in the Code of Hammurabi, the section establishing penalties by retaliation is very similar to that in *Exodus*. The principle is the same, and the eye, tooth, and stroke occur in the same order (Dalley 1998c:69).

[51] Like the Code of Hammurabi, the laws in *Deuteronomy* consist of three parts, a declaration setting out the purposes of the laws, a conclusion consisting of a series of curses and blessings, followed by the invocation of heaven and earth as divine witnesses (Dalley 1998c:70) There are also many other similarities between the laws. Sorcery is a capital offence in both (Dalley 1998c:70), and the principles of the biblical levirate marriage, in terms of which a man whose married brother died without leaving children inherited the widow, and had children with her on behalf of his deceased brother, is similar to Middle Assyrian laws written during the fourteenth-twelfth centuries BCE, although it appears that this practice was common in the Near East before the Iron Age (Dalley 1998c:71). In *Leviticus,* reference is made to the jubilee year proclaimed once every fifty years, in terms of which *inter alia* people were released from debt. (The annulment of debt by the early 6th century Greek lawgiver Solon was very similar to the Mesopotamian tradition (Dalley & Reyes 1998:104).) The Hebrew word used for 'liberty' ("*deror*") is found in Babylonian and Assyrian texts dating back to ca. 2000 BCE, although the Sumerian equivalent dates back even further - to Urukagina, king of Lagash (Dalley 1998c:71).

There are also clear influences of Akkadian psalms and prayers of praise and lamentation in Hebrew psalms. *Psalm 51* bears a striking resemblance to Akkadian *su-ila* prayers (Dalley 1998c:75).[52] In Sumerian literature of the late third millennium BCE it was popular to lament the destruction of a city. In its lament over the fall of Jerusalem, the *Book of Lamentations* is similar in both form and expression to its Sumerian forerunner (Dalley 1998c:74).

Many of the hermeneutic techniques, especially Gematria and Notarikon contained in the 'aggadic measures',[53] have been found in Akkadian cuneiform texts written prior to 1000 BCE (Salvesen 1998:157).

The view that the gods had a divine tablet, the Tablet of Destinies, upon which they wrote the destinies for life on earth, was prevalent in Mesopotamia, and is reflected in both the *Epic of Anzu* and the *Epic of Creation* (Dalley 1998d:166). The books of *Enoch* and *Jubilees* also refer to 'heavenly tablets' which include not only laws and a chronicle of contemporary events, but also predictions or revelations for the future. Islam also inherited the concept of a holy tablet, known as the *Book of Fate* (Dalley 1998d:166).

However, it is not only in the Bible that the influence of Mesopotamian literary genres is found. Clear influences have been found in the works of Greek lyric poets and in the animal fables of Aesop and Semonides of Amorgos (Dalley & Reyes 1998:102).

In Sumerian and Babylonian myths a protective mantle of radiance was worn by deities. This was incorporated into the art of the neo-Assyrian empire, where projecting rays encircled the upper body of the deity. It was later adopted in Buddhist, Christian, and Islamic representations (Dalley 1998a:29).

Early Greek poetry carries the influence of Mesopotamian poetry in both form and content. Homeric poetry in particular includes typical Mesopotamian "extended similes, alternation between divine and human settings, the importance of dreams and prophecies, the use of long speeches with formulaic passages, and the humorous portrayal of argumentative gods" (Dalley & Reyes 1998:101).

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[52] There are many similarities. Firstly, the compositions follow the internal order - address, lament, prayer, and thanksgiving. There are literary similarities, where both adopt the same phrasing and imagery. Further, although the Akkadians usually refer to more than one god, the theological ideas in Hebrew and in Akkadian are almost identical (Dalley 1998c:75).

[53] These are a set of thirty-two rules developed by rabbinic scholars in order to ascertain the inner meanings of Scripture (Salvesen 1998:156).

The underlying theme of the *Epic of Atra-hasis* is reflected in the Greek epic *Kypria* in which the gods plot to reduce the human population. The influence of this epic can also be found in the *Iliad,* where Poseidon describes the division of the world among the gods by lot (Dalley & Reyes 1998:101).

Elements of Mesopotamian poetry are also found in *The Works and Days* and the *Theogony* of Hesiod. Just as Sumerian and Babylonian creation myths create a succession of gods born of Sky and Earth, Hesiod's poems have successive divine generations originating from Ouranos and Gaia. In his poem, Hesiod follows a Sumerian and Akkadian literary tradition of instructional poetry by passing on advice on agriculture (Dalley & Reyes 1998:101). It also follows another Mesopotamian tradition, that of identifying appropriate and inappropriate actions for certain days (Dalley & Reyes 1998:102).

These influences have continued in various forms through the centuries. From the ninth to twelfth centuries ACE, Sumerian and Babylonian imagery was extremely popular in the decoration of European churches (Lundquist 1989:74). Sculptured animals such as heraldic animals, griffins, fighting and interlaced animals decorate the architectural features of many Romanesque churches. Lundquist (1989:74) points to the similarity between "the eagles on the silver vase of Entemena, king of Lagash, or the eagle with its claws sunk into the backs of two deer on the relief-carved bronze plaque from Tell al-Ubaid, a similar theme on an early Islamic fabric, and a capital from the eleventh-century Church of Saint-Pierre in Aulnay, in which an eagle sinks its claws into the breasts of two lions."

A number of motifs of Babylonian-Mesopotamian origin survived into post-biblical Judaism and early Christianity. According to Lundquist (1989:74), these include "bulls, eagles, griffins, hares, lions, rosettes, trees, wine and water, serpents, astralism, and the zodiac", and can be identified in Byzantinian, Carolingian and Romanesque art. An eagle grasping two snakes from a third millennium BCE Babylonian seal is reflected in the tenth century *"Combat of the Bird and the Serpent"*, symbolizing Christ's defeat of the devil (Lundquist 1989:74).

Another feature of medieval and Renaissance art is the phenomenon of the "horned Moses," most famous from the Michelangelo sculpture in San Pietro in Vincoli, Rome. The horns on Moses' head in the Aelfric Paraphrase are reminiscent of the horned helmet worn by Naram-Sin on his victory stele; a practice followed by Alexander the Great (Dalley 1998b:39). There was a Mesopotamian tradition of investing divinity or divine influence with horns (Lundquist 1989:75).

3.   CONCLUSION

Mesopotamia is commonly referred to as the "cradle of civilization", for it is here that the transition from hunter gathering to farming took place. It is within the borders of Iraq that man took the first steps towards a written language, social stratification and organised religion,[54] the building of towns and cities, and large-scale trade.[55] The entire country has been described as one large archaeological site, of which only a small fraction has been excavated.

Until the advent of scientific archaeology, information on Mesopotamia was derived from the histories of Herodotus, Josephus and the Bible, and Western culture was believed to have originated in Classical Greece during the eighth century BCE Now we know better. From excavations in Mesopotamia we have learned much of our common culture, and the innovations of these early nations continue to influence us today. Indeed, their discoveries in many areas, including mathematics, science, medicine and architecture, are still in use. Their literature and poetry have enriched our lives and shown that dreams and aspirations have always been with us, as has the desire to understand the workings of the world and the universe around us.

As a result of these excavations, we have access to a wide range of documents and other archaeological data. Although we are obliged to rely on archaeological investigation for periods where no written documents exist, it is important even where such sources do exist. Few people in ancient societies were literate, and as scribes reflected the views of the nobility their writings often contain, reflect and perpetuate royal/official ideology and propaganda, and are subject to political and religious bias and prejudice. The study of archaeological finds enables scholars to examine remains and artefacts from all strata of ancient society, and to acquire insight into the beliefs and worldviews of the entire population, providing the information necessary to address the bias and to supplement official views.   The information from both can also supplement each other.[56]

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[54] A 6 000 year old temple unearthed at Abu Shahrein is the oldest known religious structure. Stone Age skeletons found in Shanidar Cave, in northern Iraq, provide the earliest evidence of ritual burial (El Guindi 1991:747).

[55] Clay tablets indicate that purchasing on an instalment plan was already known in 2500 BCE (El Guindi 1991:747).

[56] According to Herodotus, there was great altar upon which sheep were sacrificed, as well as another upon which "sucklings" were sacrificed. During his excavations Woolley found evidence of a small altar only large enough for small offerings, but no larger altar. There was however a drain which ran past the front of the altar and across the sacred area. He is of the view that looking at the area, and bearing Herodotus' description in mind, the larger altar likely stood where the drain comes to the surface,

Although the excavations have provided us with an abundance of material relating to the early cultures of the region, the search for knowledge is ongoing. Although excavated material has enabled scholars to establish a chronology in Mesopotamia from 2400 BCE, the period prior to that remains imprecise. Our knowledge does not cover all periods and all areas, and there are many periods and regions for which we have little information. Further scientific excavation is critical to fill these lacunae.

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for it would be appropriate for the blood from the sacrifice to run across the holy area between the altar and the congregation (Woolley 1923:330).

CHAPTER 3

PREPARING THE INVASION

The United States' decision to invade Iraq in the absence of a resolution from the United Nation was illegal. The United States received warnings from every possible quarter of the risk to cultural property in the event of an invasion – and concerns relating to the looting of the Iraqi National Museum and archaeological sites were specifically mentioned. In light of the fact that the relevant sections of the 1954 Hague Convention have achieved the status of customary law, the United States had a legal obligation to protect Iraqi cultural property. Iraq complied with its obligations, and took all reasonable steps to protect the Museum's holdings.

In order to understand why the cultural property of Iraq was so devastated, it is important to understand the rationale for the war and whether serious consideration was given to the cultural property of Iraq, and whether, regardless of this, the devastation was inevitable. It is also necessary to consider whether the law could have prevented such an invasion, for this in itself would have an effect upon the cultural property of the invaded country. This introductory chapter will address these issues, and will also consider whether there was concern for Iraq's cultural property prior to the war, and whether efforts were made to ensure its protection.

1. THE POLITICAL AGENDA

There were many accusations levelled against Saddam Hussein in the years following the 1991 Gulf War – "contacts with terrorists, involvement in the attack on the World Trade Centre, master-minding the 9/11 terrorist attack in New York, attempting to acquire nuclear weapons by the purchase of centrifuge tubes and "yellow cake" (uranium oxide), all of which proved to be untrue" (Polk 2005:162).[57] On 12 September 2001, James Woolsey, Clinton's first CIA director, stated that

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[57] One of the charges was that Iraqi intelligence services had tried to kill President Bush (senior) during a visit to Kuwait in April 1993 (Polk 2005:162). This was used by the Clinton administration to justify a missile attack on the headquarters of the Iraqi intelligence agency in Baghdad (Polk 2005:167). In 1996 Hussein assisted the KDP, at their request, in their war

no matter who was responsible for the attack on 9/11, Saddam Hussein had to be removed as he was likely to be involved in the next attack. On 13 September 2001, military planners were instructed to draw plans for an assault upon Iraq (quoted in Fallows 2004:3).

Supported by President George W Bush, Vice President Dick Cheney and Secretary of Defence Donald Rumsfeld, the "neo-conservatives" in Washington orchestrated a campaign to persuade the American public that Iraq possessed nuclear and other weapons of mass destruction[58] and posed a serious threat to the nation (Polk 2005:167).[59] Following the attacks on 11 September 2001, they encouraged the belief that Iraq, together with al-Qaida,[60] bore responsibility (Polk 2005:167).[61]

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against another group of Kurds, the National Accord, who were working with the CIA. In pursuance of this request, Iraqi troops retook seized areas and arrested or killed many members of the National Accord in September 1996. Thereafter, the Iraqi troops withdrew. In retaliation, the Clinton administration unilaterally extended the "no-fly" zone and launched a missile attack upon the south (an area not involved in the Kurdish strife). These actions drew strong international condemnation (Polk 2005:166).

In August 1998, the United Nations Special Commission (UNSCOM) was forced to leave Iraq when it was discovered that it was being used for covert activities by the CIA, MI6, and the Mossad. Although unable to deny this, the United States and United Kingdom brazenly used UNSCOM's removal from the country as the justification for launching a bombing campaign against Iraq (Polk 2005:164).

In her evidence to the Chilcot enquiry, Dame Eliza Manningham-Buller, the director-general of MI5 during 2002-2007, testified that Iraq did not present a threat to the United Kingdom. She further testified that MI5 had warned that an invasion was likely to increase the domestic threat and distract from the pursuit of al-Qaeda (quoted in Sky News, 29 August 2011).

[58] During the Iran/Iraq war, the United States had supplied Iraq with both arms and satellite images of Iranian military dispositions (Polk 2005:131). They had also supplied, directly or indirectly, "conventional capons, cluster bombs, anthrax, and other biological weapons materials as well as components for nuclear weapons and equipment to manufacture poison gas" (Polk 2005:132).

[59] After the 11 September 2001 attacks, the Deputy Secretary of Defence, Paul Wolfowitz announced that US foreign policy would focus on "ending states that sponsor terrorism." Iraq was labelled a terrorist state (Baker, Ismael & Ismael 2010:3). It is difficult to believe that this was not part of a long term strategy for years earlier, Wolfowitz, then the Undersecretary of Defence for Policy, and other neo-conservatives had condemned President Bush senior's decision to spare the Hussein regime after the 1991 Gulf War as a lost opportunity to effect change in the Middle East (Baker *et al* 2010:9). In 1992, Wolfowitz and Lewis Libby drafted a document, later rewritten by the erstwhile Secretary of Defence, Dick Cheney, "Defense Planning Guidance", which argued that the primary objective of US strategy should be to safeguard American hegemony over vital resources. Iraq, with the second largest deposit of oil, was considered an obstacle to American "access to vital raw materials, primarily Persian Gulf oil" (quoted in Baker *et al* 2010:9). A document drafted in 2000 by the neo-conservative Project for a New American Century, of which Dick Cheney was an active member, and endorsed by Wolfowitz, *Rebuilding America's Defenses: Strategy, Forces and Resources for a New Century* confirmed the vital importance of the Persian Gulf region, and called for a permanent US presence there (Baker *et al* 2010:10). Shortly before the 9/11 attacks, Donald Rumsfeld stated that the replacement of the Ba'ath regime with a pro-American government "would change everything in the region and beyond it. It would demonstrate what US policy is all about" (quoted in Baker *et al* 2010:10).

[60] A report by US Senator Carl Levin, dated 21 October 2004, found

> ...that in the case of Iraq's relationship with al Qaeda, intelligence was exaggerated to support Administration policy aims primarily by the Feith policy office, which was determined to find a strong connection between Iraq and al Qaeda, rather than by the IC [Intelligence Community], which was consistently dubious of such a connection. In order to present a public case that heightened the sense of threat from Iraq, Administration officials

In spite of the fact that Iraq denied such possession and the United Nations Monitoring, Verifications and Inspection Commission was unable to locate any,[62] the Bush Administration placed pressure upon American intelligence agencies to certify to the contrary (Polk 2005:168).[63] The Administration had set its mind on war: in March 2002, Bush stated that the United States would invade Iraq even if Hussein and his supporters left the country (Chomsky 2003:141). Iraq was aware of this: when in February 2003 Polk asked Deputy Prime Minister Tariq Aziz what Iraq might do to prevent the war, he was informed that "America has long since decided to attack Iraq and nothing Iraq could do would prevent it" (quoted in Polk 2005:169).[64] The Iraqi government unsuccessfully tried to prevent the attack even as Coalition forces assembled in Saudi Arabia, Kuwait, Qatar, and Turkey. They suggested that several thousand American troops or FBI agents search the country to prove that the alleged weapons of mass destruction or delivery vehicles did not exist (Polk 2005:168).

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reflected more closely the analysis of Under Secretary Feith's policy office rather than the more cautious analysis of the IC (Levin 2004:2).

[61] Although all these allegations were proved wrong, the campaign had the desired effect. Soon around 60% of the American public believed that Hussein was an "immediate threat to the US" and had to be removed in the interests of national self-defence. By March almost half of the American public believed that Hussein had been involved in the 9/11 attacks, and even that some of the hijackers had been Iraqi (Chomsky 2003:18). This was described by Anatol Lieven, a political analyst, as "a propaganda campaign which for systematic mendacity has few parallels in peacetime democracies"(quoted in Chomsky 2003:19).

[62] Led by Hans Blix, former head of the International Atomic Energy Administration, UNMOVIC commenced its investigation in November 2002. On 12 February 2003 Blix advised the Security Council that they had found no weapons of mass destruction or related proscribed items and programmes, "only a small number of empty chemical munitions, which should have been declared and destroyed." (UNMOVIC found 18 chemical artillery shells produced prior to 1990. None were dangerous: 16 were empty, and 2 were filled with water (Joyner 2008:64; BBC News 14 February 2003)). In June 2003 the Iraq Survey Group took over, and for the next year around 1300 inspectors scoured Iraq, searching for evidence of weapons of mass destruction and weapon storage sites. In spite of this, and after reading thousands of documents, no corroboration for US allegations was found (Joyner 2008:64). This was confirmed by the arms inspector appointed by the Bush administration, Charles Duelfer, who concluded in his report dated 13 October 2004, that "Saddam Hussein did not produce or possess any weapons of mass destruction for more than a decade before the U.S.-led invasion" (quoted in Polk 2005:168). In spite of this, a third of the American public believed that US forces had located them, and over 20% actually believed that they had been used during the war (Chomsky 2003:19).

[63] When it became clear that the State Department's Bureau of Intelligence and Research, the CIA, and the Defence Intelligence Agency would not comply, the Neo-Conservatives established an agency called the "Office of Special Plans" to do so (Polk 2005:168).

[64] In his book, *A World Transformed,* Bush recalls that: "I turned on the TV and we anxiously waited as 6:30 came and went. Finally, an anchor cut in and reported that the Iraqis had announced they would comply with Resolution 660, including the withdrawal from Kuwait. Instead of feeling exhilarated, my heart sank" (quoted in Polk 2005:152).

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2 LEGAL REQUIREMENT FOR A UNITED NATIONS RESOLUTION

When it became apparent that a United Nations resolution in favour of the invasion would not be supported, the United States and United Kingdom withdrew it: it was preferable not to have a resolution than to have one that had been vetoed.[65] Legal minds then weighed in to manipulate existing Resolutions to justify the invasion.

The United Nations Security Council passed many resolutions after Iraq's invasion of Kuwait in 1990, one of the most relevant being Resolution 678, passed on 29 November 1990. This Resolution authorized member states co-operating with Kuwait to "use all necessary means" to implement Resolution 660 and all subsequent resolutions, and "to restore international peace and security in the area."

On 3 April 1991, the Security Council passed Resolution 687 which, in paragraph 33, would bring into effect a formal ceasefire "between Iraq and Kuwait and the member States co-operating with Kuwait in accordance with resolution 678 (1990)" upon Iraq's notification of its acceptance of the provisions of the Resolution.[66] Such notification was given by Iraq and the ceasefire came into effect. Of significance is that, in paragraph 34 of the Resolution, the Security Council decided "to remain seized of the matter and to take such further steps as may be required for the implementation of the present resolution and to secure peace and security in the area."

On 8 November 2002, the Security Council passed Resolution 1441 in which it decided, *inter alia*, that Iraq was in material breach of its obligations under Resolution 687 and called upon Iraq to confirm, within seven days, that it would comply. It also requested a report from the United Nations Monitoring, Verifications and Inspection Commission, stating that it would reconvene upon receipt thereof "to consider the situation and the need for full compliance with all of the relevant Council resolutions in order to secure international peace and security." Again, it decided to remain seized of the matter.

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[65] In seeking support for their resolution, the US adopted a "with us" or "against us" attitude; there were to be benefits for the former, punishments for the latter. According to Chomsky, senior US officials asked members of the Security Council to "urge leaders to vote with the United States on Iraq or risk 'paying a heavy price'" (quoted in Chomsky 2003:35). When Mexican diplomats replied that their people were overwhelmingly opposed to war, their stance was dismissed as ridiculous. Colin Powell made it clear that supporters would benefit from handouts. When at a news conference Ari Fleischer later denied that Bush was offering handouts for votes, assembled journalists burst into laughter (Chomsky 2003:35).

[66] The Resolution dealt with Iraq's threat to use weapons in violation of its obligations in terms of The Geneva Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare and its prior use of chemical weapons. It also imposed upon Iraq certain obligations in regard thereto, including disarmament and inspections.

The authority granted "to restore international peace and security" in Resolution 678 became the lodestone of apologists for the invasion. William Taft argues that since Iraq had materially breached its obligations to disarm, the authorisation granted in Resolution 678 was revived and force could be used to compel Iraq to comply with its obligations (Aldridge 2003:23). Australia's justification for joining the coalition was based upon this rationale (Charlesworth 2003:3).[67]

Such authority has never before been used as a justification for separate military actions in over a decade – in this case, two separate invasions with an intervening 12 year period of peace. David Joyner (2008:75) argues that if such an extended authority were to be accepted, all states once the subject of such a resolution would forever be "sitting ducks". Their rights derived from Article 2(4) of the United Nations Charter (prohibition against the use of force) would be revoked forever by a single Security Council resolution – an unconscionable situation.

Apologists also argue that as only a 'formal cease fire' was in place, the conflict was not definitively finished. David Wingfield (2003:39) refers to a sentence in the preamble to Resolution 686, which speaks of "the suspension of offensive combat operations" and argues that the authority was therefore not set aside. This argument cannot be sustained. Not only because the preamble is not an operative part of the Resolution, but because it also affirms the commitment of all Member States to the independence, sovereignty and territorial integrity of Iraq and notes the intention expressed by the Member States to bring their military presence in Iraq to an end as soon as possible, consistent with achieving the objectives of the resolution. In the operative section, the resolution states that during the period given to Iraq to comply with operative paragraphs 2 and 3 of the resolution, paragraph 2 of resolution 678 remains valid i.e. the right to use necessary force. However, once Iraq implemented its acceptance of the specified 12 resolutions and took the required action, this authority ceased to be valid. Iraq did so: *ipso facto* the authority to use force was terminated.

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[67] Ruth Wedgewood, professor of international law at Johns Hopkins School of Advanced International Studies and a Bush administration advisor, supports this view, stating that: "When the general conditions of a cease-fire (destruction of WMD) ceases to be observed, it seems to me that in every real sense... the cease fire is suspended." (quoted in Aldridge 2003:24). However, there is no provision in Resolution 687 for suspension of the ceasefire. Further, in article 5 of the Resolution, the Security Council specifically records its decision to remain seized of the matter, a clear indication that any future action against Iraq required its participation.

In support of her argument that Resolution 678 (to expel Iraq from Kuwait) authorizes force for Resolution 687 (demanding Iraq's disarmament), Wedgewood argues that: "Teeth are also supplied by Resolution 678, authorizing the allies to expel Iraq from Kuwait and to use force in support of all 'subsequent relevant resolutions' needed to restore regional peace and security." (quoted in Aldridge 2003:24) However, although article 1 of the Resolution "*Demands* that Iraq comply fully with resolution 660 (1990) and all subsequent relevant resolutions..", in the preamble it sets out the resolutions which Resolution 678 seeks to recall and reaffirm, namely resolutions 660, 661, 662, 664, 665, 666, 667, 669, 670, 674 and 677. It was not open-ended.

Wingfield (2003:40) also proffers an alternative argument based upon Resolution 1441, which in paragraph 13 recalls that the Council has repeatedly warned Iraq that it would face "serious consequences" in the event that it continued to violate its obligations. This, he argues, provided the Coalition forces with the authority it required by recalling in effect the earlier resolution. He argues that by passing this resolution the Security Council "wanted to ensure that no one could argue that the legal effect of its previous resolutions had lapsed through lack of deliberate action to enforce them" (Wingfield 2003:40).

This argument takes the word "recalling" out of context, and attempts to attribute to it a meaning clearly not apposite when read in context. This is supported by Paragraph 12, which "decides" that the Council will reconvene upon receipt of the report in order "to consider the situation and the need for full compliance with all of the relevant Council resolutions in order to secure international peace and security." This is followed by paragraph 13 which "Recalls, in this context,.." that Iraq has been warned that it will face serious consequences, and paragraph 14 in which the Council "decides" to remain seized of the matter. Wingfield's argument cannot be sustained.

The argument that Resolution 1441 provided authorization for the war ignores the fact that, during preliminary discussions, the United States and United Kingdom had sought to include in that resolution an authorization for the use of force in the event that Iraq failed to comply with its obligations – something which they had to abandon when faced with strong opposition from Russia, China and France. These countries later issued a joint statement in which they stressed that "Resolution 1441 (2002) adopted today by the Security Council excludes any automaticity in the use of force" (quoted in Shiner 2003:42.) The Syrian Ambassador stated that:

> Syria voted in favour of the Resolution, having received assurances from its sponsors, the United States of America and the United Kingdom, and from France and Russia through high-level contacts, that it would not be used for a pretext for striking against Iraq and does not constitute a basis for any automatic strikes against Iraq. The Resolution should not be interpreted, through certain paragraphs, as authorising any state to use force. It reaffirms the central role of the Security Council in addressing all phases of the Iraqi issue (quoted in Shiner 2003:42).

It is thus clear that the Ambassadors from both the United States and the United Kingdom[68] knew and accepted that there was no implied authorisation (Shiner 2003:30). Thus any efforts to justify the war upon the basis of these Resolutions must fail.

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[68] Jeremy Greenstock, the Ambassador from the United Kingdom, stated:

> We heard loud and clear during the negotiations the concerns about 'automaticity' and 'hidden triggers' - the concern that on a decision so crucial we should not rush into military action; that on a decision so crucial any Iraqi violations should be discussed by the Council. Let me be equally clear in response, as a co-sponsor with the

3.   EFFORTS MADE TO PROTECT IRAQI CULTURAL PROPERTY PRIOR TO THE WAR

3.1   EFFORTS MADE BY INDIVIDUALS AND ORGANISAIONS

In November 2002, shortly after the passing of Resolution 1441 warning Iraq of "serious consequences" in the event that it did not disarm, UNESCO's director-general, Koichi Matsuura, sent a letter to Kofi Annan, then Secretary-General of the United Nations, in which he drew Annan's attention to the wealth of Iraq's cultural heritage, pointing out that it was a cradle of humanity (Rothfield 2009:67). Academics and scholars also warned the Pentagon of the dangers to Iraq's cultural heritage posed by looting and destruction. It had, after all, taken place during and after the Gulf War in 1991.[69]

At the request of Ashton Hawkins, president of the American Council for Cultural Policy,[70] Arthur Houghton, the vice president, began in May 2002 to investigate the nature of the discussions taking place between the American government and the archaeological and cultural heritage community on the issue (Rothfield 2009:26). He discovered that the State Department had convened working groups of Iraqi exiles to develop plans for post-war Iraq. This, The Future of Iraq Project, was comprised of disparate groups of exiles, none of whom were experts in cultural heritage and none of whom considered culture to be a priority (Rothfield 2009:27).[71] However, in their report they warned that "the period immediately after regime change might offer... criminals the opportunity to engage in acts of killing, plunder and looting" (quoted in Rieff 2004:25). Rend Rahim Francke, one of the exiles who was involved in the Project and who subsequently became the ambassador from Iraq to the United States, stated that after the first day of

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United States of the text we have adopted. There is no 'automaticity' in this resolution. If there is a further Iraqi breach of its disarmament obligations, the matter will return to the Council for a discussion as required in operational paragraph 12. We would expect the Security Council then to meet its responsibilities (quoted in Shiner 2003:30).

[69] During the invasion of Kuwait, Iraqi officials moved the holdings of the Kuwait Museum to Baghdad for safekeeping. In order to make space for these artefacts, some 150 000 objects from the Iraq Museum were distributed to regional museums. In the anti-Saddam uprisings that followed the 1991 Gulf War, nine of the thirteen regional museums were looted and some 4 800 artefacts were looted (Forsyth 2004:82). Only around 54 have been recovered (Brodie 2006:206)

[70] The ACCP was founded in 2002 to promote the interests of collectors and dealers. It is committed to the idea that the "legitimate dispersal of cultural material through the market is one of the best ways to protect it." They lobby to relax laws that restrict their ability to collect antiquities. Laws, such as those in Iraq which prohibit the export of antiquities, they condemn as "retentionist". Not surprisingly, they are constantly at loggerheads with the archaeological community (Rothfield 2009:43).

[71] McGuire Gibson recalls that when the issue of culture was raised at a meeting, "the Iraqis said, `Nah, nah we don't need anything on culture, we don't. What are you going to do, try and save the Iraq Symphony Orchestra?" (quoted in Rothfield 2009:28).

fighting: " [T]he system of public security will break down, because there will be no functioning police force, no civil service, no justice system" (quoted in Fallows 2004:8).

A further difficulty lay in the fact that planning was distributed across and within agencies.[72] None appeared to be working together, and none considered cultural property a priority (Rothfield 2009:27).

In late August 2002, the Office of Stability Operations, led by Joseph Collins, began work on the post-war reconstruction of Iraq (Rothfield 2009:39). This office provided information to the Pentagon's Defence Intelligence Agency (Rothfield 2008:10). In either late December 2002 or early January 2003, the Defence Intelligence Agency contacted Hawkins and requested the American Council for Cultural Policy to provide information on cultural and archaeological sites in Iraq (Rothfield 2009:49).[73] The Defence Intelligence Agency requested a meeting on 24 January to discuss the protection of sites, monuments, and museums from damage during combat operations (Rothfield 2009:56).

The Archaeological Institute of America was already compiling a list of the most important sites at the request of the State Department's Bureau of Educational and Cultural Affairs (Rothfield 2009:49). In January 2003, the Institute sent a letter to the Pentagon pointing out that

> [I]t should also be recognized that following the 1991 Gulf War, archaeological sites and museums in Iraq were looted on a large scale, with stolen antiquities appearing on the art markets in Western Europe and the United States. We therefore call upon the appropriate governments to take reasonable actions to prevent such looting in the aftermath of war..." (quoted in Rothfield 2009: 48).

The letter went unanswered.

Hawkins was also requested by the Deputy Under Secretary of Defence, William Luti, to supply information on cultural sites to be avoided (Rothfield 2009:51). At the same time, McGuire Gibson of the University of Chicago's Oriental Institute was requested by Colonel Gary Wager of Civil Affairs to provide a similar list (Rothfield 2009:52). Gibson offered to provide the Pentagon with the location of over 4 000 sites examined by archaeologists from the Oriental Institute so that they could be placed on a "no-strike" list. At the request of the White House, Gibson also supplied a list of 150 well-known sites

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[72] Planning was taking place in at least three different places: the State Department, the military, and the Pentagon. In the Pentagon, William Luti, the senior aide to Douglas Feith, the undersecretary of defence for policy, wanted to create a cadre of lightly armed Iraqis to serve as "scouts, advisers, and experts on civil affairs" (Rothfield 2009:35). When it became clear that these troops would not be ready in time, Secretary of Defence Donald Rumsfeld suggested that Muslim nations be approached to guard Iraq's religious sites. As Rothfield (2009:35) points out, the inherent problems which lay in the fact that the proposed Muslim nations were Sunni, and the religious shrines mostly Shi'ite, did not occur to him.

[73] That they chose the ACCP, who have no expertise in this area, over the Archaeological Institute of America (AIA) who do, is inexplicable.

and standing monuments, and another list of over 100 Islamic buildings (Gibson 2008a:15). At that stage the official concern was with bombing, not looting: all efforts were focused on avoiding cultural sites (Rothfield 2009:48).

Houghton contacted Gibson, who joined two meetings held between the American Council for Cultural Policy and the Pentagon in January and February 2003. He was the only archaeologist; the others were collectors or lawyers. He believed, however, that he had no chance of meeting with the Defence Department without the American Council for Cultural Policy (Rothfield 2009:50).

Houghton also arranged a meeting at the State Department for the afternoon of 24 January, which was to be chaired by Ryan Crocker,[74] the deputy assistant Secretary of State in the Bureau of Near Eastern Affairs, on the basis that "it is also important to discuss related longer-range matters, including the creation of an appropriate mechanism that could strengthen measures to protect and preserve Iraq's important villages and cultural monuments" (quoted in Rothfield 2009:52).[75]

At the meeting with the Pentagon, only Gibson saw looting as a serious threat (Rothfield 2009:56). Although given only one or two minutes to make his point, Gibson states: "I told them that when Baghdad was taken, if they did not secure the bridges over the Army Canal, the poor people in what is now called Sadr City would come over and loot everything that could be moved. I made a special point of mentioning the museum and the sites" (quoted in Rothfield 2009:57).

There is a material discrepancy in the memoranda arising from the meeting. One indicates that Collins responded to Gibson's warning about the threat of looting by Iraqis by referring only to the threat of looting by coalition forces. Houghton's memorandum[76] differs, and provides corroboration for the belief held by both Gibson[77] and the American Council for Cultural Policy[78] that the Pentagon

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[74] On 21 November 2002, Gibson sent a letter to Crocker advising him of the danger posed to archaeological sites. He requested that special attention be paid to Iraq Museum for: "Even if the museum survives bombing, in the chaos of war it will probably suffer major looting" (quoted in Rothfield 2009:47).

[75] The AACP did not use these meetings to lobby for a change in laws regarding the antiquities trade, nor did they suggest that the National Museum be left unguarded as has been asserted by some of their opponents. According to Gibson, they "didn't press the retentionism stuff. They kept saying that they just wanted to help." However, in a pre-war interview, Pearlstein, a lawyer for the AACP stated that they supported "a sensible post-Saddam cultural administration", which would allow the export of some artefacts: "If we can get the Defence Department to listen when it comes to targeting, and influence conservation of cultural heritage, then that's a pretty good start"(quoted in Elich 2004:5).

[76] Gibson was criticised by some of his colleagues who opposed the invasion. They believed that any assistance to the military could be construed as support for the invasion, and even as active assistance to the military forces (Rothfield 2009:59).

[77] When the Pentagon officials advised Gibson that they were aware of the Museum, he took this to mean that: "it would not only not be bombed, but that it would be secured." He conceded later that he was mistaken (Gibson 2008:39).

had agreed to take the necessary steps to protect the museum and sites from looting by Iraqis (Rothfield 2009:58).

At the State Department meeting, Ryan Crocker ordered that a working group tasked with culture in the Future of Iraq Project be formed (Rothfield 2009:60). This working group,[79] convened weeks later, wished to place guards at all museums and at as many archaeological sites as possible (Rothfield 2009:61), but produced no report (Rothfield 2009:62).[80]

In January 2003, UNESCO sent a letter to the United States and United Kingdom observers to UNESCO reminding them of the provisions of the 1954 Hague Convention. UNESCO also reminded them that Iraq is one of the most culturally rich countries in the Middle East, and pointed to the importance of the Museum in Bagdad (Bouchenaki 2008:212). In response, the observer of the United States requested information on Iraq's cultural heritage, and a list of the most significant sites, including the Museum, was provided. Nothing further was heard (Bouchenaki 2008:212).

After the American Council for Cultural Policy's meeting at the Pentagon, the American Institute for Archaeology contacted Lt Col John Moran of the Joint Chiefs of Staff's office in late January 2003 in an attempt to arrange a similar meeting (Rothfield 2009:66). Although Moran initially rebuffed their efforts, pointing out that after the meeting with the American Council for Cultural Policy they had all the information they required, he agreed to raise the issue with General Garner (Rothfield 2009:66). Nothing however transpired.

In February, Gibson was contacted by a newly formed joint task force appointed to deal with post-combat stabilization. Operating from Kuwait, Lt Col Kraig Kenworthy requested a list of sites and experts in the field (Rothfield 2009:71).

The World Heritage Organisation also provided the American army with information on the location of Iraq's archaeological sites and museums, together with the sites on the World Heritage List. Mounir Bouchenaki, head of the World Heritage Organisation stated that: "We have received many assurances by

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[78] Houghton later stated: "They listened, they said 'yes'" (quoted in Rothfield 2009:58).

[79] The committee included Gibson, Iraqi archaeologist Lamia al-Gailani Werr, legal scholar Faisal Istrabadi, and three Iraqi Americans (Rothfield 2009:61).

[80] It would have made no difference even if they had, since none of the recommendations in the reports were implemented.

the US delegation that they have taken into account all the information we have provided on the museums and sites" (quoted in El-Aref 2003).

The Society for American Archaeology wrote to Rumsfeld requesting "that occupying military forces make every possible effort to comply with the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict and the 1999 Second Protocol and protect Iraq's unique and priceless cultural heritage housed in museums, cultural institutions, and archaeological sites" (quoted in Rothfield 2009:68). The letter also expressed concern about looting, pointing out that: "After the 1991 Gulf War there was widespread looting of museums and archaeological sites." They requested that units be established to protect Iraq's cultural heritage and to ensure that no looting occurred during occupation (Rothfield 2009:68).

The Defence Department's General Counsel's Office replied on 18 March 2003, stating that the

> Department of Defence recognizes the unique cultural history within Iraq and shares your concerns that this history be protected. As you are aware, the United States is not a party to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict or the 1999 Second Hague Protocol. U.S. armed forces, however, conduct all their operations in accordance with the law of armed conflict, including those provisions of the 1954 Convention and 1999 Protocol that reflect customary international law.
>
> Contingency plans for Iraq (in the event Coalition action is necessary) specifically address providing assistance to any future government of Iraq to establish protections for Iraq's cultural property. Likewise, during military operations, Coalition forces will operate in accordance with the law of armed conflict and will take the requisite measures to protect Iraq's cultural and historical sites (quoted in Rothfield 2008a:17).

The American Institute for Archaeology sent the Pentagon a "Declaration on the Protection of Iraq's Cultural Heritage", and forwarded to the Department of Defence a "Declaration on the Protection of Iraq's Cultural Heritage", signed by almost 100 archaeologists and various international archaeological organizations (Rothfield 2009:69).

On 6 March 2003, the International Council on Monuments and Sites issued a statement calling all governments to act in the spirit of the international conventions protecting cultural property (Rothfield 2009:68), a plea reiterated by the International Committee of the Blue Shield on 19 March 2003[81] when it urged that "in the case of looting of cultural property, detailed plans by trained experts should be prepared

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[81] Linked to the United Nations, the International Committee of the Blue Shield is an organization that focuses on cultural heritage protection in militarized situations. However, their involvement was unlikely to have been accepted by the United States. After the First Gulf War, their many requests to enter Iraq to assess the impact of the war upon cultural sites were vetoed by the United States (Rothfield 2009:32).

for the repatriation or restitution of the property concerned, with the involvement of Iraqi scholars and heritage professionals" (quoted in Rothfield 2009:70).

Following severe criticism levelled against the Office of Reconstruction and Humanitarian Assistance, it was announced that the issue of post-war Iraq would be dealt with by the military and that the Office of Reconstruction and Humanitarian Assistance would be responsible only for emergency humanitarian aid (Rothfield 2009:63).[82] However, as General Franks wanted nothing to do with peace operations,[83] it remained the Office of Reconstruction and Humanitarian Assistance's responsibility (Rothfield 2009:63).

Army Lt Gen Jay Garner, who was responsible for overseeing the initial phase of occupation, appointed Ambassador John Limbert, a man with no expertise in Iraqi archaeology, peacekeeping, or the protection of museums or sites, to deal with the cultural sector three weeks before the war (Rothfield 2008a:16). He was instructed to assist the incumbent Iraqi Ministry of Culture for a period of sixty days, after which the United States intended to return control to the Iraqis. When Limbert asked for information on the Ministry and where it was located, he was told to find out for himself. He was provided with no information at all (Rothfield 2008a:16).

On 18 March 2003, Gibson sent a memorandum through to Larry Hanauer, Garner's personal special assistant, reiterating his concerns about sites and museums, stating: "The National Museum in Baghdad and the regional museum in Mosul, as well as well-known sites such as Ur, Babylon, Nineveh, Nimrud and Ashur, need immediate security provided by U.S. military personnel to protect them from looting and other destruction." No response was received (Rothfield 2009:67).

On 26 March 2003, the Office of Reconstruction and Humanitarian Assistance sent a memorandum to military commanders pointing out that the National Museum "contains literally thousands of priceless historical objects" which "will be a prime target for looters" who "should be arrested/detained" (quoted in Rothfield 2009:78). It went on to state: "Coalition forces must secure these facilities in order to prevent looting and the resulting irreparable loss of cultural treasures." The memorandum went unread (Rothfield 2009:78).

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[82] The NGOs that attended meetings at USAID also complained that they heard nothing back from government departments. Joel Charney of Refugees International stated: "The people in front of us were very well-meaning. And in fairness, they were on such a short leash. But the dialogue was one-way. We would tell them stuff, and they would nod and say, Everything's under control. To me it was like the old four-corners offense in basketball. They were just there to dribble out the clock but be able to say they'd consulted with us" (quoted in Fallows 2004:11).

[83]His actual comment was: "I don't have time for this fucking bullshit" (quoted in Rothfield 2009:35).

There were also a number of articles in the press warning of looting. A report in *The Independent* on 12 January 2003 addressed the risk to Iraqi cultural property in the event of an invasion. On 8 March 2003, an article in the *International Herald Tribune* stated that "archaeological sites in the area urgently require armed protection if a conflict is to break out" (quoted in Fisk 2003:53). On 23 March 2003, the American forces' internal newspaper, *Stars and Stripes*, carried Gibson's concerns, making reference to the looting that had followed the 1991 Gulf War and mentioning a number of the priceless artefacts held by in the Iraq Museum in Baghdad (Fisk 2003:53).

Although British archaeologists possessed something which their American counterparts lacked - a voice in government - their efforts also bore little fruit. Colin Renfrew, Lord Renfrew of Kaimsthorn, is an eminent scholar of prehistoric cultures in the Near East, who sits in the House of Lords and leads an All-Party Parliamentary Archaeology Group together with a member of the House of Commons, Tam Dalyell (Rothfield 2009:53). On 27 December 2002, the All-Party Parliamentary Archaeology Group forwarded a memorandum prepared by Harriet Crawford, President of the British School of Archaeology in Iraq, setting out the risks to Iraq's cultural heritage in the event of an invasion to Edward Chaplin, the head of the Middle East Department at the Foreign Office (Rothfield 2009:53).

In the absence of a response, the Group forwarded the memorandum to Prime Minister Tony Blair on 11 February 2003. The covering letter specifically stipulated that Iraq's archaeological sites were "vulnerable to looting in the event of civil disorder" (quoted in Rothfield 2009:53). Since no response was received, on 24 February 2003 Renfrew submitted a question for written answer requesting what "measures [the Government] plan to implement, in the event of military intervention in Iraq, to prevent the looting of archaeological sites and museums, and to safeguard the rich historic, archaeological and cultural heritage of Iraq" (quoted in Stone 2008b:73).

In response, Lord Bach, the Minister for Defence Procurement, stated that "very careful attention" was being paid to ensure that "we minimise the risk of damage from any quarter to civilian populations and infrastructure, including sites of historic, archaeological, and cultural heritage" (quoted in Stone 2008b:73).

In the House of Commons, the Prime Minister stated that the Government was fully committed to the protection of cultural property, and recognised its obligations to protect sites under the Geneva Conventions. He stated that "we will do everything we can to make sure that sites of cultural or religious significance are properly and fully protected" (quoted in Stone 2008b:73).

Considering this response too vague, Renfrew pressed for more detail. He was advised on 24 March 2003 that the commencement of the war made this impossible. Not to be deterred, Renfrew asked whether the vulnerability of sites to looting had been recognized (Rothfield 2009:53).

In the absence of a response, Renfrew followed this up with Blair on 2 April 2003, copying his letter to the heads of the relevant departments including Tessa Jowell, the head of the Department for Culture, Media and Sport. In the copy to Jowell, Renfrew pointed out that in spite of his warnings, no specific plans had yet been made to safeguard archaeological sites in Iraq (Rothfield 2009:54). On the floor of the House of Lords he asked "Has any detailed guidance been given?" Bach responded that the military forces had a list of cultural property, would not attack cultural sites, were observing the relevant Geneva Conventions, and would deal seriously with indiscipline by forces from the United Kingdom (Rothfield 2009:54).

On 2 February 2003, Peter Stone was approached by the Ministry of Defence requesting that he obtain site coordinates from archaeologists (Rothfield 2009:54). He approached Neil Brodie, a specialist on the illicit antiquities trade, and Roger Matthews, a director of the British School of Archaeology in Iraq. The Ministry of Defence was warned of the likelihood of looting at museums (Rothfield 2009:54), and on 2 April 2003 the Ministry assured Stone that the United States' operational plans included information on how to avoid damage to archaeological sites (Stone 2008b:76).[84]

On 13 February, the Council for British Archaeology wrote to the Ministry of Defence emphasising the need to protect cultural assets both during and after the conflict. It asked the government to commit itself to compliance with the provisions of the 1954 Hague Convention, and to urge the United States government to do likewise (Lambrick 2003:1). Lewis Moonie, the under-secretary of defence, responded on 20th March 2003, pointing out that although they would abide by international law, ratification of The Hague Convention required legislation. However, he stated that arrangements had been made to avoid

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[84] Renfrew, Crawford and the BSAI were unaware of the ministry's approach to Stone, and when Renfrew learned of it after the looting, he was scathing. He informed Jowell that:

> I am not aware of any individuals with specialist knowledge of Iraqi antiquities currently at the University of Newcastle, nor have I been able to identify which specialist at University College, London, was involved in such consultations. When the history of these unfortunate events comes to be written, these matters will perhaps be clarified, and the lack of any direct consultations between government representatives and the officials of the British School of Archaeology in Iraq who had taken a number of steps to contact them may be explained (quoted in Rothfield 2009:55).

However, neither Jowell nor her department had been consulted by the government (Rothfield 2009:55).

damage by military action. The Council for British Archaeology sought clarification on these unspecified arrangements, but without success (Lambrick 2003:1).

The British Museum was not consulted by the Ministry of Defence, although John Curtis was requested to provide a list of sites by the United States Defence Department. He was reluctant to do so, on the basis that Iraq is a "vast archaeological site", and was concerned that highlighting some would place others at risk (Curtis 2008:201). Instead, on 28 February 2003, he wrote a joint[85] letter to Geoff Hoon, the Minister of Defence, warning of the risk to Iraqi cultural heritage in the event of military action:

> In the event of war there will inevitably be some damage (to the Iraqi cultural heritage) and it is imperative that the occupying powers should act swiftly to minimise and repair this damage. Amongst the urgent tasks will be repairs to standing monuments, prevention of looting at archaeological sites, conservation of objects in museums, and suppression of the illicit trade in antiquities and works of art (Curtis 2008:202).

He offered assistance in accomplishing these objectives. In response, the Ministry of Defence assured him that they "will do all we can to minimise the risk of damage to all civilian sites and infrastructure" (Curtis 2008:202).

3.2   EFFORTS BY THE IRAQI NATIONAL MUSEUM IN BAGHDAD

With the escalation of tension in early 2003, Museum staff received orders from the Ministry of Culture to assemble teams to defend the Iraqi National Museum complex (Rothfield 2009:73). These teams were sub-divided into groups for first aid, fire prevention and control, messengers, and one group was specifically tasked to defend the Museum compound. Everyone at the Museum, including the female director, Dr. Nawala al-Mutawalli, was given a uniform and an AK-47 (Rothfield 2009:73).

Since the Museum is located across the street from a telecommunications centre that was bombed in 1991, Museum staff dug two shelters for the guards on the front lawn (Rothfield 2009:73). The guards were informed that their duty was to protect the Museum in the event of an attack by the inhabitants.

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[85] The letter was written together with Professor Robert Springborg of the London Middle East Institute of the School of Oriental and African Studies (Curtis 2008:202).

Any efforts to protect the Museum from the Americans were considered "impossible" (Rothfield 2009:74).

In 1991, Museum staff had moved most of the gold and jewellery to the underground vaults of the Central Bank, where they remained. This included the jewellery from the Royal Family Collection, the treasures from Ur, and the golden bull's head of the Golden Harp of Ur (Youkhanna & Gibson 2008:29).

Prior to the 2003 war, the Museum's ancient books, Islamic manuscripts and scrolls were placed in a bomb shelter in Western Baghdad, together with the most important Museum records, such as the central registers (Paroff 2004:2024; Gawron 2010:15). A group of five people were instructed to dismantle and hide portable objects from the public galleries in a secret location. They swore an oath on the Qur'an not to reveal the hiding place (Gawron 2010:15). Another 8 366 artefacts, mostly from the public galleries, were hidden in an air raid shelter (Rothfield 2009:73). [86]

The State Board of Antiquities and Heritage also made certain other decisions, which were intended to protect Iraqi cultural property:

- All portable objects in Mosul, Babylon, and Hatra and some objects from provincial museums were transferred to the Iraq Museum;
- Sandbags and foam were used to protect some of the large immovable objects, such as the Assyrian reliefs;
- The shelving in the Antiquities Library was welded closed to protect the books and journals;
- Windows and doors were blocked with concrete blocks, and the steel doors of storerooms and doors were closed and locked (Youkhanna & Gibson 2008:29).

According to al-Mutawalli, efforts were made to deaden shocks "by covering the floor of the museum with sand and by encasing the masterpieces in sandbags." Donny George's suggestion that all outer doors be sealed was rejected. Instead, a partial barrier was erected at the Museum's front entrance (Youkhanna & Gibson 2008:30). "UNESCO" was also painted on the rooftops of the museums in Baghdad (Elich 2004:2).

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[86] Donny George Youkhanna, whose friendship with foreigners made him suspect to some of his colleagues, was not informed (Rothfield 2009:73).

Prior to the invasion, William Polk, a scholar on the Middle East, went to Baghdad to try to convince Museum officials to ship the Museum's holdings to a safer location. Aside from the logistical problems,[87] this was impossible in the time available and in the prevailing political climate (Rothfield 2009:77; Youkhanna & Gibson 2008:28).

4.   IS THERE A LEGAL OBLIGATION TO PROTECT CULTURAL PROPERTY DURING WAR?

Although there were efforts to ensure that the American and British governments committed themselves to the protection of cultural property during and after the war, the question is whether there was a legal obligation on the invading forces to do so.

Efforts to develop laws to protect cultural property have a long history. The provisions of the Brussels Declaration[88] formed the basis of the 1899 Regulations which were annexed to the Convention concerning the Laws and Customs of War on Land adopted at the First Hague Peace Conference (O'Keefe 2006:22). These rules were revised in 1907, and the Regulations concerning the Laws and Customs of War on Land ("The Hague Rules") were annexed to the 1907 Hague Convention (O'Keefe 2006:23).

The Hague Rules prohibit the destruction or seizure of enemy property (article 23(g)) (O'Keefe 2006:23), and the attack or bombardment of undefended towns, villages, dwellings or buildings (article 25) except in the case of military necessity (O'Keefe 2006:23). However, even in sieges and bombardments all necessary steps are to "be taken to spare, as far as possible, buildings dedicated to religion, art, science, or charitable purposes, [and] historic monuments, ... provided they are not being used at the time for military purposes" (article 27) (O'Keefe 2006:24). Pillage was prohibited both during the capture of the territory and during occupation (articles 28 and 47) (O'Keefe 2006:30, 33).

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[87] No resources were available from the international community as a result of UN sanctions, which prevented any direct financial assistance to Iraq (Rothfield 2009:74).

[88] The1874 Draft International Regulations on the Laws and Customs of War (the Brussels Declaration), was an intergovernmental codification of the laws of war, but was not binding (O'Keefe 2006:18). It prohibited pillage and the destruction of enemy property not 'imperatively demanded by the necessity of war' (O'Keefe 2006:19), and required restraint in regard to buildings dedicated to art, science, and charitable purposes, as long as they 'were not being used for military purposes' (O'Keefe 2006:20).This also applied during occupation (O'Keefe 2006:21).

It further provided that cultural property was to be respected during the period of occupation and may not be damaged, looted or confiscated (articles 46 and 56[89])(O'Keefe 2006:31). Further, unless it is impossible to do so, existing laws to protect and preserve movable cultural property are to be left in place (article 43), which includes those relating to archaeological excavations and the trade in cultural property (O'Keefe 2006:32).

Treaties only apply to those State Parties who have agreed to be bound by them unless they have become customary international law. The 1907 Hague Convention is considered to be customary international law (Paroff 2004:2032),[90] and is accordingly binding on all states and individuals, including those who participated in the invasion of Iraq. Both the United States and the United Kingdom ratified the 1907 Hague Convention and the Regulations on 27 November 1909. Iraq, as a state, did not exist at the time.

4.1   THE 1954 CONVENTION

In 1954, the United Nations Educational, Scientific, and Cultural Organization produced the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict. It defined cultural property, providing that it embraces

> (a)   movable or immovable property of great importance to the cultural heritage of every people, such as monuments of architecture, art or history, whether religious or secular; archaeological sites; groups of buildings which, as a whole, are of historical or artistic interest; works of art; manuscripts, books and other objects of artistic, historical or archaeological interest; as well as scientific collections and important collections of books or archives or of reproductions of the property defined above;

> (b)   buildings whose main and effective purpose is to preserve or exhibit the movable cultural property defined in sub-paragraph (a) such as museums, large libraries and depositories of archives, and

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[89] Article 56 also provides that "All seizure of, destruction or wilful damage done to institutions of this character, historic monuments, works of art and science, is forbidden, and should be made the subject of legal proceedings" (O'Keefe 2006:31).

[90] The International Military Tribunal in Nuremberg held that "by 1939 these rules laid down in the [1907 Hague] convention were recognized by all civilized nations, and were regarded as being declaratory of the laws and customs of war." It also found "[t]hat violations of these provisions constituted crimes for which the guilty individuals were punishable [was] too well settled to admit of argument" (quoted in O'Keefe 2006:88). Those involved in organising the seizure and destruction of artworks and monuments in the occupied territories were convicted (O'Keefe 2006:88).

On 11 December 1946, the General Assembly of the United Nations unanimously passed Resolution 95(l), which affirms "the principles of international law recognized by the Charter of the Nuremberg Tribunal and the judgement of the Tribunal"(quoted in Sandholtz 2005:223). In 1950, the UN's International law Commission adopted a formulation of the same principles. In 2004, the International Court of Justice confirmed that "the provisions of the Hague Regulations have become part of customary law"(quoted in Sandholtz 2005:223).

refuges intended to shelter, in the event of armed conflict, the movable cultural property defined in sub-paragraph (a);

(c)   centres containing a large amount of cultural property as defined in sub-paragraphs (a) and (b), to be known as 'centres containing monuments'.

Article 3 requires Parties to make appropriate preparations, during peacetime, to safeguard their cultural property against the foreseeable effects of an armed conflict.

Cultural property enjoys both general and special protection.[91] In terms of Article 4(1), general protection requires Parties to refrain from:

(b)   using cultural property, its immediate surroundings and appliances for purposes that are likely to expose it to damage in the event of armed conflict;

(c)   acts of hostility directed against cultural property; and

(d)   reprisals against cultural property, even if the enemy has unlawfully attacked cultural property.

Such protection does not however apply where 'military necessity imperatively requires such a waiver' (Article 4(2)).

4.1.1   **Looting**

Article 4(3) requires Parties to

prohibit, prevent and, if necessary, put a stop to any form of theft, pillage or misappropriation of, and any acts of vandalism directed against, cultural property.

Although the United States signed the main Convention in May 1954, it had not ratified the Convention at the time of the invasion.[92] Iraq has been a Party to the Convention since 21 December 1967. As noted

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[91] Article 8 of the Convention provides special protection to cultural property if it is entered in the International Register for Cultural Property Protection. However, none of the cultural property in Iraq enjoyed such protection at the time of the invasion (Paroff 2004:2048).

[92] According to the Ronald J Bettauer, a State Department attorney: "The major difficulty is that adherence to the Convention would seriously limit the options of the United States in the event of nuclear war or even in some cases of conventional bombardment" (quoted in Sandholtz 2007:185). It appears that the Department of Defence feared "that the Kremlin would be designated for special protection to make it immune from attack." However, such protection would have been impossible in the light of Chapter II of the Convention (Sandholtz 2007:185). On 25 September 2008 the Senate ratified the Convention subject to certain understandings, one of which is that "the primary responsibility for the protection of cultural objects rests with the party controlling that property, to ensure that it is properly identified and that it is not used for an unlawful purpose" (Gerstenblith 2008:1).

above, where a country has not ratified a treaty, it can only be bound by its provisions if it has become part of customary international law. The United States will only be bound if it has.

Article 38(1)(b) of the Statute of the International Court of Justice indicates that customary international law is a "general practice accepted as law". It comprises two elements - state practice and an acceptance by the states that such practice is legally required (Gerstenblith 2005-2006:300).[93]

Joshua Kastenberg (1997:277) contends that the 1954 Convention "is a reflection of customary international law, but has never risen *per se* to the level of customary international law" is "binding law in most of its provisions, and thus is a salient guide to what the law is" (Kastenberg 1997:302). He does not however specify the provisions concerned. However, Sandholtz (2007:257) believes that this would reasonably include "the treaty's main, general requirements, which are set out in Article 4." Victoria Birov is of the view that "[m]any of the provisions of the 1954 Hague Convention...are rapidly achieving the universally binding standard of customary international law" (quoted in Sandholtz 2007:257). David Meyer takes this even further: "The absence of significant reservations to the 1954 Convention supports its status as customary international law" (quoted in Sandholtz 2007:257).

Adam Roberts and Richard Guelff, who compiled all of the documents relating to the laws of war, adopt the view that in light of the "long-established and general acceptance of the principle of special protection of cultural property... this special protection may be viewed as part of customary international law" (quoted in Sandholtz 2007:257).

Another compilation, Howard Levie's Code of International Armed Conflict, which seeks to include "all of those specific items of the law of war which have some international basis and as to which there are valid reasons for believing that they are (or may be) binding rules which are applicable...in all international armed conflicts", includes the main provisions of the 1954 Hague Convention, including Article 4(3) (Sandholtz 2007:257).

The International Committee of the Red Cross undertook a 10 year study to determine which principles or rules had become part of customary international humanitarian law. They adduced that certain rules pertaining to cultural property have indeed become part of customary international law:

> Customary law today requires that such objects [property of great importance to the cultural heritage of every people] not be attacked nor used for purposes which are likely to expose them to

Although the United States and Britain had not ratified the Convention at the time of the invasion, other coalition partners, Italy, Poland, Australia and Holland were Contracting Parties.

[93] It is beyond the scope of this dissertation to canvass all the authorities and viewpoints on this issue.

destruction or damage, unless imperatively required by military necessity. It also prohibits any form of theft, pillage or misappropriation of, and any acts of vandalism directed against, such property (Henckaerts 2005:193).

In the report, they set out certain rules that fall within this ambit, namely:

Rule 38. Each party to the conflict must respect cultural property:

A.   Special care must be taken in military operations to avoid damage to buildings dedicated to religion, art, science, education or charitable purposes and historic monuments unless they are military objectives (Henckaerts 2005: 201).
B.   Property of great importance to the cultural heritage of every people must not be the object of attack unless required by military necessity (Henckaerts 2005: 201).

Rule 39. The use of property of great importance to the cultural heritage of every people for purposes which are likely to expose it to destruction or damage is prohibited, unless imperatively required by military necessity (Henckaerts 2005:201).

Rule 40. Each party to the conflict must protect cultural property:

A.   All seizure of or destruction or wilful damage done to institutions dedicated to religion, the arts and sciences, historic monuments and works of art and science is prohibited (Henckaerts 2005: 202).
B.   Any form of theft, pillage or misappropriation of, and any acts of vandalism directed against, property of great importance to the cultural heritage of every people is prohibited (Henckaerts 2005: 202).

Rule 41. The occupying power must prevent the illicit export of cultural property from occupied territory and must return illicitly exported property to the competent authorities of the occupied territory (Henckaerts 2005: 202).

Although decisions of international courts are subsidiary sources of international law and do not constitute State practice, they are persuasive. Both the Trial Chamber and the Appeals Chamber of the International Criminal Tribunal for the Former Yugoslavia have referred to the 1954 Convention as part of customary international law.[94] Among the crimes falling within the jurisdiction of the Tribunal are

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[94] The Appeals Chamber, in the case against Dusko Tadic, stated that "some treaty rules have gradually become part of customary law" and included Article 19 of the 1954 Hague Convention among those rules (Sandholtz 2007:209). In terms of Article 19, in the event of an armed conflict occurring within the territory of a party, "each party to the conflict shall be bound to apply, as a minimum, the provisions of the present Convention which relate to respect for cultural property." This decision was cited and accepted by the ICTY Trial Chamber in the Strugar case (Sandholtz 2007:209).

"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 ..."[95]

The Tribunal has indicted a number of persons for crimes against cultural property, including Slobodan Milosevic. The indictment entered against Milosevic in regard to Croatia alleged that he was responsible, with others, for "intentional and wanton destruction and plunder [which] included the plunder and destruction of homes and religious and cultural buildings" (Sandholtz 2007:206).[96] During the trial, Milosovic attempted to draw a distinction between religious and cultural heritage, arguing that all sides had destroyed religious buildings, and that this "reciprocal destruction of religious structures is the religious component of civil war." In contrast however, he argued that the "destruction of monuments of culture would be tantamount to genocide" (quoted in Sandholtz 2007:207).[97]

The preponderance of opinion is that the key norms embodied in the 1954 Hague Convention, including Article 4, are part of customary international law, and as such they are binding on all states regardless of the ratification of the Convention. It is submitted that this view should be accepted.

In determining whether it has been accepted as such by the United States in particular,[98] it must be followed in 'general as law'. If it was followed merely as a courtesy, then the test is not satisfied (Paroff 2004: 2038). This is to be considered by studying its past conduct and by written evidence, such as "diplomatic correspondence, military manuals, or newspaper accounts of contemporary events" (Paroff 2004: 2038).

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[95] The United States supported the creation of the ICTY and has supported its work, providing investigators and prosecutors when required (Sandholtz 2005:224).

[96] Count 19 of the indictment charged Milosevic with "[d]estruction or wilful damage done to institutions dedicated to education or religion, [in] violation of the laws or customs of war, [and] punishable under Article 3(d)...of the Statute of the Tribunal." Count 30 charged Milosovic with "[d]estruction or wilful damage done to historic monuments and institutions dedicated to education or religion" during the bombardment of the Old Town of Dubrovnik, which city was a UNESCO World Cultural Heritage Site (Sandholtz 2007:206). He was also charged with "intentional and wanton destruction of religious and cultural buildings of the Bosnian Muslim and Bosnian Croat communities including, but not limited to mosques, churches, libraries, educational buildings and cultural centres (Sandholtz 2007:206).

[97] There have been other convictions under Article 3 of the ICTY Statute. Bosnian Croat officers Tihomir Blaskic and Dario Kordic were convicted and sentenced for the plunder of public or private property and destruction or wilful damage to institutions dedicated to religion or education in Bosnia (Sandholtz 2007:207). Six Bosnian Croat officers were indicted under Article 39(d) for, *inter alia*, the deliberate damage and/or destruction of mosques in Mostar and the demolition of the Stari Most bridge. Serbian officers Pavle Strugar and Miodrag Jokic were both convicted and sentenced for their roles in the bombardment of Dubrovnik's historic Old Town (Sandholtz 2007:207).

[98] The US has refused to accept the findings of the ICRC study, citing both a lack of sufficient evidence and concerns with the methodology. They consider the reference to military manuals to be unacceptable since they are not binding. For further information, see Bellinger JB & Haynes WJ "A US Government Response to the International Committee of the Red Cross Study Customary International Humanitarian Law" 2007 *International Review of the Red Cross* (89) 443.

The United States has never objected to the substantive provisions of the Convention (Sandholtz 2007:254). Instead it has repeatedly affirmed that its armed forces comply with the treaty provisions, both in policy and in practice (Sandholtz 2007:255). When in 1972, Robert Bettauer, an attorney in the State Department, issued a letter setting out the government's reasons for not ratifying the Convention, he confirmed in that letter that in practice the United States conformed to the requirements of the Convention (Sandholtz 2007:255). Further, when President Clinton transmitted the Convention to the Senate for ratification, his accompanying letter stated that "U.S. military forces have not only followed but exceeded [the Convention's] terms in the conduct of military operations" (quoted in Sandholtz 2007:256).

W Hays Parks[99] stated that the United States military considered the 1954 Convention to be applicable during the 1991 Gulf War and that it "was followed by all coalition forces throughout the Gulf War." He pointed out that "the treaty has been fully implemented by U.S. military forces for more than three decades, and Canadian, British, and U.S. military personnel receive training on its provisions" (quoted in Sandholtz 2007:194).

This was confirmed by the Department of Defence when, in its final report to Congress on the 1991 Gulf War, it included the 1954 Hague Convention among the laws of war applicable to the conflict. The report also confirmed that although Canada, the United Kingdom, and the United States were not parties to the Convention, "the armed forces of each receive training on its provisions, and the treaty was followed by all Coalition forces in the Persian Gulf War." The report confirms that the laws of war were considered during targeting decisions,[100] that "Since U.S. military doctrine is prepared consistent with U.S. law of war obligations and policies, the provisions of Hague IV, GC [Geneva Conventions], and the 1954 Hague Convention did not have any significant adverse effect on planning or executing military operations" (quoted in Sandholtz 2007:195).

A note in the Army Lawyer discussing the 1954 Hague Convention, pointed out that "the duty of armed forces to protect cultural property applies to both international and internal armed conflicts" and states further that "[t]his

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[99] At the time he was serving as the Chief of the International Law Branch of the International and Operational Law Division and Special Assistant for Law of War Matters, Office of the Judge Advocate General of the Army (Sandholtz 2007:194).

[100] Although Iraq had parked two MiG fighter aircraft close to the ancient temple of Ur, the US Commander chose not to attack the aircraft:

> on the basis of respect for cultural property and on the belief that positioning of the aircraft adjacent to Ur (without servicing equipment or a runway nearby) effectively had placed each out of action, thereby limiting the value of their destruction by Coalition air forces when weighed against the risk of damage to the temple. Other cultural property similarly remained on the Coalition no-attack list, despite Iraqi placement of valuable military equipment in or near those sites (Sandholtz 2007:195).

universal application, during both types of armed conflict, supports the development of the principle as a fundamental principle of the law of war" (quoted in Sandholtz 2007:256).

As a matter of both policy and practice, the United States has consistently confirmed its acceptance of, and compliance with, the 1954 Hague Convention. Indeed, according to one assessment: "While the United States has not legally bound itself to the Hague Convention, it regards its principles as part of customary international law and claims to have incorporated the treaty into its field manuals and general approach to warfare" (Sandholtz 2007:256).

In its cultural property training resource, the United States Central Command Historical/Cultural Advisory Group lists nine "Dos". The first requires its armed forces to recognise that safeguarding cultural property is a treaty obligation and a legal requirement: "The Office of The Judge Advocate general has determined that the 1954 Hague Convention has reached the status of "applicable customary international law" which makes it binding on the United States and/or its individual soldiers and citizens" (http://www.cemml.colostate.edu/cultural/09476/chp04-01iraqenl.html).

The next issue to be addressed is whether article 4(3) applies to looting by the invading army's forces only, or whether it includes third parties within the ambit of its provisions. A reading of the provision appears to indicate that it covers looting and pillaging by anyone. Kevin Chamberlain is of the view that it covers all parties, and in support of his argument refers to the obligation of an occupying power to restore order and maintain law and order contained in article 43 of the 1907 Hague Rules (quoted in Gerstenblith 2005-2006:309). Gerstenblith (2005-2006:309) is critical of his view and believes that his argument is based in a confusion of articles 4 and 5. She believes that the restraint applies only to the forces of the invading power, and cites three reasons for this: the other provisions in article 4 constrain a State Party, the context in which the Convention was drafted (the extensive looting by the Nazi invaders), and her view that the law of war in general only refers to state action (Gerstenblith 2005-2006:310).

O'Keefe disagrees, and supports Chamberlain's view. He asserts that it applies to the invaders' own forces, the local population and any opposing forces. He believes that if it was intended to apply only to the invading state, then it would require them to "refrain" from theft, pillage and other acts, rather than placing a positive obligation upon them to "prohibit, prevent, and, if necessary, put a stop to" (O'Keefe 2006:133). Article 4(1) uses the verb "refrain", rather than "prohibit". Had the intention been as proposed by Gerstenblith, there would have been no reason for the drafters not to continue instruct parties to "refrain" as it would have been appropriate. The change

should be considered indicative of a change in intention. He also believes that it seeks to affirm article 43[101] of the Hague Rules, which reflects customary law (O'Keefe 2006:133). It is submitted that this view is to be preferred.

6.   CONCLUSION

Although this is a dissertation about cultural property and not politics, it is impossible to separate the two, for to understand what happened it is necessary to place the tragedy in context. And the context is all about politics.

The decision to invade Iraq had a political basis, and had nothing to do with weapons of mass destruction. That was a mere fiction. The invasion and occupation of Iraq was not lawful in terms of international law, a view shared by the United Nations. In an interview in September 2004, Kofi Annan, then Secretary-General of the United Nations, stated that: "I have indicated it was not in conformity with the UN charter from our point of view, from the charter point of view, it was illegal." He was of the view that the decision to invade Iraq should have been taken by the Security Council (BBC News 16 September 2004). Neither the United States nor its coalition partners had the right to pre-empt a decision by the Security Council,[102] which had clearly stated that it remained seized of the matter.

During his televised address on 17 March 2003, Bush demanded that Saddam Hussein leave Iraq within 48 hours or risk war, stating that as the "United Nations Security Council has not lived up to its

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[101] Article 43 provides that:

> The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country.

[102] Article 2(4) of the Charter provides that:

> All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.

In 1970 the General Assembly reaffirmed that:

> No State or group of States has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State. Consequently, armed intervention and all other forms of interference or attempted threats against the personality of the State or against its political, economic, or cultural elements, are in violation of international law (quoted in Joyner 2003:77).

responsibilities, so we will rise to ours" (quoted in Joyner 2008:72).[103] He harboured no illusions that the United Nations had consented to action against Iraq. Indeed, at a meeting in the Azores:

> The US-UK leaders "issued an ultimatum" to the United Nations Security Council: capitulate in twenty-four hours or we will invade Iraq and impose the regime of our choice without your meaningless seal of approval, and we will do so – crucially – whether or not Saddam Hussein and his family leave the country. Our invasion is legitimate, Bush declared, because "the United States of America has the sovereign authority to use force in assuring its own national security," threatened by Iraq with or without Saddam. The UN is irrelevant because it "has not lived up to its responsibilities"- that is, to follow Washington's orders. The US will "enforce the just demands of the world" even if the world overwhelmingly objects (Chomsky 2003:33).

The authorities in both the United States and the United Kingdom received numerous warnings of the looting and the destruction of cultural property that would accompany and follow the invasion. Further, the looting and destruction that followed the 1991 Gulf War gave weight to these warnings, and clearly indicated that the invading forces should expect a similar response.

The United States received similar warnings from within government. The Council of Foreign Relations established a working group on "guiding principles for U.S. post-war conflict policy in Iraq." According to its report, "U.S. and coalition military units will need to pivot quickly from combat to peace-keeping operations in order to prevent post-conflict Iraq from descending into anarchy...Without an initial and broad-based commitment to law and order, the logic of score-settling and revenge-taking will reduce Iraq to chaos" (quoted in Fallows 2004:16).

Humanitarian organisations issued similar warnings. On 30 January, the International Rescue Committee publicly warned that, unless American forces acted immediately after winning the war, by imposing martial law if necessary, a breakdown of law and order was likely. A week later, a similar warning was issued by Refugees International (Fallows 2004:18).

The argument that the 1954 Hague Convention has achieved the status of customary international law is persuasive and should be accepted. Certainly the prohibitions and obligations in regard to looting have emerged as norms of customary international law. The United States' role in promoting protection for cultural treasures in wartime in earlier wars, and its consistent avowals of careful compliance with the requirements of the 1954 Convention support the conclusion that the United States should have recognized a legal obligation to protect the Iraqi National Museum. Further, the provisions of Article 4(3) placed upon the United States and its coalition partners an obligation to prevent, or put a stop to looting.

Iraq complied with its obligations in terms of the Convention and took the necessary precautions to safeguard their holdings; Museum staff did their best to preserve the collections. Although in hindsight the decision to transfer the movable objects from the public galleries in the Mosul Museum and from the

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[103] The US administration was indifferent to the views of the Security Council. In October 2002, an official declared that "we don't need the Security Council," and that if it "wants to remain relevant, then it has to give us similar authority" (similar to that granted by Congress) (quoted in Chomsky 2003:32). Andrew Card, the White House Chief of Staff stated that "the UN can meet and discuss, but we don't need their permission" (quoted in Chomsky 2003:32).

site of Hatra to the Iraqi National Museum in Baghdad may have been unwise, it was based upon their experiences following the 1991 Gulf War, when nine of the regional museums were looted and the Iraqi National Museum was preserved intact. However, subsequent events showed that had these artefacts remained in place, they would have been no safer.

It is clear that prior to the invasion of Iraq the United States had received numerous warnings regarding the risk of looting to the Museum and to archaeological sites. Further, that the United States had a legal obligation to protect Iraqi cultural property, and should have implemented contingency plans prior to the invasion in order to comply with its obligations.

CHAPTER 4

THE DAMAGE TO THE MUSEUM

In spite of all the efforts of scholars, archaeologists, national and international organisations, the United States chose not to protect the Museum, but to send its troops to guard the Oil Ministry and certain oil fields instead. As a result, the Iraqi National Museum was looted, and suffered a devastating loss, which will lead to the loss of knowledge. No attempts were made to stop the looting; orders were specifically given not to do so. The excuses proffered by the United States for their failure to protect the Museum are unconvincing.

1. THE MUSEUM IN CONTEXT

1.1 THE BIRTH OF THE MUSEUM

It was only in the 20th century that a national museum was created. Prior to that, most of the antiquities excavated within the borders of modern Iraq found their way overseas to foreign museums that were beginning to establish their collections.

While modern Iraq was still a part of the Ottoman Empire, artefacts were removed from the area with little or no restriction. The most popular destinations were Europe and North America, as museums competed with each other for prestige. Individuals also began their own private collections.

Dilettantes were given almost unlimited freedom to excavate as they pleased, and they competed fiercely with great nationalist fervour in their efforts to uncover antiquities (Bernhardsson 2005:11). The selection of sites was dictated by those that they "deemed important and relevant and also which history they felt was "theirs""; sites "which they considered exciting, interesting, and relevant because of their relation to the Bible" (Bernhardsson 2005:11).

In 1874, the first Ottoman legislation dealing with antiquities was promulgated. Antiquities were divided equally between excavators, the state and the owner of the land (Bernhardsson 2005:39). In terms of an amendment in 1884, all antiquities became the property of the state and their excavation or export was prohibited in the absence of a licence. Although expeditions still received a portion of the finds, large-scale looting of sites became prevalent to meet the Western demand for antiquities, in particular cuneiform tablets. In 1906, the export of antiquities was prohibited except under special licence (Bernhardsson 2005:39).

In spite of these regulations, which were honoured more in the breach, it became accepted by British and French excavators that rights to a site adhered to that nation that had first excavated it (Bernhardsson 2005:48). This had a disastrous effect upon the integrity of sites as excavators raced around the country hastily excavating every mound they could find in order to secure their nation's primacy (Bernhardsson 2005:49).

With the knowledge gleaned from their translation, it became clear that tablets were of great value. Documents from contemporary expeditions indicate that representatives from both the United States and Europe purchased and exported thousands of tablets and seals (Gibson 2008:32).

When the British occupied the area during the First World War, military officials adopted the view that, in light of their occupation, these antiquities were the property of the British government (Bernhardsson 2005:74). During the Mandate period that followed, from 1921 to 1932, the British government was mandated to prepare the country for independence (Bernhardsson 2005:93). However, determined efforts were made to protect and promote the interests of British institutions and archaeologists (Bernhardsson 2005:94). Although a policy was developed in terms of which Britain would "advise" Iraq on all major policy issues, they retained control of archaeology (Bernhardsson 2005:110): "Given the value of Iraqi antiquities, they wanted to guarantee, as with Iraqi oil, that the British and other Western archaeologists and institutions would have an ample supply of antiquities and could easily facilitate their export" (Bernhardsson 2005:111).

By this time:

> Iraq had suffered, if not the most, one of the most extensive plunderings of antiquities in the nineteenth century in all of the Middle East. This rapine was primarily due to the isolation of archaeological activity from governmental supervision, Western imperial competition, and lack of organized local concerns. The various Ottoman antiquities legislation (especially the 1874 and 1884 laws) utterly failed to oversee archaeological activities in the Empire, primarily because of the

absence of any form of enforcement authority. Most of the excavations in Ottoman times were hasty and ill-recorded, and the finds were not properly guarded (Bernhardsson 2005:125).

After independence, King Faisal appointed Gertrude Bell to draft legislation. In terms of Articles 22 and 23 of the legislation passed in 1924:

> Article 22:
>
> At the close of excavations, the Director shall choose such objects from among those found as are in his opinion needed for the scientific completeness of the Iraq Museum. After separating these objects, the Director will assign [to the excavator] . . . such objects as will reward him adequately aiming as far as possible at giving such person a representative share of the whole result of excavations made by him (quoted in Bernhardsson 2005:123).
>
> Article 23:
>
> Any antiquities received by a person as his share of the proceeds of excavations under the preceding article may be exported by him and he shall be given an export permit free of charge in respect thereof (quoted in Bernhardsson 2005:124).

Bell's legislation was a compromise; one designed to appease western interests while retaining a share of the spoils for Iraq where she planned to build a national museum. It seems however, that in spite of the legislation the museum was slow to build up its collection (Bernhardsson 2005:144).[104]

Bell's successor, Sati al-Husri was far more rigorous in the division of artefacts, earning the ire of many foreign archaeologists. In his view, the article required him to reward the excavator only "as far as possible" (Bernhardsson 2005:191).

In May 1936, Iraq passed new legislation, which changed the *partage* that excavators would receive. Henceforth the excavator would only receive half of the duplicate antiquities and those with which the government could dispense (Bernhardsson 2005:194). In terms of Article 49:

> All antiquities found by excavators shall be the property of the Government. Nevertheless as a reward for his labours the excavator shall be given (firstly) the right to make castings of antiquities found by him, (secondly) half of the duplicate antiquities and (thirdly) certain antiquities already in the possession of the Iraq Government or included among the articles discovered by an archaeological expedition which the Iraq Government can dispense with in view of the existence in the Iraq Museum of other articles sufficiently similar in respect to kind, type, material, workmanship, historical significance and artistic value (quoted in Bernhardsson 2005:194).

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[104] In 1931, archaeologist Edward Chiera pointed out that: "stranger yet, we have fewer tablets in Baghdad for practical study than we have in any of the big universities [in the United States]" (Bernhardsson 2005:144).

In order to facilitate the division, the director of antiquities could create a "suspense account" to which he could nominally allocate certain unique objects that would be carried over to the next season. If a similar object was located during the next season, one would be retained by the museum and the other by the excavator (Bernhardsson 2005:195). This law was in line with the International Statute for Antiquities and Excavations passed by the Sixth Committee of the League of Nations in 1937. In terms of this resolution:

> objects found in the course of excavations should be set apart, in the first place, for the formation, in the museums of the country where the excavations are carried out, of complete collections fully representative of the civilization, history, and art of that country (quoted in Bernhardsson 2005:195).

It further stated that the national authorities

> may present the excavator with a share of his finds. This share shall consist of duplicates or, generally, of objects or groups of objects which the authorities are able to relinquish because of their similarity to those already in the possession of the national museums (quoted in Bernhardsson 2005:195).

The 1936 legislation was amended in 1974 and 1975. Not only was the definition of "antiquities" extended, but the suspense account was abolished and a prohibition on the export of antiquities, even of duplicates, was introduced (Bernhardsson 2005:215).

The present compound in which the National Museum is situated incorporates the earlier museum. It was opened in 1966 and expanded in 1984 (Foster *et al* 2005:225). It was one of the world's major repositories for ancient artefacts, with a Mesopotamian collection that was unsurpassed - in spite of the early losses that adorn western museums and the collections of private individuals.

1.2   THE EFFECT OF SANCTIONS UPON THE MUSEUM

On 3 April 1991, the Security Council passed Resolution 687 in terms of which, *inter alia*, restrictions were placed on air flights and a boycott was imposed upon the country. In terms of this boycott, Iraq's financial assets outside the country were frozen, and both imports and exports were prohibited - with the exception of certain medical supplies. An oversight committee was appointed with powers even to determine whether food could be imported (Polk 2006:156). The equipment and supplies required to maintain and preserve the country's archaeological sites and antiquities could no longer be obtained (Polk 2006:156).

The budget for archaeology was severely cut. Although during the 1980s the Board was well staffed with regional inspectors and guards at all major sites, budgetary constraints required major cuts. From a staff of 2 600, it had shrunk to a few hundred by the time of the invasion (Elich 2004:9). The technical staff had been reduced from around 600 to a mere 50 (Rothfield 2009:17). Not all staff members had left as a result of budgetary constraints, many had left the country in order to feed their families (Rothfield 2009:17). Money for maintenance and preservation of artefacts was no longer available (Elich 2004:9), and many of the local antiquities representatives in rural areas were infrequently paid, if at all (Rothfield 2009:17).

A number of the Museum's artefacts were damaged during and after the Gulf War. During this war, tremors from bombs dropped on the Ministry of Communications across the road from the Museum broke some display cases. As a result, the staff moved some artefacts to safety, packing the breakables, such as ceramics, ivory and cuneiform tablets in cotton wool, and the metal items in rubber padding, and placing them inside metal trunks (Gaiden & Paolini 2005:22). As a result of the irregular electricity supply, the pumps installed to empty groundwater from the basements in which they were stored did not function. The rising groundwater caused the metal trunks to corrode, and the humidity in the trunks turned the protective cotton wool and rubber padding into a breeding ground for bacteria and other destructive organisms. Unfortunately, Iraqi conservators were unable to obtain the chemicals necessary to preserve these items and many were irreparably damaged (Gaiden & Paolini 2005:22).

The sanctions had thus already caused damage to the artefacts and record-keeping in the Museum, making it ripe for the disaster which followed.

2.   THE LOOTING OF THE MUSEUM

Bogdanos believes that the first group of looters were professional thieves who had information not only on the location of keys,[105] but also on the location of the particularly valuable and collectable

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[105] This led some journalists, such as the BBC's Dan Cruickshank and *The Guardian*'s David Aaronovitch, to allege that Museum curators were complicit in the theft and named George as the ringleader (Carboni 2003:6). These accusations did not find favour with archaeologists who knew the staff members concerned. Harriet Crawford, the chairman of the British Institute of Archaeology stated:

antiquities (Bogdanos 2005:213).[106] They went through the premises selectively removing these items, even from underground storerooms.

Other looters were less discriminating and took whatever they could. They removed artefacts from display cases and the walls of the public galleries (George & Gibson 2008:23). They also entered administration offices and took furniture, office equipment, curtains, computer equipment, fans, air conditioners, electrical fixtures and even part of the electrical wiring (George & Gibson 2008:21).

...our high opinion of the character of Dr. George and his colleagues has been formed over two decades of working with them throughout an era of extraordinarily difficult circumstances - from the Iran/Iraq War to the few months leading to the most recent conflict. George deserves the world's praise, not its condemnation, for saving so many of Iraq's treasures, and strong practical support in restoring the museum to functionality (quoted in Carboni 2003:7).

Jane Moon of the Centre for the Study of Global Ethics supports this view:

...the British archaeologists' appraisal of the Iraq Museum situation is based on long experience of working with the staff there, not gullible impressions from blundering documentaries. The 'unconceivable' bit is for us westerners to appreciate what it was like trying to stay alive and free under the Ba'ath regime, let alone pursuing the passionate commitment to their country's heritage that the likes of Donny George and Nawalah Mutawallah have demonstrated through decades of oppression (quoted in Carboni 2003:7).

Gibson agrees, pointing out that that "No foreign scholar who has done research in the museum believes any of the allegations against the present staff" (Gibson 2003b:6). Gibson (2003b:5) also rejects media reports that the looting was an inside job, citing their failure to locate the Museum's valuable and highly prized cuneiform tablet collection. Bogdanos (2005:295) dismisses Gibson's argument as "premature", since there could be many reasons why the cuneiform collection was not stolen, and points out that Gibson is not a "cop". No alternative explanation was however proffered by Bogdanos.

The thieves' access to keys also caused suspicion to fall on Dr. Nawala al-Mutawalli. She informed Selma al-Radi that she may have "forgot [the keys] on her desk", and also that "the keys of the museum were ... taken from her safe" (Bogdanos 2005:277). In her article in the *Atlantic Monthly,* Lauren Sandler reported that al-Mutawalli "could not explain" how the thieves obtained the keys (quoted in Bogdanos 2005:277), and quoted sources who informed her that al-Mutawalli had been working with Arshad Yassin-Saddam, Hussein's brother-in-law, since her employment at the Museum during which time she alleged that most of the Museum's artefacts had been stolen and sold. Sandler did however mention George's rejection of her theory (Bogdanos 2005:278). Bogdanos (2005:278) interviewed Sandler's sources but was unable to corroborate their allegations. He considers them unlikely since Arshad Yassin-Saddam had fallen out of favour with Hussein many years earlier.

Her investigation led Elizabeth Stone to conclude that the thieves had taken the keys from the safe, as "all of the safes in the offices were opened (quite professionally in some cases)" (Stone 2003:4). Almira Poudrier believes that the looters bribed the guards to give them the keys (quoted in Bogdanos 2005:277).

At an INTERPOL conference held on May 2003, US Attorney General John Ashcroft stated that the looting of Iraqi museums and galleries was an inside job, carried out by professionals who knew what they wanted (quoted in Miller 2005-2006:74). What first alerted investigators to this fact, he alleged, was the destruction of the Museum's records, which destroyed proof of ownership of the stolen artefacts. Without such proof, the artefacts cannot be shown to be stolen. Those records that were not destroyed were thrown on the floor in disarray in a manner which would take "months if not years to sort out", by which time the artefacts would be beyond recovery (Miller 2005-2006:74).

[106] Elich (2004:1) quoted witnesses who spoke of "well-dressed men" who walked through the galleries while speaking on cellphones or walkie-talkies. According to Polk (2005:8), Museum official spoke of two "European-looking" men who pointed out individual artefacts for removal. Although Polk (2005:8) claims that some thieves were "acting in concert with international dealers and even with resident diplomats", Bogdanos found no evidence of the involvement of resident diplomats (Bogdanos 2005:283).

They scattered administrative records on the floor, and tried to set them alight (George & Gibson 2008:23). The conservation laboratories were stripped[107] and vandalised, as was the registration room (Russell 2003:7).

Although some pieces had been left *in situ,* because they were considered either too fragile or too heavy to move, this did not deter the looters. The display case, which held the 300lbs Akkadian copper statue from Bassetki dating to 2300 BCE was smashed (George & Gibson 2008:23), and the statue was dragged down the stairs and out of the building (Russell 2003:4). The foot of the stolen Warka vase, a white limestone votive vase dating from approximately 3200 BCE and one of the Museum's most valuable possessions, was still attached to the pedestal upon which it had stood (Russell 2003:4).

Other items stolen included a statue of King Entemena from Ur, the statue of the Assyrian king Shalmanessar III, an ivory relief of the Assyrian god Ashu, the busts of Apollo, Poseidon, Nike and Eros, objects from the Ninhursag temple at al-Ubaid, and nine bricks from the sequential display of cuneiform-inscribed bricks indicating the development of the language (Elich 2004:1).

Forty of the artefacts which had been left in the public galleries were stolen (Bogdanos 2003b:7), and fifteen others were vandalised (Elich 2004:1). Thieves attempted to behead a terracotta statue of a Harmal-type lion, dating from around 1800 BCE, and a statue of a woman from Hatra with a blunt instrument (Elich 2004:1).[108] Although 28 display cases were broken, 423 remained intact (Bogdanos 2005:136).

Many of the Museum's most valuable pieces could simply be dropped into a pocket: the limestone statuette of a praying prince (ca. 3300 BCE) is only about 7 inches in length and the ivories, which included the Nubian figure carrying a lion, are about 5 inches tall (Barnes & Mazurkewich 2003:11). Indeed, Bogdanos (2008:120) points out that the 10 686 objects stolen from the basements could all have been carried out in a backpack.

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[107] The only equipment left behind was a broken electron microscope and four kilns used to fire tablets (Russell 2003:7).

[108] Although Polk (2005:8) alleged that thieves took "chain saws to giant statues and wall carvings or simply grabbed what they could from the shattered glass cases", Bogdanos (2005:290) found no evidence of the use of chain saws, and states that the only item stolen from the Museum's glass cases was the Bassetki Statue.

The nature and value of the objects stolen from the restoration room has given rise to suspicions of a complicit insider. The items stolen included gaming plates from the royal tombs of Ur, a large Assyrian ivory-relief headboard, a ninth-century BCE wheeled brazier from Nimrud, an eighth-century BCE ivory depicting a lioness attacking a Nubian, and the 5 000-year-old Mask of Warka, the first known naturalistic depiction of a human face (Bogdanos 2005:214). The fact that so many extremely valuable objects were moved to the restoration room and left on the table unprotected has been considered too serendipitous to be the result of mere chance, particularly since there were two safes in the room in which they could have been safely stored (Bogdanos 2005:214).

Some 199 pottery pieces, metal tools, and beads were stolen from boxes contained in the restoration and registration rooms (Bogdanos 2003b:8). Twenty-five objects were damaged in the galleries, corridors, and restoration rooms, including eight clay pots, four statues, three sarcophagi, three ivory reliefs, two rosettes, and a reproduction of the Golden Harp of Ur (Bogdanos 2005:214). It appears however, that all of the damaged pieces can be restored (Bogdanos 2003b:8).

236 Pieces were stolen from the Heritage Room, which contained the more modern scrolls and antique Islamic furniture and porcelain (Bogdanos 2003:3).

Although George locked the door from the Museum to the storage area before leaving (Rothfield 2009:95), there were no signs of forced entry to the first and second-level storage rooms (Bogdanos 2003b:9).[109] The thieves who entered these rooms were far less organised and discriminating. Bogdanos (2005:215) saw marks in the dust on the shelves indicating that an arm had swept across the shelf drawing everything into a bag, which was emptied a short distance away. Fakes were taken and more valuable items on adjacent shelves were ignored (Bogdanos 2005:215). A number of boxes were emptied and their contents left on the floor (Bogdanos 2003b:9).

The lockers in the old magazine contained artefacts excavated from a number of sites during the 2002 season, which, although registered, had not yet been filed away (Elich 2004:1). From the two storage rooms it is estimated that 2 703 objects were stolen (Bogdanos 2003b:9), including cuneiform tablets from recent excavations that were waiting to be catalogued (Biggs 2005:4).

The basement storage area consists of three separate rooms. Looters gained access to the area by prying open the doors with crowbars and knocking a hole into the wall built behind it (George &

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[109] These keys, kept in Dr. Nawala al-Mutawalli's safe, were never found (Bogdanos 2003b:6).

Gibson 2008:21). In the absence of windows and electricity, looters provided light by setting foam packing material alight (Bogdanos 2003b:11). The first room appears to have suffered little damage, although the boxes containing water-damaged ivories from Nimrud[110] were strewn across the floor (Russell 2003:9).

The second room suffered the loss of 5 144 cylinder seals[111] and 5 542 pins, beads, pendants, necklaces and glass bottles (Bogdanos 2005:297). Although the third room was opened, the pottery contained therein appears to have been of little or no interest to the looters and nothing was taken (Russell 2003:10).

In addition to the losses are the thousands of pieces of artefacts which lay on the floor in the rooms of the Museum, where they were thrown or discarded. Robert Fisk (2003:2) reported that "[o]ur feet crunched on the wreckage of 5,000 year old marble plinths and stone statuary and pots", and they picked up pieces of an Assyrian jar, perhaps 2ft high originally, which was broken into pieces. He also reported flashing his torch onto one shelf, which had held pottery from 3500 BCE, which had all been smashed (Fisk 2003:2). Subsequently, access to the Museum was forbidden in order to catalogue the losses and facilitate restoration (Trofimov 2003:13). By the time the UNESCO team visited on 17-19 May 2003, the "fragments of shattered stone and ceramic objects" on the floor had been "loosely tidied" to facilitate passage (UNESCO 2003:5). The team commented upon on the "considerable vandalism", which would require "a long campaign of re-assembling fragments" (UNESCO 2003:6).

During his investigation, Bogdanos (2003:4) recovered a number of fingerprints, which were sent to the FBI with a request that they be compared with all United States' databases, including military records. Although no matches were found, the fingerprints have been retained.

Based upon his investigation, Bogdanos (2005:213) formed the view that the artefacts stolen pointed to three distinct types of looters. Those who stole the objects from the public galleries were both selective and discriminating, ignoring the less valuable items and replicas (Bogdanos 2005:213). One exhibit was comprised of twenty-seven cuneiform bricks which demonstrated the development of cuneiform during

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[110] These ivories, originally stored in metal footlockers in the first basement, had suffered water damage in the 1990s when the room was flooded. Saturated with water and mould, they had been placed in wooden trays and left on shelves to dry (Russell 2003:9).

[111] The cylinder seals, accessioned into the Museum prior to 1991, had been removed to a place of safety prior to the 1991 invasion. Although returned in 2000, they had not yet been secured in the locked cabinets, and were thus readily accessible to looters (Russell 2003:9). One of the collections of cylinder seals was considered to be the first state archive (Polk 2005:7).

the Sumerian, Akkadian, Old Babylonian and New Babylonian periods. Only nine bricks, each representing one period, were taken (Bogdanos 2005:213). It is the careful selectivity which speaks so volubly of professional involvement.[112] They would also have the necessary connections to sell well-known items, connections that Bogdanos (2005:213) believes are beyond the ken of Museum staff and local looters.

Those who stole the objects from the administrative offices and the storage rooms on the first and second floors were indiscriminate – they emptied entire shelves with the sweep of an arm, often taking replicas and leaving more valuable items on adjacent shelves (Bogdanos 2005:215). Many of the artefacts were subsequently dropped and abandoned (Bogdanos 2005:215). Some 90% of the items returned under the amnesty programme were stolen from these rooms (Bogdanos 2003b:9).

The 10 686 objects stolen from the basement storage room fall into the third category, one he believes is indicative of inside involvement, on the basis that "they knew how to get in, they knew where to find the keys, and they knew what they were looking for" (Bogdanos 2005:216).

On 4 June, the hiding space in the Museum in which 8 366 pieces from the public galleries had been hidden for over a decade was opened revealing 179 locked trunks, each with its own inventory. Once the presence of the items on the inventory had been confirmed, the space was again sealed to secure its contents (Bogdanos 2005:221).

Twenty-six boxes containing over 6 700 gold objects, the gold from Nimrud as well as the golden bull's head from the Golden Harp of Ur had been placed for safekeeping in the National Bank.[113] Although the ground floor of the bank was looted, Martin Bailey (2003:10) reports that the rubble from American bombing and artillery fire had blocked the entrance to the vaults. When the bombs destroyed the building, the vaults containing the boxes were filled with water (Bogdanos 2005:222). After pumping out the water and

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[112] When Ibrahim and George returned to the Museum, they found four glass cutters that had been brought onto the premises and abandoned. These glass cutters, allegedly not available in Iraq, were cited in support of the contention that professionals were imported to loot selected items from the Museum (Elich 2004:1). However, Bogdanos (2005:214) disputes this, arguing that the "pair of glass cutters" was a "rusty relic"; that it made no sense to bring such a tool onto the premises when they were unsecured and smashing the glass would have been faster and more efficient. He believes that these were used by amateurs (Bogdanos 2005:214). However, the same argument applies equally to amateurs. (Contemporaneous newspaper reports on the 4 glass cutters describe them as "red-handled with inch-long silver blades" (Schofield & Youssef 2003:1), rather than "rusty relics".)

[113] They contained the gold and jewellery from the royal tombs of Ur, the original golden bull's head from the Golden Harp of Ur, the golden helmet of King Meskalamdug, and the gold crowns, bracelets, necklaces, armbands, rings and anklets from Numrud.

removing the rubble, the vaults were opened on 5 June and the collection found unharmed and intact (Bogdanos 2005:223).

In his final report dated 8 September 2003, Bogdanos (2003b:13) recorded that a total of 13 515 artefacts were looted, a figure increased once the cylinder seals were recounted (Bogdanos 2003b:11). This figure was subsequently increased further by George to over 15 000 in March 2004. Reichel (2008:56) is of the view that some "nasty surprises" may still come to light when a final tally of what was lost in the ground floor storeroom is finally established. As a result of security concerns, the doors of the storage rooms were welded shut in 2006 (George 2008:26).

One of the problems experienced with the Museum after the looting in April 2003 was the lack of a complete inventory with accompanying photographs of each item. Although an inventory had been maintained since the founding of the Museum, these records were not properly maintained after the implementation of sanctions as a result of staff shortages (Youkhanna & Gibson 2008:28). This problem was exacerbated by the thousands of artefacts excavated at salvage digs carried out by the State Board of Antiquities and Heritage from the late 1990s until 2003; salvage excavations undertaken in a desperate response to looting (Youkhanna & Gibson 2008:28). Only some of the more significant artefacts had been recorded by the time of the invasion. Others still needed to be processed, and some of these were looted in April 2003 (Youkhanna & Gibson 2008:29).

The destruction of the Museum's index cards recording its holdings during the looting in April 2003 was a devastating loss. Sanctions had made it impossible for the staff to computerize their records, or even to photograph all its artefacts (Rothfield 2009:94). Accordingly, it is necessary to go through thousands of documents, including plans, dig records, photographs and negatives in an attempt to reconstruct these records. As Gibson (2003b:6) points out: "The loss of institutional memory, or rather the scrambling of that memory, is almost as crippling as the loss of items from the storerooms and public galleries."

Conservation staff at the Museum had little training in current methods of conservation, as the sanctions had prohibited them from travelling abroad for further study (Wegener 2008:164). Sanctions also prevented them from receiving academic publications, updated technology and the supplies required to document and preserve the artefacts in their care (Gerstenblith 2005-2006:283). Accordingly, efforts to lay blame upon the staff of the Museum for their inadequate record-keeping should be recognised as unjust.

3.   THE LOSS OF KNOWLEDGE

As many of the antiquities have been photographed and have appeared in publications, fears have been expressed that the more recognisable items will be deliberately damaged or broken into pieces to make them more difficult to recognise, easier to sell and/or to trace (Gumble & Keys 2003:7)[114]. This would be a great loss, for, as el-Guindi (1991:150) points out: "The destruction of this material would leave a gap in human history impossible to fill."

The smaller items, such as the cylinder seals,[115] cuneiform tablets, pottery and figurines are largely unpublished and have in all likelihood already found their place among the collections of private individuals. Others will be in the hands of antiquities dealers, and disposed of in sale rooms in Europe, North America, Japan, and of course on the internet. On any day a search on the internet will call up scores of sites offering "early Sumerian" and "Mesopotamian" artefacts to any willing buyer. Their provenance will be lost, and the tablets, which could have provided us with hitherto unknown information, may be lost to scholarship forever. Certainly their location and context is already lost.

The importance of each individual tablet has been demonstrated on numerous occasions. With the outbreak of the Crimean War in 1855, excavations were terminated and the emphasis shifted to the study of the artefacts which had been repatriated, and in particular to the translation of cuneiform tablets (Bernhardsson 2005:49). In 1869, Jules Oppert, a French scholar, established that the script on the cuneiform tablets from Nineveh was Sumerian, a hitherto unknown culture (Bernhardsson 2005:49).[116] Some ten years later, studies by the British Assyriologist Reverend Arthur Sayce led to the discovery of the Hittites (Romer 2001:156).

In 1872, George Smith, an employee in the British Museum found a part of a tablet that appeared to contain a story of a flood. His find generated such public interest that he was commissioned to return to Nineveh to seek the rest of the tablet. Amazingly, he did. A study of this tablet revealed a deluge which was similar in many respects to the flood in *Genesis* (Bernhardsson 2005:49). It caused an international

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[114] This is based upon past experience. During the 1990s, around 14 slabs, looted from the palace at Nineveh were broken up for sale. Many were "reworked to alter the original design orientation, or roughly squared off" in an attempt to disguise their origin, and make them more saleable (Brodie 2006:206).

[115] The size and shape of cuneiform tablets is not standard, but dependent upon both the period and purpose of the tablet. It is self evident that a tablet recording the delivery of one item will be smaller than a monthly account. Although most can be held in one hand, some are large and several centimetres thick (Biggs 2003:1).

[116] Oppert called the culture "Sumerian", from the phrase "King of Sumer and Akkad" (Romer 2001:156).

debate. Those who believed in the Bible as a historical truth saw this as confirmation that the flood had actually occurred, while others posited that as the story had been borrowed, the Bible was not unique (Bernhardsson 2005:49). Subsequently, a Babylonian text was found to record the birth of Sargon of Akade and his placement in a reed basket, a tale strikingly similar to the story of Moses (Kuhrt 1995:5).

As recently as 2008 an inscribed clay cone, held by the University of Minnesota, revealed the existence of a previously unknown king of Uruk (Kriwaczek 2010:8).

During excavations at Tell al-Dhibai, archaeologists recovered over 600 cuneiform tablets. Although most dealt with business and agricultural issues, one turned out to be of particular significance, for this mathematical text contained a proof of the Pythagorean Theorem, some 2 000 years before the life of the Greek to whom it had been attributed (Werr 2005:32).

Although the study of tablets has provided much information, in many instances additional evidence is still required to elucidate and expand upon the information already revealed. The Babylonian "Venus Tablets", so-called because they record the planetary movements of Venus, have been used to provide dates prior to 1450 BCE (Knapp 1988:8). Unfortunately, as observations of Venus are possible every 64 years, scholars disagree upon which of the three possible Venus cycles to which these tablets refer. For this reason, three separate chronologies exist for Babylonia during the 2nd millennium: high, middle and low (Knapp 1988:8).[117] Although the middle is the most popular, we are not yet possessed of an absolute dating system (Knapp 1988:8). As a result, as texts and artefacts are examined, dates are continually being revised.

Accurate celestial observations are helpful, as Newtonian astronomy enables us to date certain phenomena (Kriwaczek 2010:9). However, it is sometimes difficult to establish what is being described. On one tablet, the following statement is made: "The day of the Moon of Hiyaru was put to shame. The Sun went in with her gatekeeper, Rashap" (quoted in Kriwaczek 2010:9). Although some scholars believe that this refers to a solar eclipse that occurred on 3 May 1375 BCE, others have dated it to one which took

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[117] As a result, the reign of Hammurabi has been dated to 1848-1806 BCE (long), 1792-1750 BCE (middle), 1728-1686 BCE (short) and 1696-1654 BCE (ultra-short) (Kriwaczek 2010:9). King lists and dynastic lists have proved to be misleading, as they do not concur and also contain gaps or scribal errors. They have also been found to list partly overlapping or contemporaneous dynasties as successive (Kriwaczek 2010:9).

place on 5 March 1223 BCE, 21 January 1192 BCE or even 9 May 1012 BCE. Indeed, some are of the view that it does not refer to an eclipse at all (Kriwaczek 2010:9).

The names of people referred to have also changed over time as more information is obtained. Shulgi was first read as Dungi, and Gilgamesh was initially misread as Izdubar. Texts are often read differently by different scholars (Kriwaczek 2010:8). The verdict in a twentieth century BCE murder trial held in Nippur has been translated by one as condemning the accused death, while another has found her not guilty (Kriwaczek 2010:8).

Tablets, when found in context, also provide information on the area in which they are found. When excavating at Ur, Woolley confirmed the purpose of the building and the "service chambers and storerooms" by the nature of the tablets found within them. The bulk of the tablets dealt with temple revenue and other matters which one would expect to find in temple archives (Woolley 1923:321).[118] During his excavations of the south-east quarter of Ur, Woolley (1931:359) records that they were able to date the levels of the houses by the tablets found in the rooms. Further, that the numerous tablets "so scattered might imply the destruction of the houses and the breaking up of business archives" simultaneously with the destruction and burning of the houses, indicative of the looting of the city which took place by Babylonian forces after the defeat of Rim-Sin by Hammurabi around 1910 BCE (Woolley 1931:359). He also identified a schoolroom in a house in Ur by the alterations to the house, and the nature of the nearly 2000 tablets located there (Woolley 1931:365).

Some cylinder seals also carry cuneiform inscriptions which provide information additional to the reliefs carved thereon. Unlike most museums whose seal collections have been sourced from dealers, the seal collection in the Iraqi museum was from "controlled excavations", with its context appropriately documented. Unfortunately, 5 144 cylinder seals were lost to looters in April 2003 (Bogdanos 2005:297).

Cylinder seals vary from period to period, and can thus often be dated from their shape, size; material employed[119] and design (Collon 1987:6).[120] Information is also often gleaned not from the seal itself, but

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[118] The manner in which the building was constructed was confirmed by Woolley's foreman to be a method still in use in the area at the time for "cheap building" (Woolley 1923:321).

[119] The early cylinder seals from the Uruk period, which are also among the largest in diameter, were usually cut from limestone. Later seals from this period are cut from harder stones, even lapis lazuli (Collon 1987:14). The seals from the Jemdet Nasr period are cut from darker and harder stone, including rock crystal (Collon 1987:15). These seals, which are narrow and taper in the middle, are easily broken and for this reason it is common only to find half of the seal (Collon 1987:23). During the Akkadian period, seals were cut into the finest material, often with metal caps (Collon 1987:32). Following the disintegration of the

from the impressions left behind on documents. The importance of these impressions should not be underestimated, as their presence on documents assists scholars to date seals from their texts, and to establish chronological sequences (Collon 1987:6).

Much can be learned from the study of these cylinder seals.

The knobs which decorated the top of seals from Uruk, which were often made of copper, provide some of the earliest evidence of the use of lost-wax metal casting (Collon 1987:14). The seals themselves provide evidence of the life, the economy, and domestication of animals, the presence of certain wild animals, boats and reed houses during this period. They also provide evidence of the earliest examples of the dome and the use of the composite bow (Collon 1987:15). The Maltese cross is a motif which was popular as early as the 'Ubaid period (Teissier 1984:6).

Akkadian empire, the variety of materials declined (Collon 1987:35). Indeed, the seals of the Isin/Larsa period were of poor quality (Collon 1987:44). After the death of Hammurabi, seals were cut using a drill and cutting wheel rather than the traditional hand held tools. Although this enabled seals to be produced more quickly, it had an effect on the quality of the product, and seals of poor quality became common (Collon 1987:52). This changed during the Middle Assyrian period, when the cutting of seals was of a high standard (Collon 1987:65).

[120] Uruk seals often have a knob, in the form of an animal or a crested shape on the top, which was sometimes dowelled and made of a material different to that into which the seal was cut (Collon 1987:14). Scenes depicted are varied, and include temple ritual, architecture, furniture, animals, boats, hunting and scenes of war (Collon 1987:15). The seals from the Jemdet Nasr period are completely different, and deal with such activities as spinning, weaving and pottery (Collon 1987:15). Patterns are sometimes based upon a rosette, which may be enclosed in a circle or a hatched circular band. These bands are also employed as arches of lozenges (Collon 1987:23). Centre dot circles were introduced (Collon 1987:23). During the Early Dynastic period, conquest and banquet scenes were popular (Collon 1987:32). Seals bearing the names of owners first appear during the Early Dynastic II period (Teissier 1984:8). During the Akkadian period, the cutting was much finer, and the subjects covered are greater than during any other period (Collon 1987:35). The earlier contest scenes were gradually replaced by pairs of contestants later reduced to two as space was required for inscriptions (Collon 1987:32). Banquet scenes and presentation scenes were popular (Collon 1987:32), as was the crescent moon. Deities and humans are depicted in scenes from myths, hunting, or daily life (Collon 1987:35). In the Post-Akkadian and Ur III periods, the style is more cursory, two heroes, rather than one, are required to defeat a lion, figures dress in plain robes, the thrones of deities are reduced to an outline and the divine headdress is absent (Collon 1987:36). Presentation scenes are uniform, and depict a goddess leading a worshipper to a deity, who is seated below a crescent moon. Inscriptions are present (Collon 1987:36). During Ur III, there were generally only three types: combat, presentation and libation scenes (Teissier 1984:18). In the presentation scenes of the Isin/Larsa period, the goddess stands with her arms raised behind the worshipper, who stands in front of a seated deified king (Collon 1987:44). The accompanying inscriptions provide the name and sometimes even the profession of the owner, who is described as the servant of the god or a particular ruler. This enables the seals to be dated (Collon 1987:44). Contest scenes lost their popularity during the Old Babylonian period, and typical scenes include a lion or lion-griffin about to eat a seated goat and kneeling human figure. Presentation scenes depict standing figures, usually the king and a goddess (Collon 1987:45). The long prayers inscribed on Kassite seals meant that either the figures were elongated or the scenes were divided into registers. These seals often had gold caps decorated with triangles of granulation (Collon 1987:61). During the Middle Assyrian period, popular designs included an animal approaching a tree (Collon 1987:66), and winged griffins holding their prey by their back legs (Collon 1987:65). Inscriptions were cut horizontally along the top of the design (Collon 1987:66). The horse, ordinary and winged, makes its first appearance (Teissier 1984:31). During the Neo Assyrian period, hunting and banquet scenes are popular. A common scene depicts an archer shooting a bull, a winged bull or a sphinx (Collon 1987:75). Neo-Babylonian seals are distinctive: deities and semi-divine figures wear high head-dresses, the horned diadem appears, figures are duplicated and the wings of four-winged creatures are of equal length (Collon 1987:83).

From a study of early designs, scholars have established the existence of a hierarchy system, and that the administration was centred upon the temple (Collon 1987:15); further, that society had an agricultural base, with an ability to organize labour (Kuhrt 1995:25).

Jemdet Nasr seals provide evidence of trade with Susa, Syria and Egypt (Collon 1987:16), and Early Dynastic seals indicate that it was during this period that secular administration replaced the temple. The reappearance of lapis lazuli indicates renewed contact with the east (Collon 1987:27). Motifs from these seals have been found on Predynastic and First Dynasty Egyptian palettes and knife handles, indicating that the cylinder seal travelled along the Susa-Syria trade-route (Collon 1987:16). The seed plough, still in use today, is first depicted during the Early Dynastic period (Collon 1987:148).

The "Parthian" position, whereby the rider of a horse shoots facing backward, is demonstrated on Assyrian seals long before the time of the Parthians to whom it has been attributed (Teissier 1984:39).

With the introduction of parchment as writing material, cylinder seals became obsolete, and the stamp seal regained once again become predominant (Collon 1987:119).

Cylinder seals can provide an important balance in the information of the period, since most of the art and literature was produced by elite members of society and their views and interests tend to be over represented: propaganda is rife. Cylinder seals were more personal objects and tend to reflect the beliefs of the owner.

Not only do they show daily life, boats, sport, wars, food production and collection, product manufacture and agricultural activity, but they also teach us about architecture, religious activity, midwifery, musical instruments (including the earliest evidence of a lute) (Collon 1987:151), changing fashion, hairstyles and military equipment of the periods they represent.

Small, beautiful and highly prized, cylinder seals are unfortunately highly collectable.

4. EFFORTS BY AMERICAN FORCES TO PROTECT THE MUSEUM'S CULTURAL PROPERTY

4.1 THE FACTS

On 20 March 2003, the attack on Iraq began – initiated by an air assault designed to "shock and awe" Iraqis into submission (Nissen & Heine 2009:160).[121] In spite of all of the warnings and requests, no efforts were made to protect the Museum when the battle to take Baghdad commenced on 5 April 2003.

On 26 March, the Office of Reconstruction and Humanitarian Assistance sent a memorandum to military commanders warning that the National Museum would be a "prime target for looters" (Sandholtz 2007:250). Although the Museum was second on the Pentagon list of sites to be accorded protection, the United States forces chose instead to protect the Oil Ministry, which was sixteenth and last on the list (Johnson 2005:4).

On 7 April, a unit led by Lieutenant Colonel Eric Schwartz reached Zawra Park[122] where, "during a slight lull in the fight" (Conroy & Martz 2005:200), they were asked whether there "were any Saddam statues in the area because the brigade commander wanted the media to witness their destruction" (Conroy & Martz 2005:201). After confirming that there was one of Saddam on horseback, they were instructed to wait for the arrival of a Fox Television News crew, who arrived some thirty minutes later. Following a lengthy discussion on the most effective manner to blow up the statue, the television opportunity was secured (Conroy & Martz 2005:201).[123] Although no doubt wonderful

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[121] Although exact figures are unknown, it is estimated that around ten thousand Iraqi civilians and tens of thousands of Iraqi soldiers were killed in the first three weeks. Some 13 000 cluster munitions exploded into 2 million cluster bombs, wiping out entire areas (Baker *et al* 2010:4). 128 American and 31 British soldiers were killed, most by friendly fire. During the invasion and period of occupation, over 1 million civilians died and the social infrastructure, including electricity, potable water, and sewage systems were completely degraded (Baker *et al* 2010:4). In addition, over 400 academics were targeted for assassination and approximately 4 million people were displaced (Baker *et al* 2010:4).

[122] General Tommy Franks initiated "thunder runs" into the centre of the city, in which tanks and mechanised infantry raced through the centre of the city in order to overwhelm Iraqi forces with their speed and power. Only two such runs, on the 5th and 7th April respectively, were required (Conroy & Martz 2005:165, 195). One passed in front of the Museum (Bogdanos 2005:204).

[123] On 9 April 2003, US troops pulled down the statute of Saddam Hussein in Fardus Square in Nasiriyah. Although it was broadcast around the world as proof of a massive uprising against Hussein, photographs by Reuters clearly indicate that the Square was almost empty but for the US troops and a small number of Iraqis (http://www.informationclearinghouse.info/article2842.htm).

photographic opportunities and invaluable fodder for the propagandists, the toppling of this and other statues was a violation of international law (Steen 2008:33). After the Second World War, Karl Lingenfelder was found guilty of contravening article 56 of the Hague Rules after he pulled down a monument to honour the dead of the First World War and broke a statue of Joan of Arc (O'Keefe 2006: 89).

Museum staff had decided to work in shifts in an effort to protect the Museum.[124] However, when George attempted to leave on the 7th, the fighting obliged him to return to the safety of the Museum (George 2008:98). Most of the Ba'athist security police, who were to have protected the Museum, had already left (Rothfield 2009:87), abandoning their uniforms and some weapons (George & Gibson 2008:19).

The following morning, after missiles had struck the telecommunications centre across the road during the night, most of the Museum staff decided to leave (George 2008:98). The Museum's director, Dr. Nawala al-Mutawalli, gave her keys to Dr. Jabir Khalil Ibrahim, the chairman of the State Board of Antiquities and Heritage. Ibrahim twice asked her whether the doors in the Museum were securely locked, and she confirmed that they were (George 2008:98). Only five members of staff remained at the Museum: Ibrahim, George, Muhsin, his son, and Abdul Rakhman. A driver waited outside (Rothfield 2009:87).

Their plans to stay were abandoned when four or five Iraqi militants armed with machine guns and RPG-7s approached the Museum, firing towards the United States' tanks (Rothfield 2009:87). The Museum gate and door were blocked and locked, and the main door of the State Board of Antiquities and Heritage building was chained and locked (George 2008:99). Everyone left the property except Muhsin and his son, who lived in a house at the back of the building (Rothfield 2009:87).[125]

While at least one sniper occupied a second-floor window of the Museum, other Iraqi fighters took up positions in the trenches outside and on the roof of the Children's Museum (Rothfield 2009:88). There is some dispute as to the intensity and duration of the fighting as well as the number of Iraqi

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[124] The complex which houses the Museum is large, and also houses the State Board of Antiquities (SBAH), which oversees all archaeological work and museums in Iraq. In addition to the Museum's galleries, offices, conservation laboratories, storerooms, workrooms and cataloguing rooms, the wings of the building house over 100 offices and a reference library (Gibson 2003b:4).

[125] Although they had intended to return as soon as the fighting was over, they were unable to do so as a result of US military blockades and reports that US troops were "shooting anything or anyone that moved" (Rothfield 2009:87).

fighters on the Museum grounds.[126] However, according to Schwartz, by the afternoon of 8 April, Baghdad was "dead quiet" (quoted in Rothfield 2009:90).

On 8 April, a CNN news team approached Brigadier General Vincent Brooks informing him of the looting taking place in Basra and on the outskirts of Baghdad. They asked how he intended to prevent it from spreading throughout Baghdad. He replied:

> We know that there is often in liberated areas a vacuum in terms of control, especially when you've had as tight a grip as this regime has had on its people for so long. When that's pulled out of the way, humans make decisions about what they're going to do next and what opportunities may be presented to them.
>
> I think as time goes on more law and order will be established, ideally that goes by way of the Iraqi populations taking care of themselves. That's how we see this, not something that's a military control over top of all people, and this will settle down as time goes on. It's not unexpected.

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[126] According to Bogdanos (2005:205), local residents told Roger Atwood that "the Americans had come under attack from inside the museum grounds and that fighting in the area was heavy." Contradicting Schwartz, Bogdanos (2005:205) avers that the fighting was heavy between 8–10 April. His statement is not supported by Conroy, Commander of Charlie Company of Task Force 1-64 of the division's 2nd Brigade Combat Team, who alleges that on the 8th, C-Company "were beginning to transition from combat operations to Security and Stabilization Operations" (Conroy & Martz 2005:216).

Conroy reports that on the 8 April when they drove past the Museum to secure another intersection and expand their perimeter: "A volley of RPGs sailed toward the platoon as it got closer to the National Museum. Bunkers and trenches were built up around the museum, and soldiers were firing at us from the roof of the Children's Museum" (Conroy & Martz 2005:213). On the 9th, a platoon from their tank company, 'Blue' "...reported taking occasional AK-47 and RPG fire from that area and that the museum grounds were being used as a cut-through for fighters changing positions" (Conroy & Martz 2005:223). When the platoon approached the Museum to see what was going on, they were met with "a barrage of RPGs and AK-47 fire from the side streets and the museum grounds" and were instructed to pull back (Conroy & Martz 2005:223).

Bogdanos' version is also not consistent with the visible damage and bullet holes in the area in and around the Museum. When Gibson examined the damage to the front walls of the Museum, he established that only one or two small-calibre bullets had hit the front walls of the Museum, and no windows had been broken (George & Gibson 2008:20). There was a hole in the wall of the Children's Museum and, at the rear of the Museum, there was a hole in the wall of a second-floor storeroom where a round was fired at a sniper (George & Gibson 2008:20).

The situation in the street behind the Museum complex paints a different story: large chunks are missing from stone columns, and hundreds of bullet holes are clearly visible in the colonnade fronting the shops opposite the Museum (George & Gibson 2008:20). Around forty small-calibre bullet holes, mostly around the small door in the rear wall to the Museum complex, are visible in the high outer wall of the Museum complex (George & Gibson 2008:20).

According to Bogdanos (2008:111), Conroy reported that approximately 100-150 Iraqi soldiers were inside the Museum complex armed with AK-47s and RPGs. This is not mentioned in Conroy's book, and contradicts what Schwartz told Rosalind Russell, that there were "30 to 50 Fedayeen defending the compound" (quoted in Russell 2004:218). In his book however, Bogdanos (2005:205) concedes that even Blue, the platoon that approached the Museum, was unable to see into the compound. Accordingly this figure should be considered to be mere speculation.

Although Bogdanos (2005:203) states that the occupation of the Museum complex had been planned for months and that the Museum staff "of course, had to have participated", he conceded that his investigation had uncovered no evidence that any fighters entered the Museum before the staff left on 8 April, and there was no evidence that any member of the staff assisted Iraqi forces in entering the Museum or in building the various fighting positions found inside and surrounding the Museum (Bogdanos 2003:3).

We might see it anywhere where there's a temporary vacuum that forms and law and order is pulled away (quoted in Rothfield 2009: 81).

When the reporter pressed for an answer on whether they expected Baghdad to be looted, Brooks responded: "I think anywhere that we have circumstances like this and there is a removal of structures of control there will be decisions that are made by members of the population. We would certainly discourage that, but I can't be certain that it won't happen in this case" (quoted in Rothfield 2009: 82).

When Captain William Sumner approached Brigadier General John Kern, commander of the 352nd Civil Affairs Command, to voice his concerns about the Museum, Kern responded: "Captain, if you don't think that commander is securing that museum, you don't know what you are talking about" (quoted in Rothfield 2009: 83).

On 9 April, the Archaeological Institute of America sent letters to the Department of State, the Department of Defense, the White House, and the United States military again requesting that both the Museum and archaeological sites be protected from looting:

> We . . . call upon the Coalition forces to provide immediate security, where necessary, for museums and major archaeological sites; to make public statements condemning the looting of sites and museums and warning that cultural objects removed from Iraq are stolen property; and, where necessary, to make appropriate shows of force to stop looting (quoted in Paroff 2004:2027).

By 9 April, looting had spread to the centre of Baghdad. According to Captain Jason Conroy, Commander of Charlie Company of Task Force 1-64 of the division's 2nd Brigade Combat Team, as United States forces left after clearing buildings, "civilians would come in right behind us, carrying, rolling, and hauling away anything that was not anchored in steel or cement" (Conroy & Martz 2005:222). Nothing was done to prevent it.

Khaled Bayomi, a researcher from the University of Lund, witnessed the plunder, and states that: "the Americans troops encouraged people to begin the plundering." He states that when the Americans entered the buildings the tank crews, through interpreters, called the people to take what they wanted from the building. He believes that the American troops initiated the plunder as they "needed pictures of Iraqis who in different ways demonstrated hatred for Saddam's regime" (quoted in Rothenborg 2003:1). Matthew Bogdanos (2005:200) dismisses this report, alleging that: "This sole source, however, had gone to

Baghdad to act as a human shield in opposition to the invasion-the kind of blatant bias, motive to misrepresent, and conflict of interest that generally discredits a witness in the legal system."

Bogdanos is on thin ice when dismissing the report on these grounds, since he could as easily be dismissed as an apologist for American political interests. However, Bayomi was not the sole source. On 6 May 2003, Jonathan Duffy (2003:2) reported on the ransacking of the Technical Institute in Nasiriyah, alleging that when the college requested assistance from American forces, not only was it refused but looting was encouraged. One witness, Rasool Abdul-Husayn, informed the reporter that he saw one American waving the looters in and that when one man came out of a building carrying an air-conditioner, an American said to him "Good, very good" (quoted in Duffy 2003:2).

There were however instances of American intervention. Although Major Chris Varhola attempted to prevent it, the Ministry of Culture building was looted and set on fire: "I went in there with two other guys and we were chasing out the looters and we got nine pretty pathetic looters - taking everything from art to the screws out of doors. But after we caught about eight of these guys, I guess some of the looters got upset, so they lit the building on fire underneath us" (quoted in Rothfield 2009:102).

Outside, there were some thirty American soldiers. Varhola approached the sergeant in charge and asked why they were doing nothing to prevent the looting. The sergeant replied: "I have strict orders not to leave this intersection, I'm guarding this intersection, it's a traffic control point, I'm not allowed to stop looters from the ministry" (quoted in Rothfield 2009:102).

Some American military personnel were also light-fingered. It was reported that one Abrams tank carried a granite statue from a government residence as a souvenir (Cottin 2003:1). This was confirmed in the "Third Infantry Division (Mechanized) After Action Report - Operation Iraqi Freedom" (2010:6), which reported that soldiers "destroyed, damaged, or removed property", and recommended that: "policy on war trophies is included in all training. Ensure that guidance is uniform across the division. Have commanders strenuously reinforce rules regarding property. Prevent soldiers from looting or unnecessarily damaging property. Protect all property in place until commanders decide to use the property for official purposes."

American soldiers were caught stealing over £8 million from an Iraqi government safe house in April 2003, while others were charged with stealing £600 000. Army investigators also found three aluminium boxes each containing £2.6 million, which they believe that the troops intended to smuggle into the United States (End the Occupation of Iraq Rally 2003:36).

American forces also found 37 steel boxes containing around £480 million. Some of the money went missing and was not recovered (End the Occupation of Iraq Rally 2003:36). In a separate incident an Army truck driver stole $300 000 from the money he was transporting (End the Occupation of Iraq Rally 2003:36).

Members of Chalabi's militia, the "Free Iraq Forces" paid and trained by American forces, were repeatedly caught looting homes in Baghdad. They were not arrested, and were merely told to cease looting (End the Occupation of Iraq Rally 2003:36).

In their article in *The Observer*, Martin, Vulliamy & Hinsliff (2003:1) quoted an unnamed official from the Office of Reconstruction and Humanitarian Assistance who stated that Garner was 'livid' when he heard of the looting: "We asked for just a few soldiers at each building or, if they feared snipers, then just one or two tanks. The tanks were doing nothing once they got inside the city, yet the generals refused to deploy them, and look what happened."

Conroy reports that looting took place in the area of the Museum on the afternoon of 9 April. When this was brought to his attention, Lieutenant-Colonel Schwartz instructed Conroy "to tell me if you see people carrying stuff outside the museum" (Conroy & Martz 2005:223).

When Blue platoon attempted to investigate, it drew fire from the side streets and Museum grounds (Conroy & Martz 2005:223). The tank crew returned fire, creating a hole in the Children's Museum (Bogdanos 2005:205). Bogdanos (2005:205) justifies this action by asserting that once the Museum was used for military purposes it lost its protected status. He is incorrect.[127] It is difficult not to agree with Sandy English (2006:4); that there is "something ludicrous and grotesque in an American colonel

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[127] Although article 4(1) prohibits a party from using cultural property for military purposes, breach of this prohibition does not automatically make an attack upon it lawful. The prohibition against launching attacks upon cultural property may only be waived where military necessity imperatively requires it (O'Keefe 2006:125). As the commander of the attacking force, Schwartz elected not to launch further attacks upon the Museum, and withdrew his forces (Conroy & Martz 2005:223).

speaking of the transgressions of the laws of war by a small, nearly defenseless nation during the illegal invasion by the world's leading military power."

No further attempts were made to establish whether the Museum was being looted, and on 9 April Schwartz was explicitly instructed by Colonel David Perkins, his brigade commander, not to stop the looting (Conroy & Martz 2005:223).[128] Later, Barbara Bodine, the erstwhile American Ambassador, reported that direct orders not to interfere with the looting had come from Washington (Bahrani 2008:69).

On 10 April, Gibson sent an email to Captain John Gurney, reiterating the importance of protecting the Museum and one of the buildings of the national bank. He also requested that helicopters be sent to certain specified sites that "are being looted even today, while the war is going on" (quoted in Rothfield 2009:85). In addition, he emailed Lieutenant Colonel Kenworthy, Colonel Gary Wager from Civil Affairs and Colonel David Underland of the United States Central Command, pointing out that:

> The looting in Basra and Baghdad is appalling and completely predictable. I am particularly concerned with the Iraq National Museum, which should have been taken yesterday or today. Can you tell me anything about it and our colleagues, the museum staff who are inside and who will try to repel looters? I am getting lots of questions about the museum and would like to stop speculation about it (quoted in Rothfield 2009:85).

On the same day, Limbert sent an email from the Kuwait headquarters of the Office of Reconstruction and Humanitarian Assistance to Gibson, John Russell, Lamia al-Gailani Werr, and Henry Wright, in which he sought their advice on "the question of maintaining the integrity of Iraq's cultural heritage in the aftermath of the current fighting." He also requested assistance in finding "someone knowledgeable in the international trade in antiquities, who could help the new Iraqis recover stolen and looted works of art" (quoted in Rothfield 2009:85).

According to a journalist, Andrew Lawler, on 10 April a senior officer requested Central Command to move forces into position to protect the Museum quickly. Although Central Command acknowledged the request and responded that they were on their way, nothing came of it (Rothfield 2009:90).

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[128] When Schwartz contacted Perkins on the 9th and reported "extensive looting", Perkins "told him that it was part of the natural process and was likely to go on only for a few more days. Our soldiers were to neither condone it nor try to stop it, because if we tried to intervene we might be associated with Saddam's regime" (quoted in Conroy & Martz 2005:224).

Although Wright and Gibson replied on 11 April stressing the need to protect the Museum (Rothfield 2009:85), they were already too late – the looters had entered the Museum the day before.

As the first group of looters entered the Museum on 10 April, Muhsin ran to an American tank parked at a nearby intersection. Speaking in English, he begged the crew for assistance.[129] His request was refused (Wiltenburg & Smucker 2003:2). This is unsurprising in light of the fact that that very morning Schwartz had passed on Perkin's order to ignore the looting (Conroy & Martz 2005:224).

Ironically, on the very day that the looters entered the Museum, President Bush in a television interview informed the Iraqi people that: "You are the heirs of a great civilization that contributes to all humanity" (quoted in Dietl 2003:1).

The looting began on 10 April, and had ended when Robert Fisk of *The Independent* and a French television crew entered the Museum early on 11 April 2003 (Fisk 2003:5). Subsequently, Muhsin, his son, and other employees barred the doors and erected a large sign claiming that the Museum was being protected by American troops. This ruse successfully deterred further looting (Gibson 2008:25).[130]

4.2   EXPLANATIONS PROVIDED FOR THE FAILURES

Collins confirmed that military commanders had not been instructed to guard the Museum, since such decisions are left to the "commanders on the scene" (quoted in Elich 2004:6). However this statement is ludicrous since commanders in combat situations focus on military operations and generally lack the expertise to recognize the importance of a museum.[131] His statement also overlooks the fact that the Office of Reconstruction and Humanitarian Assistance had sent a list of sixteen institutions that "merit securing as soon as possible to prevent further damage, destruction, and/or pilferage of records and assets" to all senior

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[129] "I took my white underpants off and put them on a stick and ran up the street to the US Marines. I asked them - no, begged them - to help me preserve our treasures, but they would not drive down the street" (quoted in Wiltenburg & Smucker 2003:2).

[130] According to George, "minibuses filled with men brandishing Kalashnikovs drove by the museum, yelling "We'll be back!"" (quoted in Rothfield 2009:108).

[131] As Gary Vikan, a member of the White House Cultural Property Advisory Committee said: "We certainly know the value of oil, but we certainly don't know the value of historical artefacts" (quoted in Grey 2003:1). While recognising it as "an extreme expression of cultural insularity", Elich (2003:6) points to a statement by a US Marine sergeant standing a few miles from Ur, in support of this argument: "I've been all the way through this desert from Basra to here and I ain't seen one shopping mall or fast food restaurant. These people got nothing. Even in a little town like ours of twenty five hundred people you got a McDonald's at one end and a Hardee's at the other."

American commanders two weeks before the fall of Baghdad (Johnson 2005:4) . This memorandum stated that "Coalition forces must secure these facilities in order to prevent looting and the resulting irreparable loss of cultural treasures" (quoted in Johnson 2005:4).

There was no proper plan in place, and troops were left without guidance,[132] a recipe for disaster: "Without a plan, without meticulous rehearsal and without orders or, at the very least, guidance from higher up the chain of command, the military is all but paralyzed" (Rieff 2004:26).

O'Connell (2004:26) quotes an unnamed American Army Judge advocate reported that he had emailed the Pentagon in autumn 2002 requesting the plan for post-hostilities operations. He was informed that his request was premature, an assertion repeated in January 2003. In February he was informed that they were working on it. In March he began requesting the plan on a weekly basis, without success (O'Connell 2004:26). After the invasion, he made daily requests for the plan. Although he was informed that he would be in possession of the plan before the troops reached Baghdad, this was not the case. Indeed, he reported in June 2003 that it had still not been received (O'Connell 2004:26).

The Pentagon had been warned that in order to maintain stability during the invasion several hundred thousand troops would be necessary. Indeed, Army Chief of Staff General Eric Shinseki testified to this fact before Congress in February 2003 (Baker *et al* 2010:32).[133] Others referred to Rumsfeld's plan as "war on the cheap" (Witt 2003:2).[134] Major James B Cogbill confirmed that there was a shortage of troops: "There weren't enough troops on the ground to guard known ammunition dumps,[135] let alone cultural and archaeological sites (quoted in Tucker 2009:3).[136]

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[132] This is confirmed by Conroy: "On the morning of 2 April, we were up before dawn to get ready for the move. Then we waited, and waited, and waited as the plans changed several times before we moved out. They changed again frequently as we were on the move" (Conroy & Martz 2005:156).

[133] He stated that the size of the force required was "[s]omething on the order of several thousand soldiers", pointing out that "it takes a significant ground-force presence to maintain a safe and secure environment, to ensure that people are fed, that water is distributed, all the normal responsibilities that go along with administering a situation like this" (quoted in O'Connell 2004:24).

[134] Many attribute the chaos to the inadequate number of military personnel present after the invasion. In Bosnia and Kosovo, there was approximately one soldier for every 50 inhabitants, which in Iraq would have required a force of 460 000, rather than under 150 000 (Herring & Rangwala 2006:52).

[135] During the invasion, US forces captured an ammunition dump containing 380 tons of explosives outside Baghdad. Subsequently left unguarded, it was looted (Polk 2006:171). The International Atomic Energy Agency had warned US officials of the danger of such looting months before the war (Glanz, Broad & Sanger 2004:1). The explosives included 194.7 metric tons of HMX (high melting point explosive), 141.2 metric tons of RDX (rapid detonation explosive) and 5.8 tons of PETN (pentaerythritol tetranitrate) (Glanz *et al* 2004:4). (The bomb that brought down the Pan Am aircraft over Lockerbie used less than a pound of such explosive.) The fact that it could also be used to trigger a nuclear weapon was the cause for the IAEA's concern and involvement (Glanz *et al* 2004:1). Many of the weapons used against US soldiers were looted from

Although denying that it ignored the reports written by The Future of Iraq Project (Schmitt & Brinkley 2003:1),[137] the Defence Department appears to have relied instead on the views of Iraqi expatriates, such as Ahmed Chalabi of the Iraqi National Congress, who told them what they wanted to hear:

> His claims that the Ba'ath regime had weapons of mass destruction, that US forces would be welcomed as liberators, and that he would be able to provide security and order after the invasion were taken as plausible by Defense officials who favoured an invasion....They did not think that US forces would be required to fight any kind of significant ongoing armed opposition, and expected that all of the costs of the invasion and reconstruction would be repaid from Iraq's oil revenues (Herring & Rangwala 2006:12).[138]

When this happy situation failed to materialise, the American-led coalition had insufficient troops and lacked the manpower and equipment to ensure order and prevent looting. In light of the order prohibiting warning shots,[139] soldiers were obliged either to shoot to kill or not at all (al-Tikriti 2010:96). On this basis, Conroy

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ammunition dumps inadequately guarded by the US military forces (Newsmax.com 2003:1). Most of the explosives used in IEDs (improvised explosive devices) were looted from such caches as a result of lack of security (Roane & Pound 2004:1).

[136] Bogdanos (2005:212) also believes that the speed of the battle "outstripped the ability of Coalition planners to plan for the security needs of a city the size of Baghdad." (His other argument, that those planning the war did not "realize the danger of looting because of the museum's identification with the regime" (Bogdanos 2005:212) is difficult to sustain in the light of the many warnings given, and in light of the fact that this took place in and after the First Gulf War.)

This argument is also unpersuasive in light of what has been stated by the participants. Conroy emphasises on a number of occasions that speed was considered critical (Conroy & Martz 2005:71). Luke Baker (2004:12) recorded that "things were largely going to plan, but the logistics of moving thousands of vehicles across vast, unfamiliar terrain had put us behind schedule." confirms that other factors were also delaying their anticipated speed: "But we were concerned about how badly the intelligence community had failed us to this point. We were running into fighters where intelligence told us there would be none. The mass capitulations had not happened and we gave up hope that they would" (Conroy & Martz 2005:154).

John Chalmers (2004:113) also confirmed that progress was slower than anticipated, and quoted Lt Gen William S. Wallace, commander of the US Army's V Corps who advised that a longer war was now more likely.

[137] In October 2003, the State Department released thirteen volumes of detailed reports written by the Future of Iraq Project, in which the Project warned that: "the period immediately after regime change might offer...criminals the opportunity to engage in acts of killing, plunder and looting" (quoted in Schmitt & Brinkley 2003:1). The post-war planners in the Pentagon discarded thousands of pages of analysis and recommendations that were developed by working groups. Collins dismissed them as a "series of seminars, not a plan". The RAND Corporation adopted a similar view, stating that the Future of Iraq Project "did not produce plans for Iraqi reconstruction that could be translated into practical action." Crocker indicated that the Project "was never intended as a post-war plan", leading some cynics to conclude that it was just a project designed to keep exiles busy (Rothfield 2009:62). Indeed, Secretary of Defence Donald Rumsfeld instructed General Jay Garner, head of reconstruction in Iraq, to ignore the Future of Iraq Project and its ideas (Rieff 2004:25).

[138] Collins admitted that "a lot of people in the Defense Department, and I suppose I had caught that disease as well, were thinking that the post-conflict world would be easier than it has turned out to be. So the whole notion of having formations and the military armed, having to police the cultural end of this, wasn't there" (quoted in Rothfield 2009:40).

Not that there was a general acceptance of these shortfalls. When asked why the Americans were not undertaking a policing function, Wolfowitz stated that "once we get in there with a small military force the local people seem to organize themselves quite well to do those jobs" (quoted in Rothfield 2009:40).

[139] Although Bogdanos (2005:211) points out that the soldiers were unable to shoot the looters without being charged with murder, he dismisses any criticism of the order prohibiting warning shots on the basis that it only works in films; that firing a weapon "usually" escalates the situation and that bullets don't just disappear, they could injure someone.

queries how they could have stopped the looting once it had started: "Shoot the very people we came to liberate? That did not seem the best way to win hearts and minds and stabilize a country that no longer had a government or a police force" (Conroy & Martz 2005:222). The fundamental irony of this statement appears to have escaped him completely.

Retired Army Colonel William Taylor disagrees with these views, asserting that American forces could have done more: "Infantry soldiers can be given the mission of blocking doors of any facility to keep looters out. They don't have to shoot, don't have to beat anybody, but you can darn well use your assault rifle to push them away" (quoted in Japan Today 12 April 2003).

It is noteworthy that American commanders did not argue that they had no obligation to secure the Museum, but argued instead that combat operations took precedence over the protection of the Museum. At a press conference on 16 April, General Myers rejected any criticisms of their lack of planning, stating that:

> Some have suggested, "Well, gee, you should have delayed combat operations to protect against looting, or you should have had more forces, should have waited till more forces arrived." To that I would say this: The best way to ensure fewer casualties on [the] coalition side and fewer civilian casualties is to have combat operations proceed as quickly as possible and not prolong them. And so it gets back to the - a matter of priorities. And we're dealing with some of those issues that you just brought up, Jamie, but the first thing you have to deal with is loss of life, and that's what we dealt with. And if you remember, when some of that looting was going on, people were being killed, people were being wounded, as I made reference to in my opening remarks. So I think it's, as much as anything else, a matter of priorities (quoted in Rothfield 2009: 115).[140]

The response to this argument is simple – no country should enter into a war unless it has ensured that it is able to comply with its international obligations; that it is able to step in and protect the people and the cultural property of the country it has invaded after its actions have resulted in the complete breakdown of law and order. It is not as if the people of the country were being protected, they were not. Nothing was being protected except the oil reserves and infrastructure.

There are a number of academics who believe that the American-led coalition forces invaded Iraq with the "express aim of dismantling the Iraqi state" (Baker *et al* 2010:3); that the looting of the Museum was no mere failure to protect but rather part of a larger strategy – one aimed at the

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[140] Navy Lieutenant Commander Charles Owens, a spokesman for the US Central Command, stated that dealing with looting was not a priority: "We are doing our best to protect our forces. We are still engaged with people who want to kill us" (quoted in Davis & Brown 2003:1) Major General Stanley McChrystal also cited the issue of priorities: Since looting did not cost lives, it enjoyed a lower priority (quoted in Miller 2005-6:66). Are we intended to believe that oil and its infrastructure enjoyed a higher priority for the same reason? Does oil really cost lives?

destruction of the state of Iraq. This would require not only regime change and the restructuring of the political and economic framework of the country, but also "cultural cleansing": "the degrading of a unifying culture and the depletion of an intelligentsia tied to the old order" (Baker *et al* 2010:6). They argue that:

> The invasion of Iraq had the larger purpose of demonstrating precisely how unchallengeable and unrestrained the shock and awe of American power would be to all those forces that stood in its way. Massive loss of life and cultural devastation were acceptable, if not outright desired...To be sure the real motives behind the assault were covered by the useful talk of "terror" and liberation. However it was important for the demonstration effect that the assault itself and the havoc it caused be screened as fully as possible...The ideologically driven aim of state-ending derived from a confluence of influences that included American neo-conservatism and its imperial ambitions, Israeli expansionism and its drive for regional domination, and Western multinationals and their relentless quest to regain control of Iraqi oil (Baker *et al* 2010:7).[141]

and that the underlying intention was clear:

> The strategically important Middle East would be remade in the American image. To that end, the invasion of Iraq would display America's crushing military power to a world reduced to the status of spectators in a spectacle of a state's destruction, marked by massive civilian casualties, cultural devastation, and the pauperization of its people. In the wake of state ending, the Americans and their British allies would create a massive regional base in the very heart of the Arab Islamic world to guarantee that Western hegemony in this crucial region would be permanent and unchallengeable. There would of course be permanent military bases. Iraq would be held up as a bastion of the American example and a model for the transformation of the entire area...Finally, Western corporations, with American companies in the lead, would be in a position to dictate the terms of favourable deals with the Iraqi occupation regime to regain Western control of the nation's oil (Baker *et al* 2010:8).[142]

Al-Tikriti is of the view that the acceptance of excuses based upon poor planning and insufficient troops ignores the prior warnings that the planners received, the selection of sites chosen for protection (which was clearly based upon American strategic interests), the many days over which looting was permitted, and the active seizures of Iraqi collective assets: "Several hours of looting can be considered a failure of policy, but several days of looting can only be seen as a policy of failure" (al-Tikriti 2010:97). It is difficult not to agree.

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[141] The US attempted to have a law passed in terms of which Western oil conglomerates would have been awarded 25-30 year contracts to produce the oil in Iraq(Baker *et al* 2010:20). The Iraq Federation of Oil Unions opposed the legislation, condemning it as imperialist and a surrender of Iraqi sovereignty. In June 2008, Exxon Mobil, Royal Dutch Shell, Total and BP were awarded contracts, but on less favourable terms than originally anticipated (Baker *et al* 2010:20).

[142] The loss of Iraq's cultural heritage has been classified by Keith Watenpaugh as "mnemocide" – the murder of cultural memory, while others have referred to a "systematic campaign to erase Iraq's collective memory" (al-Tikriti 2010:94). Whether or not such policies were deliberate, al-Tikriti (2010:94) asserts that they must be categorized as "passive and negligent mnemocide".

He questions why American officials might choose to permit such destruction – particularly in light of their efforts to prevent this during World War II, and points out that:

> Prior to the Anglo-American invasion of Iraq in March 2003, several Bush administration officials promised a complete remaking of Iraqi society in the interests of spreading democracy, freedoms, liberty, and "a new Middle East." Not surprisingly, the creation of something new necessarily entails the destruction of what preceded it. The more ambitious the creation, the more extreme the destruction. Certain American officials hoped that such looting would clean the slate and smooth the way for their reconstruction of Iraqi society in an image more amenable to their tastes (al-Tikriti 2010:98).[143]

This would explain why there was no effort to protect cultural property. It was not only irrelevant to the implementation of their agenda, but was intended to promote it.

5.   CONCLUSION

In March 2003, Iraq was invaded by coalition forces led by the United States. As no protection was provided, the National Museum in Baghdad was looted. What has raised the ire of people around the world is the fact that numerous archaeologists, scholars and experts, both from within and outside the United States' Administration had warned of the risk of looting, and had urged numerous branches of the Administration to protect Iraq's cultural property. Other cultural and educational institutions were also looted and many were burned. Although much of the looting took place over a period of weeks, no efforts were made by the United States' forces to put a stop to it. Indeed, orders were specifically given not to intervene – orders which had their origins in Washington.

Even in the absence of all the warnings, the looting should not have come as a surprise. Not only because it had happened after the Gulf War but also because, according to Sandra Mitchell, then vice-president of the International Rescue Committee: "Anyone who has witnessed the fall of a regime while another force is coming in on a temporary basis knows that looting is a standard procedure. In Iraq there were very strong signals that this could be the period of greatest concern for humanitarian response" (Fallows 2004:10).

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[143] John Agresto, who was in charge of the Ministry of Higher Education and Scientific Research during 2003-4, initially believed that the looting of Iraq's universities was a positive act in that it would allow such institutions to begin again with a clean slate, with the newest equipment as well as a brand new curriculum (al-Tikriti 2010:98).

It is clear that there was no proper plan in place, and that there were insufficient troops sent to Iraq. The Administration chose to listen to people who told them what they wanted to hear, instead of following time honoured military traditions in preparing for war.

TPFDD is the acronym for "time-phased force and deployment data," a manner of preparation which is "methodical, careful, and sure". It is comprised of a "complex master plan governing which forces would go where, when, and with what equipment, on which planes or ships, so that everything would be coordinated and ready at the time of attack" (Fallows 2004:12). The plan that had been put together for the invasion of Iraq was decimated by Rumsfeld, who was determined to reduce numbers and costs in spite of opposition from generals who pointed out that "these changes will ripple back to every railhead and every company" (Fallows 2004:12). The army feared that with insufficient troops, they would be placed in an "untenable position during the occupation" (Fallows 2004:13). How right they were.

The fundamental difference in the position adopted by the Army and the Administration related to the purpose and need for a large force. The Army believed that a sizeable force would be more important after the fall of Baghdad, than during the war itself: "The first few days or weeks after the fighting, in this view, were crucial in setting long-term expectations. Civilians would see that they could expect a rapid return to order, and would behave accordingly – or they would see the opposite." (Fallows 2004:13).[144]

This was not however the view of the Administration, who believed that "the people would realize that they were liberated, they would be happy that we were there, so it would take a much smaller force to secure the peace than it did to win the war. The resistance would principally be the remnants of the Baath Party, but they would go away fairly rapidly" (Fallows 2004:14).[145]

It is to such faulty reasoning that Thomas White, the Secretary of the Army during the war, attributes the fact that the United States was unable to manage the country once it had been "liberated" (quoted

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[144] War-game exercises for the possible invasion of Iraq performed by Marine General Anthony Zinni, who preceded Tommy Franks as CENTCOM commander, had required a much larger force than that eventually sent to Iraq (Fallows 2004:14). Zinni stated that Rumsfeld and Cheney "were very proud that they didn't have the kind of numbers my plan had called for... The reason we had those two extra divisions was the security situation. Revenge killings, crime, chaos – this was all foreseeable" (quoted in Fallows 2004:14).

[145] According to Wolfowitz: "It's hard to conceive that it would take more forces to provide stability in post-Saddam Iraq than it would take to conduct the war itself and to secure the surrender of Saddam's security forces and his army. Hard to imagine" (quoted in Fallows 2004:21). According to Fallows (2004:21), "None of the government working groups that had seriously looked into the question had simply "imagined" that occupying Iraq would be more difficult than defeating it. They had presented years' worth of experience suggesting that this would be the central reality of the undertaking. Wolfowitz either didn't notice this evidence, or chose to disbelieve it."

in Fallows 2004:14).[146] It resulted in the United States having insufficient troops to ensure order, prevent looting and protect lives.

When criticised for their failure to protect the Museum, the United States raised the issue of priorities. Although at face value this argument may appear attractive, it is difficult to sustain in light of the fact American forces had secured the Oil Ministry[147] during the same period and had also managed to send some 2 000 troops equipped with armoured vehicles to secure the Iraq's northern oilfields (Sandholtz 2005:237; Johnson 2005:4).[148] Such a contingent could have secured the Museum, particularly when bearing in mind the dates when it is alleged that the Iraqi fighters had entered upon the Museum grounds and the fact that one of the "thunder runs" had passed directly right in front of the Museum (Bogdanos 2005: 204). Had they moved to secure the Museum immediately, they should, on the facts, have succeeded. The point is however that no effort was made: neither *ex post facto* justifications nor allegations of certainty of failure can successfully deflect responsibility. The American agenda in undertaking the invasion did not require that cultural property be considered. It was simply irrelevant.

The lack of respect for Iraqi cultural property spilled over into other areas as well. The United States chose to station troops at Iraq's Monument to the Unknown Soldier in Baghdad (al-Tikriti 2010:108). Armoured personnel carriers were parked on the marble courtyard, the Hall of Martyrs was converted into a dormitory, and exercise notices were taped over the names of Iraqi soldiers who had died during the Iran-Iraq war (al-Tikriti 2010:108).

Since the artefacts contained in the Museum chartered the origins and steps towards the rise of civilization, every artefact lost in the looting is irreplaceable. Many of the sculptures, figurines and reliefs were one of a kind, the likes of which may never be seen again.

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[146] In June, Peter Galbraith, a former United States ambassador to Croatia, informed a congressional committee that: "When the United States entered Baghdad on April 9, it entered a city largely undamaged by a carefully executed military campaign...However, in the three weeks following the U.S. takeover, unchecked looting effectively gutted every important public institution in the city – with the notable exception of the oil ministry" (quoted in Fallows 2004:22).

[147] Bogdanos (2005:202) alleges that this was not possible as the Oil Ministry was first bombed, an approach which could not be followed with the Museum. This is contradicted by Said Arjomand, a professor at the State University of New York at Stony Brook, who reported that: "Our troops, who have been proudly guarding the Oil Ministry, where no window is broken, deliberately condoned these events"(Johnson 2005:4). This is supported by John Russell, who went to Baghdad with the First UNESCO Heritage Mission, and commented that:

> In every block are huge buildings destroyed by bombs, blasted by tanks, or burned out by looters....Most of these buildings are still standing to some degree, but they're all charred shells. This includes every government building, but also shopping centers, apartment blocks, the libraries, office buildings, just about every large building except the museum, which miraculously suffered little physical damage, and the Ministry of Oil, which looks brilliantly unscathed against the general backdrop of ruin (Russell 2003:6).

[148] Rumsfeld confirmed that securing oil wells was a "top priority". Touted as "one of the first objectives" of Operation Iraqi Freedom, it led to the headline: "137 More Oil Wells Liberated for Democracy" (quoted in Nichols 2003:3).

There is much still to be learned; only a relatively small number of the cuneiform tablets held in the Museum have been translated, and none of those looted had been translated. Spanning over 3 000 years of Mesopotamian culture, cuneiform tablets provide information on the lives, dreams, economics and cultures of hitherto little known, or even unknown civilizations of the ancient world. They also provide us with information on those of cultures of which we were aware only through such sources as the Bible and classical authors, but now our information comes, *inter alia*, from the mouths of the very peoples themselves. The importance of these tablets, even individual ones, cannot be over emphasised. The loss is incalculable.

The loss of the seals is devastating not only because of the information which they carry, but also in light of the information which they could unlock, for they provided a database of information against which other seals could be measured and dated, enabling the other seals to impart additional information on a specific period.

 Although the ultimate blame must lie with the looters, the blame for creating the conditions which made the looting possible should be attributed to the American government and senior commanders. Ultimately, the issue was one of political disinterest. Had there been the slightest bit of political interest in the issue, the problem of looting could have been prevented or brought under control by appropriate plans and/or action.

The decision not to protect the Museum or to stop the looting was conscious and deliberate. As noted by Fallows (2004:22): "[V]irtually everyone who had thought about the issue had warned about the risk of looting. U.S. soldiers could have prevented it – and would have, if so instructed."

CHAPTER 5

THE DAMAGE TO ARCHEOLOGICAL SITES

Looting at archaeological sites increased significantly during the invasion and in the lawlessness and chaos which characterised the occupation of Iraq. The United States forces as occupiers had an obligation to prevent the plunder and looting, but they chose not to do so. Instead they participated in the destruction of some sites through military occupation and irresponsible construction. Many sites have been partially or completely destroyed and parts of others have been rendered useless for further archaeological research. As a result, knowledge has been lost and mankind is the poorer for it.

1   DESTRUCTION OF ARCHAEOLOGICAL SITES

The impending invasion of Iraq deterred archaeologists from resuming excavations in 2003, and looters moved onto some sites. Looting of additional sites was observed on the day that the invasion began (Gibson 2008:38).[149] The State Board of Antiquities and Heritage was obviously unable to protect sites during the invasion and more particularly after the looting of their offices and the theft of their vehicles on 10 April 2003. Further, once the Ministry of Finance ceased to function, no employees were paid (Russell 2008:33), a situation exacerbated by the disappearance of the Iraqi police and the Coalition's decision to disband the Iraqi army. No-one remained to enforce Iraq's antiquities laws.[150]

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[149] According to al-Hussainy (2010:86), government officials engaged in illegal excavations after the 1991 invasion not only for personal gain but also with an intention of destroying the historical identity of Southern Iraqis. These actions damaged many sites, including Isin, Adad, Shurrupak, abu-Hatab, Bezikh, Larsa, Shmet, Umma, Tulul al-Dhaher, az-Zebleiat and Tell al Wilaya. He (2010:85) reports that the Hussein regime "waged an official campaign of vengeance and terrorism against the south, whose aim was nothing short of its destruction – including the people, their heritage and the environment". The Third River Project destroyed many Sumerian sites in the dry river bed of the Euphrates, and roads built in the vicinity caused further damage. The salvage operations performed prior to construction, such as that at Tell al-Makhada were superficial, and deeper layers were destroyed (al-Hussainy 2010:86).

[150] According to Garner, they had not foreseen the collapse of the Iraq infrastructure; that the looting had rendered 17 of the 23 ministries "unusable" (quoted in Herring & Rangwala 2006:14). ORHA was not designed to deal with this and, according to a

Elizabeth Stone's study clearly established a link between the sites looted and the popularity of the artefacts likely to be found there.[151] Although the destruction of the sites is difficult to quantify, it has been estimated that in the first two years looters removed as much earth as did archaeologists in the previous 180 years, and that between 400 000 and 600 000 artefacts were looted from sites during this period (Rothfield 2009:137).

1.1   DAMAGE TO SITES BY LOOTERS

1.1.1   **Nimrud**

Nimrud was occupied from prehistoric times. Although there is evidence of a number of building projects during the Middle Assyrian period by Shalmaneser I (1273-1244 BCE) (Curtis 1997:141), Nimrud reached its zenith as the Assyrian capital under Assurnasirpal II (884-859 BCE). Over a period of some 15 years, Assurnasirpal II transformed Nimrud from a small town (Foster & Foster 2009:116), and a wall some 7.5 kilometres long enclosed a city covering an area of some 360 hectares (Oates & Oates 2004:27). According to Austen Henry Layard, the wall was originally some 100 feet high (Layard 1853:123), constructed of mud-brick with stone foundations (Oates & Oates 2004:28). Even after the royal capital was moved to Khorsabad, Nimrud remained an important provincial capital. Although it was destroyed by the Medes together with other Assyrian capitals during 614-612 BCE, limited occupation continued until Parthian and Sassanian times (Curtis 1997:141).

Assurnasirpal built temples and a magnificent palace complex (Foster & Foster 2009:116). The palace was adorned with stone reliefs and colossal human-headed winged animals, who were intended 'by their nature to turn back an evil person' (Oates & Oates 2004:36).

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senior British representative, possessed "no leadership, no strategy, no coordination, no structure, and [was] inaccessible to ordinary Iraqis" (quoted in Herring & Rangwala 2006:14). The legitimacy of the exiles was not recognised by local Iraqis and "there was no single institution that could act as both legitimator of and a successor to the Coalition" (Herring & Rangwala 2006:15). ORHA was dissolved and replaced by the Coalition Provisional Authority in May 2003.

[151] Although sites of all sizes were looted, Stone (2008:137) established that it was more prevalent at sites likely to produce items popular with collectors. Looting was more intense at sites dating from the beginnings of civilization in Mesopotamia, and escalated at later Early Dynastic and Akkadian sites, a time when the carving of cylinder-seals was at its finest. Heavy looting was also common at late third to second millennium BCE (Ur III-Kassite) sites, which sites produce many cuneiform tablets (Stone 2008:134). Achaemenid and Parthian sites were also popular for the coins and jewellery they yielded, whereas the Sassanian and later Islamic sites were much less so. Sites dating from the fifth and early fourth millennia BCE, which lack collectable cylinder seals, inscribed tablets, statuary, coins, and other objects showed relatively low levels of looting (Stone 2008:134).

The entrances to some of the temples in the city were also guarded by colossal lions, and one temple contained a limestone statue of Ashurnasirpal II standing on a red stone base (Curtis 1997:143). Other important buildings in the citadel were decoratively painted, and were also guarded by winged bulls (Curtis 1997:144).

The palace was burnt in 612 BCE, but the fire baked the tablets in the archives and preserved them for posterity together with, *inter alia*, "carbonised wheat, barley and linseed, with mortars and grindstones, spindle whorls and loom weights", as well as pottery, ivories, part of a musical instrument (Oates & Oates 2004:46) and copper vessels, which disintegrated when exposed to air (Oates & Oates 2004:57).

Archaeologists located a number of undisturbed royal and other graves in the North-West Palace, with rich grave goods including gold ornaments weighing some fifty seven kilograms (Foster & Foster 2009:118, Curtis 1997:143), including the "Nimrud jewel"[152] (Curtis 1997:143). A number of artefacts were also discovered in wells, such as ivories, carved tusks, writing boards and sculptures (Curtis 1997:143). A more recent Iraqi excavation of a newly discovered well led to the discovery of seals, ivories, manacled human skeletons (Oates & Oates 2004:100), glazed pottery, objects made of gold and semi-precious stones, a copper mirror, beautifully carved ivory containers, and other objects made of bronze and iron (Oates & Oates 2004:101). Archaeological discoveries from the site have been extremely rich, even though only around 40% of the city has been excavated (Elich 2004:6).

After the 1991 Gulf War, the reliefs at Nimrud were looted, broken into smaller pieces and sold on the international market (Elich 2004:6). Looters again appeared at the site on 11 April 2003, calling the guards by name and threatening their families if they intervened (Elich 2004:6). One of the pieces of relief looted is of a winged man carrying a sponge and a holy plant, and is so distinctive that Atwood (2004:7) is of the opinion that it "bears all the markings of customized looting, a band of well-equipped stonecutters venturing into the ruins to remove a specific piece on orders of a buyer who had put in his request in advance."

Several fragments of reliefs have been stolen or damaged. The Assurnasirpal II Palace site museum suffered two thefts: a winged disk was stolen from Room I, and a kneeling figure was stolen from the throne room (Russell 2003:2).

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[152] This is "an engraved chalcedony seal set in gold and attached by links on a swivel to its gold chain" (Oates & Oates 2004:79).

1.1.2   **Nineveh**

According to *Genesis*, Nineveh was among the first cities to be built by Noah's descendants after the flood (Russell 1998:9).[153] Although the core mound of the city was occupied from the seventh millennium BCE to early Islamic times (Stronach & Codella 1997:144), the city reached the zenith of its fame as the capital of the Assyrian empire after the death of Sargon II when Sennacherib relocated the capital from Khorsabad (Russell 1998:9). Its location on the Tigris ford enabled it to control major trade routes (Russell 1998:9). The city covered an area of 750 hectares, and was surrounded by double walls covering a distance of twelve kilometres (Stronach & Codella 1997:146). While the inner wall was made of mud-brick, the outer wall was dressed with limestone and capped with stone crennellations (Stronach & Codella 1997:146). It contained fifteen gates, the most magnificent being the Nergal Gate, which was guarded by winged colossi. Work on the city was continued by his successors, Esarhadden (680-669 BCE) and Assurbanipal (668-627BCE) (Stronach & Codella 1997:146).

Sennacherib's new palace became the largest in Assyria, with walls decorated with reliefs and doorways with "colossal human-headed bulls" (Layard 1853:102). Although damaged, Layard (1853:104) was able to establish that the entire gallery of the palace was covered by "one continues series" of reliefs.[154] Reliefs also decorated the walls of other rooms in the palace, one of which provided in detail the progress of an Assyrian conquest (Layard 1853:70). The reliefs created by his grandson Assurbanipal are considered to be "unsurpassed in Mesopotamian art" (Stronach & Codella 1997:146). Based upon these reliefs, it is argued that the famous Hanging Gardens were not in Babylon, but in Assyrian Nineveh (Dalley 1994:57).[155]

Layard also discovered 10 colossal human-headed bulls bearing cuneiform inscriptions from the time of Sennacherib, which provided the annals of six years of his reign as well as invaluable information on Assyrian religion (Layard 1853:138). These inscriptions caused great excitement when translated, for they provided corroboration for certain events described in the Bible (Layard 1853:144). Layard

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[153] Sennacherib, the king of Nineveh was also mentioned in the Bible, in particular in regard to his conquest of the Biblical city of Lagash. These references ensured popular interest in the discovery and excavation of the city, and led to Layard's *Nineveh and its Remains* (1849) becoming a bestseller (Russell 1998:12).

[154] These reliefs differed from those in Nimrud for they were comprised of a continuous series of reliefs, whereas at Numrud the reliefs were in two registers and often confined to one slab, each showing separate pictures (Layard 1853:74).

[155] In her article, Dalley considered the classical sources which led to the attribution of these gardens to Babylon. After a thorough examination, she too concluded that they were next to Sennacherib's Palace in Nineveh (Dalley1994:57)

subsequently located a room containing a well-preserved series of reliefs depicting Sennacherib and the Biblical battle of Lagash (Layard 1853:148). During his excavations, Layard uncovered almost three kilometres of carved reliefs (Stronach & Codella 1997:145).

It fell to his successor Hormuzd Rassam to uncover the Lion Hunt series of reliefs of Assurbanipal as well as his library (Oates & Oates 2001:6), comprising over twenty four thousand cuneiform tablets (Stronach & Codella 1997:145).[156] This library has proved to be a rich source of information on the region as well as on the lives, beliefs and literature of its ancient inhabitants.

The city was destroyed by the Medes and Babylonians in 612 BCE (Stronach & Codella 1997:144). Although it never regained its former Assyrian glory, it was occupied during the last few centuries BCE and the first few centuries ACE by the Greeks, Parthians and Romans (Stronach & Codella 1997:147), thus providing information on a number of important periods of history.

Reliefs from this site began appearing on the international market during the 1990s. In an effort to deter collectors, and thereby the looters, Russell published an article in IFAR reports in 1996 warning prospective purchasers that these reliefs would be poor investments as they are documented, their illegal export obvious, and subject to recovery by Iraq (Russell 1998:15). However, this did not deter looters and he was shown other reliefs looted from the site about a year later (Russell 1998:16). In an effort to preserve the reliefs and to deter collectors, he copied the remaining reliefs and published them.[157] In so doing, he alerted everyone to their origin, and clearly established Iraq's entitlement to recover them if looted.

In the absence of guards, looters damaged the only surviving wall in Sennacherib's palace in April 2003.[158] Although American military forces were camped a few hundred metres away, they did not intervene (Foster *et al* 2005:80). In search of artefacts, looters also dug two holes in the floors (Carboni 2003:4).

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[156] It was among these tablets that in 1872 George Smith found part of the tablet dealing with the flood; the remaining part he located during an excavation in 1873 (Stronach & Codella 1997:145). It was also through the study of the tablets found in this library that Jules Oppert first discovered the existence of the Sumerian civilization (Bernhardsson 2005:49).

[157] To be found in Russell, J.M. 1998. *The Final Sack of Nineveh.* New Haven: Yale University Press.

[158] Nineveh was badly damaged in 1991 when looters removed the marble reliefs from Sennacherib's palace. The reliefs were broken up and sold in pieces on the antiquities market (Russell 1998:15).

1.1.3 **Nippur**

It was in this city that Enlil was believed to have created mankind. As a result the city was of great importance as a place of pilgrimage and one which managed to escape the depredations of war. It accordingly provides an "unparalleled archaeological record spanning more than 6000 years" (Oriental Institute:1). According to Zettler (1997:150), the Inanna temple in Nippur provides the "longest continuous archaeological sequence for Mesopotamia: twenty-two building levels spanning the Middle Uruk through Late Parthian periods." Within the temple, archaeologists have located relief-carved plaques, sculpture, and clay sealings. Within private houses, archaeologists found tablets dealing with the period from the late eighth and early seventh century BCE, a period for which sources are scarce (Zettler 1997:151).

The Sumerian city-state of Nippur was occupied in the early sixth millennium, and the main mound remained occupied until 800 ACE. The city was large, covering 135-150 hectares, and was fortified by a wall (Zettler 1997:149). Nippur was where kings were crowned king of Sumer and Akkad (Foster *et al* 2005:29), and later the city became a centre of learning.

Archaeologists located an archive containing 15 000 Sumerian and Akkadian tablets in the city - lexical tablets and tablets dealing with Sumerian literature (Zettler 1997:150), medicine (El Guindi 1991:152), administration and other correspondence dating to the 14th and 13th centuries BCE (Foster & Foster 2009:90). These include the oldest versions of literary works, such as the Epic of Gilgamesh and the Creation Story (Oriental Institute:2).

The discovery of 1425[159] fragments of tablets in "House F" has thrown light upon the curricula of schools in the area around 1740 BCE (Robson 2001:40, 45). Of these tablets, 2% are archival, 50% contain Sumerian literature, 42% school literature, and the remainder is still to be established (Robson 2001:42). The school also contained recycling boxes, where used tablets were soaked and remade (Robson 2001:44).

In 1990, an expedition led by Gibson located the ruins of a temple to Gula, the goddess of healing, which may produce new insights into the early practice of medicine. The ruins examined date from ca. 2000 BCE, but earlier structures below are believed to date to around 3000 BCE (Oriental Institute 1997:2). Gibson considers that the large size of the temple might indicate a greater emphasis on health and medicine than previously believed (El Guindi 1991:151). Among the artefacts left at the temple

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[159] The joining of known fragments have reduced this number to 1300, which may become less as more matching fragments are located (Robson 2001:44).

were small clay figurines of humans; one touches his neck, another holds his head, and yet another his chin and stomach (Oriental Institute 1997:1), gestures that Gibson believes referred to their ailments (El Guindi 1991:151). Among the tablets found were three which deal with gynaecological problems (Oriental Institute 1997:2).

According to Atwood (2004:6), Nippur has suffered at the hands of looters for the first time in over 40 years of excavation at the site. They have dug at least three deep pits next to the *ziqqurat* (Atwood 2004:6).

1.1.4 **Umma**

The Sumerian city-state of Umma was one of the earliest to emerge in the fourth millennium BCE. It displayed early evidence of economic specialization and political organisation (Starr 1991:32), and as such is of particular interest to scholars of the period. Under Lugalzagezi, Umma conquered and united all of the Sumerian city-states, a union which lasted until its conquest by Sargon of Akkad (Garen & Carleton 2005:18). It has never been officially excavated, although the State Board of Antiquities and Heritage conducted an emergency excavation of the site in 1996 in the face of increased looting (Garen & Carleton 2005:18). In the 1990s, it was reported that looters had located and removed a cuneiform archive (Brodie 2006:206).

On the day the war began, dozens of looters arrived at the site, drove off the guards, and began looting (Atwood 2004:6). Over 200 looters, some armed, were still active when Gibson inspected the site in May 2003 (Elich 2004:7). When George travelled to Umma to rescue certain carvings, the looters were still active, using bulldozers and dump trucks in their haste to take whatever they could (Jenkins 2007:1). The site has been completely destroyed (Garen & Carleton 2005:18).

1.1.5 **Isin**

Although Isin was believed to have been founded by the king of the first dynasty, Ishbi-Erra (2017-1985/1953-1921 BCE), excavations of the site indicate that it was occupied as early as the 'Ubaid period (Hrouda 1997:186). The primary god of the city was Gula, whose temple, dating from the

Early Dynastic period, is located upon the highest point on the tell, surrounded by a wall (Hrouda 1997:186).

Isin was a centre of traditional learning (Foster & Foster 2009:71), and an ancient version of Lourdes. Four millennia ago, people sought healing through prayer to the goddess Gula. Human bones evidencing deformity, trauma, and disease have been excavated at the site (Atwood 2004:2). An anthropologist has found evidence of arteriosclerosis, a blow to the head, stroke injuries, and small artificial openings in a skull indicating trepanation (Hrouda 1997:187). A figure of a kneeling man with his hand on his back has been found, and it is thought that he is either demonstrating where he has pain, or where he was healed (Hrouda 1997:187).

When Osthoff and Atwood visited in May 2003 the area was swarming with looters, and the site was pockmarked with tunnels and pits, some twenty or thirty feet deep, particularly in the area of the temple (Atwood 2004:4). The archaeologists' site house was a shell, stripped of its roof, plumbing, and fixtures (Atwood 2004:5). They were offered cuneiform tablets and cylinder seals looted from the site (Atwood 2004:4).

On 15 January 2004, when Russell flew over the site, he observed at least fifty looters at work, many of whom waved at him (Russell 2008:39). According to Mounir Bouchenaki, Deputy Cultural Director of UNESCO, Isin has been "completely destroyed" (Elich 2004:7).

Although American military forces had their area headquarters in nearby Afak, with tanks and armoured personnel carriers, their armed patrols made no effort to stop the looting or the destruction of the site (Atwood 2004:3).

1.1.6   Hatra

Hatra was first settled in the desert during the Late Hellenistic period (second to first centuries BCE), but by the first century ACE, it had become a buffer state of the Parthian kingdom (White 1997:484). It was situated upon the commercial route from Ashur to Syria and became an important trading centre. Until the end of the third century ACE it remained an important centre on the caravan route between Seleucia-Ctesiphon and Singara and Nisibis (Teixidor 1997:485).

 With a central temple complex, it was surrounded by six kilometres of walls with over 160 square towers (Foster *et al* 2005:111). The central temple complex housed the Temple of Shamash, smaller sanctuaries

and the administrative centre. The temple had two large *iwans*[160] in the centre, each with a row of smaller *iwans* next to them (White 1997:485). This community was unique, for it had a trinity of deities not found elsewhere in the West Semitic region: "our lord", "our lady", and "their son" (Teixidor 1997:486).

The early inscriptions were Aramaic, followed by Greek and Latin. The art and architecture reflect a mix of Greek, Parthian and Roman influences (White 1997:484). It was abandoned by the mid-fourth century ACE.

The statuary removed from the site to the Mosul and Baghdad museums was damaged by looters. Two of the statues left on site, the head of a figure from the northern *iwan* and a camel in relief, were looted. The camel has since been recovered (Carboni 2003:4). Although protected by armed guards, their effectiveness was compromised by threats made against their families (Rothfield 2008b:21).

At the time of the invasion, it was the only Iraqi site on the World Heritage List (Stone 2008b:75). The controlled explosion of ordnance in close proximity to the site has endangered the stability of the ancient structures (Foster *et al* 2005:112).

1.1.7   Other Damaged Sites

Looting has also been reported at a number of other sites, but it is beyond the purview of this dissertation to detail the damage suffered to every site. However, the damage to sites of Sumerian city-states has been catastrophic. Sites such as Adab,[161] Zabalam[162] and Shuruppak,[163] have been so badly damaged that little remains of the top three metres of the archaeological record (Garen & Carleton

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[160] The *iwan* is a high vaulted structure, often with one end left open. Prior to the development of domes, the "soaring inner space" was used in temples or palaces (Foster *et al* 2005:112).

[161] This town, occupied from at least as early as the early third millennium BCE, appears in the Sumerian King-list. Bricks stamped with the names of kings from the Early Dynastic and Akkadian periods have been found. Cuneiform tablets were located in both the palace and private houses, together with fragments of pottery and statuary. Considered one of the most important third millennium sites in Mesopotamia, it has not been fully excavated (Crawford 1997:15).

[162] This site, occupied from the early third millennium to the Akkadian period (ca. 3000-2200 BCE), has not yet been excavated. The large mound, some 30-40 metres high, is believed to have contained the remains of a *ziqqurat* (CENTCOM Historical/Cultural Advisory Group).

[163] The fame of the city lay principally in the belief that it was the home of Utnapishtim, the hero of the flood. First settled in ca. 3000 BCE, and covering an area of some 200 hectares, it was occupied until the Ur III period (Matthews 2000:271). Although the deposits from the Jemdet Nasr period are substantial, they were not fully excavated. The cuneiform tablets and clay sealings located in the mud-brick structures from the Early Dynastic period provided insight into the administrative, economic and daily life of the period (Matthews 2000:271).

2005:18). At the Sumerian city of Um Alkarab, the bricks which formed the facade of the palace have been removed from the wall, almost destroying the palace (Fisk 2003:3).

There have also been instances of damage to sites unrelated to looting. Ctesiphon was founded by the Parthians after they captured Mesopotamia from the Seleucids during the second century BCE (Simpson 1997:77). It was where kings were crowned and the site of the royal winter residence. In 224 ACE the Parthians were defeated by the Sassanians, who retained the city as their capital and place of coronation (Simpson 1997:78). It was also an important cultural and administrative centre and housed the royal mint. The city was encircled by a fired brick wall and a moat. After its conquest by the Arabs in 637 ACE, a number of mosques were built. After the foundation of Baghdad, the city was devastated by the removal of bricks for reuse (Simpson 1997:78). The famous arch of Ctesiphon has been defaced by graffiti, and children have been permitted to play with the bricks, which are now scattered across the site (Carboni 2003: 4).

Not all of the looting has been carried out by impoverished inhabitants. According to al-Hussainy, some foreign archaeologists took advantage of the chaos that prevailed during the period of occupation, conducting excavations without permission. One, Giovanni Pettinato, announced that he had discovered some 500 cuneiform tablets at Eridu, a figure which he later increased to around 5 000 (al-Hussainy 2010:88). He subsequently said that he had erred; that they were not cuneiform tablets, but rather stamps on bitumen. To date neither his presence nor his artefacts have been properly evaluated (al-Hussainy 2010:88).

1.2   DAMAGE TO SITES FROM MILITARY OCCUPATION

1.2.1   **Ur**

This ancient city was occupied for some four thousand years, from the fifth millennium BCE ('Ubaid period) to the mid-first millennium BCE (Neo-Babylonian period), reaching its zenith ca. 2100-2200 BCE (Ur III period) (Pollock 1997:288). The city covered at least fifty hectares (Pollock 1997:289). Since the city's principal excavator, C. Leonard Woolley focussed in one particular area, our knowledge of the city is largely restricted to its religious and civic aspects during the 'Ubaid, Uruk, Jemdet Nasr and Early Dynastic Periods (Pollock 1997:288). Further excavation is required.

Although most of the central area of the city was destroyed by the Elamites in ca. 2000 BCE, the city

was rebuilt by the Kings of Isin, who claimed to be the legitimate successors of the state. A political capital no longer, it remained an important religious and commercial centre during this period, expanding still further. With the rise of Babylon in the eighteenth century BCE, the city fell into decline, and the city walls and main buildings were destroyed following a rebellion against Babylon in ca. 1740 BCE. Many of the religious buildings were restored by the Kassites in ca. 1400 BCE, at a time when the rural settlement about the city also appears to have expanded (Pollock 1997:290). The city never regained its former glory however, and was abandoned in about 400 BCE (Pollock 1997:291).

The Sumerian City of Ur played an important role in the emergence of civilisation, and was mentioned in the Old Testament. Many believe that it played "a crucial role in consolidating the emergence and components of civilization resulting from the interaction between nature and humankind" (Hamdani 2008:151). It was a regional religious centre, where gods such as Nannar (god of the moon), Anu (god of the heavens), En-ki (god of earth) and the goddess NinGal (wife of Nannar) were worshipped.

It was in Ur that many of the discoveries that we rely on today were made, including writing, principles of irrigation and architecture, developed agriculture and the use of metals, particularly copper. Woolley's excavations brought to light the *ziqqurat*, temples and palaces which spoke of knowledge in the fields of engineering and construction, and the cuneiform tablets that spoke to Sumerian progress and advances in the fields of literature, science, mathematics and astrology (Hamdani 2008:151). The site still boasts the remains of a *ziqqurat* and various palaces and temple ruins. The oldest use of a brick built arch in Mesopotamia is found in one of the temples (Hamdani 2008:152). The royal tombs of Shulgi and Amar-Sen have been located there (Hamdani 2008:153).

Woolley also located three cemeteries at Ur, each from a different period, but superimposed upon each other. From the grave goods in each period (the cylinder seals were particularly helpful as were the pictographic tablets found nearby the graves (Woolley 1928:9)), he was able to establish that they dated from ca.2700 - 2500BCE, ca. 3200 - 3100 BCE, and the lowest to ca. 3500 BCE (Woolley 1928:3). This series of burials provided evidence of the change in burial practices over the 1000 years that they represented (Woolley 1928:5), and also revolutionised "our ideas of Mesopotamian civilization in the fourth millennium" (Woolley 1928:10). As well as vessels for food and drink, decorative household items, tools, weapons, [164] fabulous

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[164] Woolley (1928:13) believes that the prevalence of 'hollow-socketed weapons' is indicative of how much more advanced the Sumerian smiths were than their Egyptian counterparts, who only implemented this technology towards the end of the 18th

jewellery and personal ornaments were found (Woolley 1928:10).[165] He also discovered harps and lyres beautifully decorated with white shell inlay on black bitumen and terminating in bulls' heads of gold (Kriwaczek 2010:95). It appears that face, and possibly body painting was practised. The colours found included black, white, yellow, red, green and blue (Woolley 1928:14).

In Woolley's (1928:28) view, his excavations at Ur "confirm[ed] the traditions embodied in the Sumerian king-lists"; that the Sumerian period was both prosperous and advanced; the work of the smiths, sculptors and engravers was "far superior" to its Egyptian neighbours(Woolley 1928:28).

The sanctuary, believed to have been built by the kings of Agade (Woolley 1923:322), was small and its five chambers were clearly intended only for use by the priests (Woolley 1923:324). The later temple constructed by Nebuchadnezzar however, contained a lower court clearly intended to house a congregation. Based on this, Woolley believes that Nebuchadnezzar "introduced a new plan of building to accommodate a new form of worship" (Woolley 1923:327).

The ancient city of Ur lies within the perimeter fence of the second largest American airbase in Iraq, which covers 2 832 hectares (Curtis 2007:1). They built an enormous airbase adjacent to the *ziqqurat*, with two runways and four satellite camps. During the construction of facilities for their aircraft and Predator unmanned drones, over 9 500 truckloads of sand were moved (Johnson 2005:4).

During their occupation of the site, marines spray-painted their motto, "Semper FP" *(semper fidelis,* always faithful) onto the walls of the city, and there were reports that American military personnel took bricks from the site as souvenirs (Johnson 2005:4). By driving heavy military vehicles across the site and treading over the site and the buildings,[166] the occupying forces have not only changed parts of the

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Dynasty. The bows found in the graves disproved the prevailing view that they were only introduced during the Third Dynasty (Woolley 1928:14).

[165] The cloak pins worn by the males may provide explain the Babylonian report that courtiers murdered king Rimush of Akkad 'with their seals' (Woolley 192813).Some of these pins of copper, with pierced heads from which a short string of beads or sometimes a cylinder seal was suspended, were almost a foot long and could easily be used to stab someone (Woolley 1928:13).

Woolley's discovery of the looting of the early tombs, likely by the Elamites, may also account for the line in the lament "the sacred dynasty they have exiled", for the Elamites not only looted the body of Ibi-Sin, but also removed the bones of his ancestors from their tombs (Woolley 1931:348). The Elamites were well informed, they missed nothing, but did not dig where there was nothing to find (Woolley 1931:350).

[166] When Curtis attempted to inspect Ur with al-Hussainy, former chairman of the SBAH, US soldiers refused to allow al-Hussainy entry. Curtis was outraged by this refusal: "It is quite galling that coalition soldiers can look around the site, whereas ordinary Iraqis, even the Chairman of the State Board of Antiquities himself, are not granted access" (quoted in Tarbrush 2007:3).

landscape, but have probably damaged or destroyed unexcavated artefacts and buildings as well (Hamdani 2008:154). The stairs from the royal cemetery have been severely damaged, and some of the large hulls have been cracked (al-Hussainy 2010:87).[167]

The bombardment of the American airbase has also had an effect upon the site. In September 2006 and January 2007 the site was hit by several shells (Hamdani 2008:155). In February 2007, a rocket landed on the site creating a crater some one metre across and one metre deep (Curtis 2007:4). Another three rockets landed in April 2008 (Curtis, Raheed, Clarke, Hamdani, Stone, van Ess, Collins & Ali 2008:8).

The most serious damage is in the area of the new front gate, which was built in Diqdiqqa, a suburb of Ur which has not yet been fully excavated. The new development is extensive, comprising a processing area, passages for pedestrians between HESCO[168] containers, and a compacted gravel area for vehicles. The HESCO containers are filled with earth from a trench cut through archaeological deposits, and contain numerous potsherds (Curtis 2007:4). This development has irreparably damaged this part of the old city, and the changes made to the landscape have materially affected the archaeological record of both the city and the surrounding area. Indeed, parts of it have been lost forever (Hamdani 2008:154). A site dating to the time of Hammurabi has been bulldozed and completely destroyed (Stone 2008a:78).

The cost to the archaeological record and the knowledge lost in consequence has been trivialised by pointless and absurd expansion. On 24 October 2003, the occupying forces opened its second Burger King at the airbase:

> The new facility, co-located with [a] ... Pizza Hut, provides another Burger King restaurant so that more service men and women serving in Iraq can, if only for a moment, forget about the task at

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This was not the only occasion upon which he and his staff were refused entry to archaeological sites by Coalition forces. As Stone and Bajjaly (2008a:12) point out: "It is possible to understand, if not easily accept, the logic of restricted access to military camps positioned on archaeological sites; however, it is surely impossible to accept the exclusion of Iraqi specialists while allowing Europeans in..."

[167] Not all of the damage to the site is attributable to US military occupation. Rainwater and wind have damaged the site, as has neglect, a lack of conservation and, in some cases, poor conservation, where the pressure of concrete placed on top of walls to protect them from rain has damaged the walls below. Hussein constructed asphalt roads upon the site (Hamdani 2008:153), and a military airbase south of the site, with army barracks in and around the site, some in areas which have not yet been excavated. The armoury was built close to the *ziqqurat*. The activity of aircraft and helicopters have caused fissions and cracking in the walls and roofs of the *ziqqurat*, the E-Dub-lal-makh temple and the royal tombs. The *ziqqurat* was damaged by American aircraft in February 1991 in response to anti-aircraft fire (Hamdani 2008:154).

[168] These are sandbags made by the US-owned Handling Equipment Speciality Company, 1.5m high and 1.10m wide (Moussa 2008:148).

hand in the desert and get a whiff of that familiar scent that takes them back home (quoted in Johnson 2005:4).

1.2.2 **Babylon**

Of all ancient Mesopotamian cities, this is probably the most familiar to western society, for through its representation in the Bible its destruction became a salutary reminder of the dangers of human arrogance (Klengel-Brandt 1997:251). It symbolised both "oppression and iniquity", and its destruction served to remind "secular authority of the ephemeral nature of power". Greek scholars and soldiers left descriptions of the massive city wall, the temple of Bel, and the Hanging Gardens, one of the seven ancient wonders of the world (Edens 1997:146).

The earliest investigation of Babylon was undertaken by Pietro della Valle in 1616, who returned to a disinterested Europe the first cuneiform tablets from Babylon and Ur (Klengel-Brandt 1997:251). As a result of his investigations, Claudius James Rich published a book which contained drawings and plans of the ruins. He returned to England with a number of artefacts located at the site, including some cylinder seals (Klengel-Brandt 1997:251). It is to an expedition led by Jules Oppert in 1852 that we owe our first detailed map of the site.

When excavations were opened by Hormuzd Rassam in 1876, looting at the site was rampant. In addition to baked bricks, which were reused, stone monuments were being removed and burned for gypsum (Klengel-Brandt 1997:252). As a result, the British Museum entered into an agreement with the local inhabitants that "the extraction of bricks would be tolerated", but all tablets, cylinder seals and artefacts were to be sold to them. This did not stop the destruction of the site, and some of the buildings were so thoroughly dismantled that it became impossible to establish their original layout (Klengel-Brandt 1997:252).

The expedition led by Robert Koldewey during the 1897-1898 season first exposed and excavated the Neo-Babylonian, Achaemenid, Seleucid and Parthian periods of occupation. Unfortunately, because of the high water table, access to the Old Babylonian period of occupation has been rare (Klengel-Brandt 1997:252).

During the Neo-Babylonian period, the city was heavily fortified with inner and outer walls some eighteen kilometres long, supported by a large embankment and a moat (Klengel-Brandt 1997:252)

dating from the Neo-Assyrian period. Eight gates were located, one of which was the beautifully decorated Ishtar Gate (Klengel-Brandt 1997:253). The streets were laid out in the directions of the wind – northeast, northwest, southeast, and southwest. A long and wide processional street led to the Ishtar Gate, and the high walls on either side of the street marked a fortress on the east, and a citadel, constructed during the reign of Nebuchadnezzar, on the west (Klengel-Brandt 1997:253). The temple precinct was located in the centre of the city (Klengel-Brandt 1997:254).

With the conquest of the city by the Persians in 539 BCE, Babylon was elevated to a royal residence by Cyrus, and the royal fortresses were rebuilt. However, after a number of revolts the city walls and several buildings were destroyed (Klengel-Brandt 1997:255). In 331 BCE, Alexander the Great decided to make Babylon the capital of his empire and rebuilt a number of the temples. In order to rebuild the tower, he had the ruins removed. Later, after the city was conquered by Mithrades I (171-138 BCE), it declined (Klengel-Brandt 1997:255).

The largest body of artefacts from the site are comprised of ceramics and pottery, which provide insight into daily life. The remaining artefacts are largely comprised of tablets relating to building, history, culture and astronomy, and cover the period from the early second millennium BCE to the third/fourth century ACE. It is apparent from the texts located at the site and elsewhere that Babylon was a religious and scientific centre whose influence is still felt today (Klengel-Brandt 1997:255).

Following the invasion the modern palace was looted, the museum buildings damaged, and the administrative offices and study centre burned down. Although the Nebuchadnezzar and Hammurabi museums were looted, the objects stolen were copies (Moussa 2008:144).

In response to calls for assistance from museum staff, American forces elected to occupy Babylon in April 2003, establishing Camp Alpha in the centre of the ancient city (Moussa 2008:144). It was developed into a 150-hectare camp,[169] which covered one eighth of the site and housed 2 000 soldiers (Jenkins 2007:2).[170]

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[169] They employed Kellogg, Brown and Root, a subsidiary of the Halliburton Corporation, where the US vice-president, Richard Cheney had served as Chief Executive Officer before joining the Bush administration (Thompson 2005:1).

[170] Not all of the damage at Babylon can be attributed to this period of occupation. Prior to 2003, the city was damaged by Hussein. A moat lined with cement, linked to three new lakes on the north, south and east was constructed. A fourth lake was connected to the "Babylon Stream" to the north. Three artificial mounds were created, and parking lots (surfaced with gravel) and roads were built (UNESCO 2009:9). Restaurants, museums, service buildings (UNESCO 2009:10) and parks (UNESCO 2009:11) were constructed in the centre of the site. Further damage was caused to ancient structures by attempts at restoration/reconstruction, such as the Southern Palace of Nebuchadnezzar, the northern portion of the Processional Way, the

According to Bahrani (2008:169), who raised the issue with American officers at "dozens of meetings" during 2004:

> there was no-one who could answer the question of who it was that had taken the decision to occupy Babylon, or why. There was no-one who had any information about a decision, a plan or a strategy. Later, after we had exposed the story through the press, the idea of `protection' emerged. This excuse of `protection' is now being invoked in various contexts across occupied Iraq.[171]

Bahrani (2008:169) argues that this justification "beggars belief"[172] for the damage done to the site "is both extensive and irreparable." Had American forces really wished to protect it, they would have placed guards at the site, rather than "bulldozing it and setting up the largest coalition military headquarters in the region."

She also points out that had the occupation of Babylon been for its own good, military commanders would also have heeded requests to cease construction and terminate helicopter flights. Instead, these requests were either ignored or rejected on the basis that no damage was being done. It is difficult not to agree with her statement that: "The idea that the USA took Babylon for its own protection is perhaps similar to the idea that the USA invaded Iraq to bring it freedom. If you believe in the second statement, you are likely to believe the first" (Bahrani 2008:170).

Although the occupation of the site may have deterred looters, the "protection" came at an enormous cost; unconstrained construction activities by American and Polish occupation forces[173] caused substantial and irreparable damage to the site,[174] which only ended on 22 December 2004 (Moussa 2008:144).

A barbed wire fence, held in place by iron pegs driven into archaeological deposits, was erected around the city as well as in other locations within the ancient city itself (UNESCO 2009:17).

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temples of Ninmakh and Nabu-sha-Hare, the eastern portion of the inner wall, the Babylonian houses, and the Greek Theatre. Damage was also caused by thirteen defensive trenches dug in various parts of the city, particularly since the soil from some trenches contained artefacts. Agriculture and construction resulted in the removal of parts of the walls and the loss of features in the western side of the city. As much of the land is private property, some houses incorporate parts of the outer wall (UNESCO 2009:11). Further damage was occasioned by lack of appropriate maintenance and protection (UNESCO 2009:12).

[171] According to Oledzki, the decision was made owing "in equal measure to strategic military considerations and the need to protect the site." Although he concedes that the occupation was "undoubtedly a serious mistake", he believes that it had its advantages in that the site was saved from "generalised looting and devastation" (Oledzki 2008:250).

[172] John Curtis of the British Museum described this decision as "tantamount to establishing a military camp around the Great Pyramid in Egypt or around Stonehenge in Britain" (Curtis 2004:7).

[173] They took over the site in September 2003.

[174] Although the US military authorities claimed that their construction activities were carried out under the supervision of archaeologists (Oledzki 2008:255), this is not credible. Mariam Moussa wrote numerous letters to the commanders recording her refusal to grant permission for any kind of construction, the use of helicopters, or the use of the site as a military base (Bahrani 2008:170).

The decision to locate a helipad[175] in the Kulabba zone required an area within the buildings of the ancient city to be levelled and fuel tanks[176] to be dug into the earth (Oledzki 2008:251). The daily flights of helicopters, which shook ancient walls and sandblasted the fragile structures caused the wall of the Temple of Nabu and the roof of the reconstructed Temple of Ninmah, both dating from the sixth century BCE, to collapse (Bahrani 2005:214).

Several trenches and pits were dug in different parts of the city. A trench was even dug at the corner of the ziggurat (UNESCO 2009:13). The excavated soil contained fragments of ancient baked brick, earthenware and pottery.[177] Soil from some trenches was used to construct roads to accommodate the passage of heavy vehicles (Moussa 2008:146), which will also have damaged the artefacts below. Soil from a pit was used to construct barriers (UNESCO 2009:14). Fourteen mounds were cut into, and the soil removed. There is evidence that the cut in one mound extends into a wall of baked brick (UNESCO 2009:14). The movement of the soil contaminates the archaeological record, rendering the soil, as well as the area to which it is moved, archaeologically useless. To make matters worse, some of the soil taken from archaeological mounds was mixed with sand brought from outside the city (UNESCO 2009:14).[178]

Not only were many archaeologically sensitive areas and mounds scraped and levelled, but they were then covered with sand and gravel[179] from elsewhere and compacted by heavy machinery, resulting in the damage or destruction of artefacts below (UNESCO 2009:15). Some areas were also treated with chemicals (UNESCO 2009:15). Pits were dug into a number of tells, and others were used as bases for observation towers (Oledzki 2008:251). Parts of the site have been mined (Thompson 2005:2).

The small unpaved car park south of the theatre was enlarged, covered with sand and gravel and compacted, then encircled with HESCO barriers, for the use of heavy trucks, heavy equipment and

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[175] The removal of the helipad is not going to be easy: "How are we supposed to get rid of the helipad now? With jackhammers? Can you imagine taking a jackhammer to the remains of one of the most important cities in the history of mankind? I mean, come on, this is Babylon" (George quoted in Gettleman 2006:2)

[176] Curtis (2004:7) found evidence that fuel was seeping from the tanks into archaeological layers. Additional evidence of serious fuel seepage was located in the areas where vehicles were refuelled.

[177] Curtis reported that one brick bears the inscription: "Nebuchadnezzar, King of Babylon, who provides for Esagila and Ezadila, the eldest son of Nabopolassar, King of Babylon, am I" (Thompson 2005:2).

[178] On 3 November 2003 an order was given that the bags should only be filled with sand and earth brought in from outside Babylon (Curtis 2004:8), but this merely substitutes one problem for another. As the bags disintegrate, the contents contaminate the surrounding deposits and the record of Babylon itself.

[179] It is estimated that some 300 000 square metres have been covered with gravel (Curtis 2004:7).

accommodation caravans (UNESCO 2009:15). A parking lot for heavy machines and vehicles was constructed adjacent to the remains of the Greek theatre, which dates from the time of Alexander the Great, and other large car parks were constructed or expanded in the ancient city, where ancient pottery fragments are clearly evident upon the surface (UNESCO 2009:15). Many other areas were levelled and surfaced to provide roads (UNESCO 2009:16).[180] It must be borne in mind that most of Babylon, particularly where this construction took place, is as yet unexcavated.

The Ishtar Gate, one of the most important and prominent ancient buildings in the city, has been damaged, bricks on nine of the animal bodies which adorn it have been smashed (Curtis 2004:6).

In the temple of Nabushakhari, the imprints from wheels of heavy equipment are apparent, and the passage of the vehicles has broken the paving in the procession street, the main street of the city (UNESCO 2009:18). Further, three rows of concrete blocks, each weighing approximately two tons, were placed on the ancient paving, damaging both the paving and any artefacts below. These were removed on 29 November 2004 to prevent further damage (Curtis 2004:3). A row of HESCO bags, filled with earth from a different part of the site, were placed in the middle of the street. Barbed wire, held in place with iron spikes, was attached to the wall. A ditch was dug into the eastern wall (UNESCO 2009:18).

Many of the reconstructed features and buildings have been damaged, including the Inner Wall, the Temples of Ninmah and Ishtar, the royal palaces, the Babylonian houses and the Temple of Nabushahare (UNESCO 2009:18). During the occupation, the modern buildings, including the presidential palace, the rest-house, study centre, museums, restaurants, projects and administration offices were stripped bare, leaving them empty shells, without windows, doors or even electrical fixtures (UNESCO 2009:19).

Babylon has paid the price of war. Damaged, looted, levelled, contaminated and paved over, much of its information is lost forever.[181]

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[180] When Curtis conducted his inspection in 2005, he was unable to inspect the entire site, as part of it was fenced off and mined. His report was thus not exhaustive (Thompson 2005:2).

[181] Although archaeologists from the United Kingdom and Poland located military damage, there is a dispute about who caused it. Although both the US and Polish occupiers deny responsibility (Kila 2008:186), Curtis is of the view that most took place while the site was occupied by US military forces (Thompson 2005:3).

1.2.3   **Samarra**

Samarra's fortunes rose when it was appointed the new capital by the caliph al-Mu'tasim (833-842 A.C.E). It held this position for fifty-six years until the capital was transferred to Baghdad (Hansen 1997:472). Northedge (1997:473) is of the view that it might be "the largest archaeological settlement site in the world", covering some fifty kilometres along the Tigris River. The Milwiyah minaret, with its external spiral staircase, is considered by some to be a "descendant" of the Mesopotamian ziqqurat (Hansen 1997:472), and the inspiration for western representations of the Tower of Babel (Northedge 1997:476). It was built between 848 - 852 ACE (English 2006:7).

The graves of the Chalcolithic period excavated by Ernst Herzfeld contained distinctive handmade pottery, now known as Samarra ware. This pottery is well made, with a matte-finish and a wide variety of colour (Hansen 1997:472). The designs painted upon the pottery include "geometric patterns as well as abstract animal and human motifs." The pottery was popular and has been found across a wide geographical area, sometimes together with that from the Hassuna culture (Hansen 1997:472).

 The city has a number of buildings of architectural significance – the Milwiyah minaret, the Octagon of Husn al-Qadisiyya (Northedge 1997:475), the Dar al-Khilafa palace, the mosque of al-Mutawakkil, and the Abu Duluf mosque (Northedge 1997:476).

Within the early Islamic city complex lies the site of Tell es-Sawan, a sixth millennium settlement, which has provided insight into the culture and life of the time (Nissen & Heine 2009:14). Today it is a place of pilgrimage for those wishing to visit the tombs of the Shi'ite Imams al-'Askari and al-Hadi (Northedge 1997:473).

American military forces constructed a berm around the city, cutting through archaeological deposits.[182] Their unlawful use of the Milwiya minaret as a sniper position resulted in its damage when, in retaliation, Iraqis fired a missile at it (English 2006:7). The top was also damaged in March 2005 when, after American military forces withdrew from the minaret, Iraqis set off small bombs (Gerstenblith 2005-2006:298).

The Iraqi National Police, under the supervision of Coalition forces, built barracks and a training centre for 1 500 Iraqi security forces within the archaeological site and close to the minaret (Stone & Bajjaly 2008a:12).

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[182] Professor Alastair Northedge of the Sorbonne believes that berm has cut through important remains of the ninth century Abbasid palaces and other structures, as well as a Chalcolithic cemetery (Gerstenblith 2005-6:298).

In February 2006, the golden dome of the Al-Askari mosque was bombed by Al Qaeda. In July 2007, the building in which the State Board of Antiquities and Heritage was located was attacked, looted and stripped bare. The cars and archaeological equipment were also taken (Rothfield 2009:150).

In 2007, the ancient city of Samarra was placed on both the World Heritage List and World Heritage in Danger List by UNESCO, the latter occasioned by the close proximity of new military installations (Stone & Bajjaly 2008a:12).

1.2.4 **Other Damaged Sites**

The satellite imagery obtained by Stone indicates that one site, dating from the early second millennium BCE was completely levelled to allow for the expansion of a nearby United States military base (Bahrani 2010:75). The medieval Khan of Rubua was also converted into a military base. The detonation of discarded weapons and explosives in a well within the building caused the roof to collapse (Bahrani 2010:87).

Kisiga, a Sumerian site, was occupied from the Early Dynastic period to the end of the Kassite period. Excavations of the site have been cursory, and it is believed that the main mound contains a first millennium BCE cemetery. The site was also badly damaged by military activity (Curtis *et al* 2008:16). Tank emplacements, a circular and rectangular cutting have also caused damage to the site. The presence of American forces was indicated by the nature of the litter scattered across the site. The main mound is now covered in holes dug by looters (Curtis *et al* 2008:16).

Khorsabad was built by Sargon II (721-705 BCE) as his new capital. Surrounded by a wall seven kilometres long, it was built upon a terrace. Within the city were numerous temples and a palace containing over 240 rooms (Collins 2009:71) and covering some ten hectares, served residential, administrative, ceremonial and religious purposes (Frame 1997:296). Unfinished at his death, the capital was moved to Nineveh by his son, Sennacherib. It remained however the provincial capital until it was abandoned in 612 BCE when the empire fell. It was the first Mesopotamian site to be extensively excavated and has produced a wealth of information. However, neither the city nor the citadel has been fully excavated (Frame 1997:297).

Many of the rooms in the palace were decorated with reliefs, probably inspired by those in the Northwest palace in Nimrud (Collins 2009:71). Five human-headed winged bulls guarded the gateways to both the city and the palace. Many of the reliefs depict processions of courtiers and other brining tribute to the king, while others depict military and sporting activities and scenes of banquets (Collins 2009:72). There is also a focus upon scenes depicting the defeat and punishment of enemies, following a tradition embodied in Tiglath-Pilesar's palace reliefs (Collins 2009:72). The reliefs are carved in two registers, divided by an inscription, reflecting the annals of the king. Landscapes are also popular, and multiple figures are shown against a background, so that "they no longer appear to float in space" (Collins 2009:72). Unfortunately some of the reliefs were lost when the boats carrying them to France were attacked and sank (Frame 1997:295).

The main palace at Khorsabad was slight damaged by looters, and a number of trenches were dug in various parts of the site. Unexploded bombs were also found at the site (UNESCO 2003:14).

2   DID THE UNITED STATES HAVE AN OBLIGATION TO PROTECT ARCHAEOLOGICAL SITES?

When it routed Saddam's forces and removed him from power, the United States and its Coalition partners created a situation in which chaos prevailed, lawlessness was rampant and cultural property was endangered. According to Roger Matthews, chairman of the British School of Archaeology: "Since the fall of Saddam Hussein's regime the occupying powers in Iraq have signally failed to invest the funds and energies needed to protect the cultural heritage of Iraq which is ultimately under their guardianship" (quoted in English 2007:2).

The question is whether America had any obligation to protect archaeological sites. To answer this question it must be established if and when they became an occupying power under international law. As occupying powers, they would be obliged to protect Iraqi cultural heritage, to 'support", as far as possible, "the competent national authorities of the occupied country in safeguarding and preserving its cultural property", and, unless "absolutely prevented", to comply with Iraqi law in regard to cultural property, in terms of which ownership of cultural property vests in the state and export is prohibited.

2.1   OCCUPATION

Once a country occupies another, certain obligations arise. Article 5 of the 1954 Hague Convention obliges an occupying power to leave the existing administrative authorities intact so that they may continue to function. Further, Article 5(1) imposes an obligation upon the occupying power, as far as possible, to "support the competent national authorities of the occupied country in safeguarding and preserving its cultural property." However, once the State Board for Antiquities and Heritage offices had been looted and their equipment and vehicles stolen, they were no longer in a position to function. The competent national authority was thus not in a position to perform its functions and fulfil its obligations without assistance.

The obligation to assist competent national authorities must be read in conjunction with the obligation imposed upon the occupying power by article 4(3), in terms of which it is obliged "to prohibit, prevent and, if necessary, put a stop to any form of theft, pillage or misappropriation of, and any acts of vandalism directed against, cultural property."

As in the case of war, there is some argument as to whether these provisions apply to third parties, or whether they only apply to the prevention of looting by the occupiers. A reading of the provisions certainly indicates that it is wide enough to be of universal application. Chamberlain holds this view: "This obligation extends not just to prohibiting and preventing theft, pillage etc. on the part of forces under the command of a party to the conflict but to acts of theft, pillage, etc. committed by the civilian population, for example, where there is a breakdown in law and order in the territory occupied by a party to the conflict" (quoted in Sandholtz 2005:215).

However, other disagree, supporting the European approach where one refers to the intent of the provision, which they suggest does not support a wide interpretation, and which would make it applicable only to the actions of a party's own troops. In support of this view, Bassiouni argues that the Convention was based upon the premise that all wartime acts against cultural property were state sponsored, and that it was designed to combat this particular "historical reality" (quoted in Paroff 2004:2036). It must be pointed out however, that although looting by state actors was predominant, looting by other parties was not unknown.

Gerstenblith (2005 -2006 309) also argues that these provisions only apply to occupiers and not to third parties. She bases her argument on three points: the fact that the other provisions in Article 4 apply to

State Parties, that the context in which it was drafted responded to pillage by the German state, and that the law of war in general only seeks to restrain state action.

Thurlow (2005:172) points out that none of the military manuals recognise an obligation to protect cultural property in an occupied state or during an armed conflict. Accordingly, he is of the view that the United States only considers itself liable to prevent the destruction or seizure of property by its own troops.

O'Keefe (2006:133) however, supports Chamberlain's view, stating that this is the reason why the provision is formulated as an obligation "to prohibit, prevent and, if necessary, put a stop to" the conduct rather than simply to "refrain" from it, as it is couched elsewhere. He is of the view that there would otherwise be no reason to vary the standard wording used in Articles 4(1) and 4(4). It is submitted that this view is to be preferred.

Whether the United States was an occupying power, and from which date, is one of fact and is deemed to have commenced when the invader takes effective control of the whole, or a portion of another country.[183] On 14 April 2003, Brooks would not be drawn on this issue:

> [I]t's still a bit premature for me to declare what out status is...what we do know is that we have responsibilities as a force that has entered. The specific references to occupying power are very precise and legalistic, and I'm not really in the best position to be able to give you information on that. We'll give you more as time goes on as it relates to that specific concern...Right now we're still a liberating force, and that's how we're approaching our operations...Whether that changes over time needs to be seen (quoted in Cayce 2004:22.)

On 24 April 2003, Kofi Annan called upon the Coalition to make it "clear that they intend to act strictly within the rules set down by the Geneva Conventions and the Hague Regulations regarding the treatment of prisoners of war, and by demonstrating through their actions that they accept the responsibilities of the Occupying Power for public order and safety, and the well-being of the civilian population" (quoted in Cayce 2004:22). In response, the United States reiterated that they were liberating forces, but confirmed that they would comply with the Geneva Conventions (Cayce 2004:22).[184]

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[183]As affirmed by the ICJ, the definition of occupation is prescribed in article 42 of the Hague Rules of 1907: "Territory is considered occupied when it is actually placed under the authority of the hostile army. The occupation extends only to the territory where such authority has been established and can be exercised."

[184] What was said was:

Although President Bush declared that active combat operations were over on 1 May 2003, he neither admitted nor acknowledged that his forces were in occupation of Iraq. The Third Infantry Division (Mechanized) however conceded that their characterization as "liberators"[185] rather than "occupiers" was a political decision, which did not affect the fact they were *de facto* occupiers (Third Infantry Division 2003:6).[186] The authors of the report assert that this characterisation was a mistake; that the American authorities should rather have acknowledged their intention to abide by the international obligations of occupiers, since:

> This may have caused military commanders to be reluctant to use the full power granted to occupying forces to accomplish our legitimate objectives. This status would have provided us authority to control almost every aspect of the Iraqi life, including the civilian population, government, resources, and facilities, making it easier for us to accomplish all SASO missions. Occupation law also imposed upon us obligations to protect the civilian population to the best of our ability. Because of the refusal to acknowledge occupier status, commanders did not initially take measures available to occupying powers, such as imposing curfews, directing civilians to return to work, and controlling the local governments and populace. The failure to act after we displaced the regime created a power vacuum, which others immediately tried to fill (Third Infantry Division 2003:6).

Although the first few months of occupation were not sanctioned by the international community, it was officially endorsed on 22 May 2003 when the Security Council passed Resolution 1483 (Clarke 2006:133).[187] In the Preamble, this resolution specifically referred to the Coalition forces as occupying powers[188] and went further:

> We find it – at best – odd that the Secretary General chose to bring this to our attention. The US has said that it has not yet established whether it is the occupying power under international law, but it is nevertheless respecting the rules...We are simply saying that the issue of an occupying power has not yet been dealt with. Once again the situation is quite fluid. We will come to that, and presumably come to it quickly. But there should be no question – certainly no question in the mind of the Secretary General – that we need to make any clearer than we already have, and have been on the record repeatedly as being in conformance and wanting to be in conformance in every way with the Geneva Conventions (quoted in Cayce 2004:23).

[185] Prior to the war, US government officials stated that the obligations of occupiers would not apply, as "The American troops will be liberators" (Clarke 2006:149). This is simply obfuscation, and without any legal merit.

[186] During their discussions with USAID, NGOs pointed out the obligations which are imposed upon occupying powers. However, "we were corrected when we raised this point," Sandra Mitchell says. "The American troops would be 'liberators' rather than 'occupiers,' so the obligations did not apply. Our point was not to pass judgement on the military action but to describe the responsibilities." (Fallows 2012:11)

[187] The resolution stated: "*Noting* the letter of 8 May 2003 from the Permanent Representatives of the United States of America and the United Kingdom of Great Britain and Northern Ireland to the President of the Security Council (S/2003/538) and recognizing the specific authorities, responsibilities, and obligations under applicable international law of these states as occupying powers under unified command (the "Authority")..." The letter in question made no reference either to occupying powers or to cultural property. In the letter the US and UK governments stated:

> *Stressing* the need for respect for the archaeological, historical, cultural, and religious heritage of Iraq, and for the continued protection of archaeological, historical, cultural, and religious sites, museums, libraries, and monuments,[189]
>
> *Noting* the letter of 8 May 2003 from the Permanent Representatives of the United States of America and the United Kingdom of Great Britain and Northern Ireland to the President of the Security Council (S/2003/538) and recognizing the specific authorities, responsibilities, and obligations under applicable international law of these states as occupying powers under unified command (the "Authority"),

The resolution also called upon all parties concerned "to comply fully with their obligations under international law including in particular the Geneva Conventions of 1949 and the Hague Regulations of 1907".

By supporting and voting in favour of this resolution, the United States and the United Kingdom acknowledged their status and obligations as occupying powers in Iraq (Clarke 2006:136). It is trite that where hostile forces intend to occupy enemy territory, "they must be in a position to make their authority felt and their protection effective within that newly occupied territory" (Clarke 2006:157). The American led Coalition forces clearly failed to do this, and, as a result, both inhabitants and cultural property in Iraq suffered at the hands of criminals and looters.

The States participating in the Coalition will strictly abide by their obligations under international law, including those relating to the essential humanitarian needs of the people of Iraq. We will act to ensure that Iraq's oil is protected and used for the benefit of the Iraqi people.

In order to meet these objectives and obligations in the post-conflict period in Iraq, the United States, the United Kingdom and Coalition partners, acting under existing command and control arrangements through the Commander of Coalition Forces, have created the Coalition Provisional Authority, which includes the Office of Reconstruction and Humanitarian Assistance, to exercise powers of government temporarily, and, as necessary, especially to provide security, to allow the delivery of humanitarian aid, and to eliminate weapons of mass destruction (S/2003/538 Letter dated 8 May 2003 from the Permanent Representatives of the United Kingdom of Great Britain and Northern Ireland and the United States of America to the United Nations addressed to the President of the Security Council:1).

They also recognised the "urgent need to create an environment in which the Iraqi people may freely determine their own political future." (S/2003/538 Letter dated 8 May 2003 from the Permanent Representatives of the United Kingdom of Great Britain and Northern Ireland and the United States of America to the United Nations addressed to the President of the Security Council:2)

[188] The Preamble records the status of the Coalition forces as occupiers by "...recognising the specific authorities, responsibilities, and obligations under applicable international law of these States as occupying powers under unified command (the 'Authority')".

[189] Resolution 2004/1546 passed by the Security Council on 8 June 2004 emphasised this further when in the preamble it reiterated "*Stressing* the need for all parties to respect and protect Iraq's archaeological, historical, cultural, and religious heritage..."

2.2 LOOTING OF SITES

There are three particular articles in the Hague Regulations which are of relevance:

- Article 43, which provides that:

  > The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country.

- Article 47:

  > Pillage is formally forbidden.

- Article 56:

  > The property of municipalities, that of institutions dedicated to religion, charity and education, the arts and sciences, even when State property, shall be treated as private property.

  > All seizure of, destruction or wilful damage done to institutions of this character, historic monuments, works of art and science, is forbidden, and should be made the subject of legal proceedings.

America failed to comply with these provisions. It did not prevent nor put a stop to the looting at archaeological sites.

2.3 MILITARY OCCUPATION OF SITES

The occupation of military sites was without question the most obvious and flagrant breach by the United States of its international obligations. The construction of the military base at Babylon and the permanent damage done to Babylon and other occupied sites cannot be justified on any legal basis whatsoever.

In terms of Article 43 of the 1907 Hague Regulations, the United States was obliged to "respect, unless absolutely prevented, the laws in force in the country." Iraqi law strictly regulated construction activities on or near archaeological sites. Had these laws been obeyed, much of the damage to the sites would have been averted (Gerstenblith 2005-2006:312). There were no circumstances that "absolutely prevented" the United States from compliance.

The use of heritage sites as military bases is also a breach of article 56 of the Hague Regulations and article 4(1) the Hague Convention. In terms of article 4(1), the Parties to the Convention undertake to refrain

> from any use of the property and its immediate surroundings or of the appliances in use for its protection for purposes which are likely to expose it to destruction or damage in the event of armed conflict...

Although there is in article 4(2) a waiver in the case of military necessity, no case has been made out that the occupation of archaeological was predicated on military necessity. Instead, the argument of protection from looters was used – an argument which is both legally and morally untenable. Indeed, article 5 imposes upon an occupying force an obligation to "take measures to preserve cultural property situated in occupied territory and damaged by military operations", rather than to actively destroy them through unnecessary military occupation and construction. Although efforts were made to justify the destruction occasioned by the construction on the grounds of security once the site was occupied, this justification must fail in the light of the illegality of the occupation itself.

In terms of Article 6(3), each State Party to the 1972 Convention for the Protection of World Cultural and Natural Heritage,

> undertakes not to take any deliberate measures which might damage directly or indirectly the cultural property and natural heritage…situated on the territory of another State Party to this Convention.

Gerstenblith (2005-2006:312) points out that the construction of the military base at Babylon also violated the United States National Historic Preservation Act. Although the ambit of the Act is primarily domestic, its application to historic sites outside the United States was extended in order to comply with treaty obligations when the United States ratified the 1972 UNESCO Convention concerning the Protection of the World Cultural and Natural Heritage. In terms thereof, any federal undertaking to a World Heritage site, or to a historic site listed on another country's equivalent of the National Register, is required to avoid or mitigate any harmful effects. She points out that the construction of the military base at Babylon qualified as a "federal undertaking" as it was carried out by or on behalf of the Department of Defence, a federal agency, and was federally funded. It thus fell squarely within the ambit of this legislation (Gerstenblith 2005-2006:312).

The ire aroused by the military occupation of sites was unyielding. Zahi Hawass, the erstwhile first under-secretary of state in the Ministry of Culture and the secretary-general of the Supreme Council of Antiquities was vociferous:

> When the Taliban set about destroying the great rock-hewn statues of Buddha in Afghanistan, the world was up in arms. America led the campaign of criticism against them through UNESCO and the international media. The Taliban were accused of being morons who wilfully destroyed monuments. But now, it is the Americans who are destroying a heritage with the use of high-tech military equipment, and where are UNESCO, ICOMOS, or the international museums? Where are the experts and the defenders of culture while the Iraqi heritage is being desecrated? (quoted in El Aref 2003:3)

As was Lord Redesdale, an archaeologist and head of the all-party parliamentary archaeological group: "Outrage is hardly the word, this is just dreadful. These are world sites. Not only is what the American forces are doing damaging the archaeology of Iraq, it's actually damaging the cultural heritage of the whole world" (quoted in Thompson 2005:4).

According to Iraqi archaeologist Zainab Bahrani, a professor of art history and archaeology at Columbia University:

> The occupation has resulted in a tremendous destruction of history well beyond the museums and libraries looted and destroyed at the fall of Baghdad. At least seven historical sites have been used in this way by US and coalition forces since April 2003, one of them being the historical heart of Samarra, where the Askari shrine built by Nasr al Din Shah was bombed in 2006 (quoted in Fisk 2007:2)

Three years after the United States forces withdrew from Babylon, Colonel John Coleman, former Chief of Staff for the First Marine Expeditionary Force in Iraq that occupied Babylon, issued an apology for the damage caused to the site by American forces. He persisted however with the argument that the occupation of Babylon had protected the ancient city from looters, and that the damage was less than that which would have been otherwise sustained in the event that the city had been left to looters (Singer 2010:25). It seems that he was completely oblivious to the obligation of the United States to protect these sites; that he considered the only alternatives to be occupation or looting.

3   THE LOSS OF KNOWLEDGE

Written history, which in Mesopotamia goes back some 5 000 years, accounts for less than 0.1% of human existence (Fagan 2001:20). For the rest, we are reliant upon archaeology to tease this information from the remains of ancient sites of human habitation. It is estimated that some 90% of Mesopotamian history still lies below the ground, waiting to be located and documented (el Guindi 1991:150). If these remains are destroyed, then our access to this information is lost forever.

From the contributions of enthusiastic but unscientific excavators of the early 19th century to the more modern, rigorous and scientific excavations conducted by modern field archaeologists, our knowledge of Mesopotamian history has been modified and expanded far beyond the only previously available written sources - the Bible and a few classical authors.

Early excavators were unaware of the length of time that people had lived on the earth. Since at the time Western civilization generally believed the Bible to be based upon fact, the opinion of the 17th century Archbishop James Ussher, who based upon the genealogies in the Old Testament declared that the world had been created during the night proceeding 23 October 4004 BCE, seemed perfectly plausible and became accepted theological dogma (Fagan 2001:36).

In combination, texts and artefacts complement each other. For example, during the Jemdet Nasr period (ca. 3200-2900 BCE) in Uruk, Sumerian cuneiform developed, as did large and elaborate ceremonial complexes set on platforms. Excavators discovered a number of decorated artefacts, beautifully carved and sculpted, as well as a basalt stele depicting two figures hunting lions. Although one holds a spear and the other a bow, the two figures appear identical, and Kuhrt believes it possible that it depicts one person, particularly since a similarly dressed person appears on a number of artefacts from Uruk, such as cylinder seals and the Uruk vase (Kuhrt 1995:23). She is of the view that this evidence points to a highly evolved political system in place: the figure dominating so many of the pictorial scenes probably stands at the head of this society, and is presumably the ruler; the fact that he appears repeatedly as the most prominent actor in ceremonial contexts suggests that the important ideological and religious activities of the state are in his care and under his control. The rare items used for constructing the large complexes and their associated equipment were imported from afar; successful commercial activities can therefore be assumed to exist, as well as a high degree of technical mastery. This in turn implies the ability to mobilise labour successfully and the existence of an expanded and stable agricultural base. The importance of the latter is

mirrored by the recurrent imagery of ears of wheat alternating with cattle, found on cylinder seals, stone vessels and the Uruk vase (Kuhrt 1995:25).

Obviously, the value of this information varies and must be critically evaluated in the light of the authors and the purpose of the written work, bearing in mind the possibility of political and religious bias (von Soden 1994:46). Since only a few people were literate in ancient societies, the records reflect both their needs and their views. Royal propaganda was rife. The excavation of sites provides the information necessary to balance these records, and to provide a more rounded picture. Our knowledge of Mesopotamia has not yet reached this advanced stage – there remains much to be done to provide the balance. As Kuhrt (1995:7) points out

> the majority of documents are administrative notes and legal transactions, i.e. they are embedded in a specific historical and cultural milieu which, by their very nature, they do not need to explain. An analogy would be that of attempting to write the history of Britain using worm-eaten records found in a monastery..., a civil service department..., a gentleman's private study... and perhaps a section of the British Library..., all separated by centuries from each other.

Information on Mesopotamia is garnered from the following sources:

(a)   personal accounts of historical people, usually kings, nobles, or their employees, which are found in inscriptions, date formulas, reports and figures;

(b)   contemporary and subsequent accounts of events, which are found in lists of kings, eponyms, dates, literature, the Bible, and ancient writers;

(c)   official and private letters;

(d)   other documents, such as treaties;

(e)   interpretations in the omen collections, which often reflect political themes, conditions in other countries and other incidents, although some are legendary;

(f)   references to historical events and in literary works;

(g)   oracular inquiries, prophesies, and similar questions and statements (von Soden 1994:46).

In spite of all the evidence that has been brought to light to date, there remain certain periods and sections of society for which there is little or no information. Indeed, even where there is an

abundance of artefacts, certain questions remain. Because mounds are generally formed by the remains of sanctuaries or temples, a rich source of material, they tend to be the first excavated. Accordingly much of our information is from temples, with little from the rest of the city (Kuhrt 1995:10).

Another factor is the length of the history in the area. By the time of Alexander the Great's conquest of the Persian Empire, the history of Mesopotamia already covered a period of some 3000 years, "the length of time that now separates us from the fall of Troy" (Kuhrt 1995:8).

From the Early Sumerian and Early Dynastic Period we have documents from Uruk, but these are not yet fully understood. Although the documents after 2400 BCE are better understood, we still know little of the history of the period (von Soden 1994:47).[190]

There are far more documents available during the Akkadian Period, but there is very little documentation for Assyria during the third millennium BCE; we are largely reliant for our information on the archives of one trading colony, Kanesh. These tablets deal mainly with economic and associated social aspects, and contain little of a historical nature (von Soden 1994:50).[191]

Although there is an abundance of information for the Old Babylonian period, the distribution is uneven with considerable gaps. There is such a scarcity of sources for the period that followed between 1530 and 1400 BCE that it is often referred to as the 'Dark Age' (von Soden 1994:53). Little is known of the political, social or economic climate of Kassite Babylonia, and yet it appears that this was a period of cultural importance (Kuhrt 1995:348).[192]

Royal inscriptions, chronicles and palace relief decoration play an important role in our understanding of the Assyrians, although it is accepted that those inscribed by Ashnasirpal II on his palace walls at Calah were largely propagandistic (von Soden 1994:56). The sources from the Sargonid period of the Neo-Assyrian empire are more abundant than for any other period in Mesopotamian history. Unfortunately, sources during

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[190] The discovery of some 18 000 cuneiform tablets at Ebla has provided information on the period 3200–2350 BCE. Although 2 000 are complete and some 6 000 are relatively large fragments, the remainder are small fragments often bearing only one or two signs. Over 80% of the tablets deal with economic and administrative matters; the rest deal with history, literature, law, lexical texts and syllabaries (Knapp 1988:125). Although most have yet to be published, scholars have discovered lists of Sumerian words, which are spelled out syllable by syllable, making it possible to establish pronunciation (Knapp 1988:129).

[191] More than 13 000 cuneiform tablets have been discovered at Kanesh. To date only around 3 000 have been published (Knapp 1988:141).

[192] Only around 900 tablets have been published. Thousands more await attention (Knapp 1988:137).

the Neo-Babylonian period are patchy, with the Chaldean period being the best represented (von Soden 1994:57).

A chronology, based upon Assyrian records of annual eponyms and the Assyrian King List, has been reconstructed for Mesopotamia back as far as 2400 BCE. Prior to that date the chronology is imprecise, and there is much debate and variation among scholars. This chronology, which is used in conjunction with Egyptian sources, has been used by other states in the Near East to date events in their area (Kuhrt 1995:12).

It is clear that our knowledge of Mesopotamia is still inadequate. Many sites have been only partially excavated, some not at all. Much more lies to be discovered beneath the sands and in the sites which are now being looted. As looters rip artefacts from the soil, discarding less collectable items, knowledge is being lost – for knowledge does not simply lie in the beauty of artefacts which collectors prize as "art". It also lies in what is being discarded and destroyed. For example, the loss of pollen samples deprives us of information on the local fauna and diet, oxygen isotope levels in the shells of stratified foraminifera microfossils provides information on past levels of ocean salinity and the degree of glaciations (Brodie, Doole & Watson 2000:11). It is also possible to extract information regarding early climates and environments from properly contextualised paleontological and archaeological specimens. These have become increasingly important as concerns over global warming and increasing levels of pollution increase (Brodie, Doole & Watson 2000:11).

There is a fundamental difference in perception between archaeologists and collectors when considering artefacts. To collectors and dealers, such artefacts have value both as art and as an investment. To archaeologists, who are not insensitive to the beauty and craftsmanship of such artefacts, the value lies rather in the information which can be gleaned from an artefact found in context.[193] They do not arrogate to themselves the position of sole expositors of this information, but work in collaboration with experts from other fields such as palaeontology, geophysics, botany, analytical chemistry, and genetics to name but a few.

According to Foster and Foster:

> The heart of archaeology is the conscientious retrieval and accurate recording of data from artifacts, features, and ecofacts, which, taken as a whole, shed light on behaviours and transformations specific to a site in time and space. This, in a word, is context. Once a site has been excavated context is

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[193] Context refers to the surroundings in which particular artefact is found - to its actual location and the organic matter and other artefacts found together with it. These provide additional information about the particular artefact, which is not available from an examination of the artefact in isolation. When an item is looted, all this information is lost.

preserved only in the documentary records of the excavation; if it is looted or carelessly dug, context is lost forever (Foster & Foster 2009:199).

As Ricardo Elia points out, context is the "primary and almost sole way to learn about many ancient cultures of the world" (Elich 2004:4). Indeed, as Atwood (2004:9) points out:

> Through modern archaeology we know that Iraqis invented the wheel about 3000 B.C., that Vikings reached America five centuries before Columbus, that humans first crossed from Asia to Alaska about fourteen thousand years ago and filled the American continent within a few centuries, that the Incas practiced a form of brain surgery, that plagues of European diseases like smallpox swept through Indian settlements in Florida a few years before any Europeans arrived there, that early Mexicans took a weed and cultivated it over centuries to turn it into corn. None of this knowledge was handed down orally from generation to generation; nor, in most cases, was it written in ancient texts. We know it because scientists were able to spend years descending through minute layers of sediment with toothbrushes, trowels, and picks at undisturbed sites. How do we know about the origins of corn, for example? Because archaeologists near Mexico City discovered grains of pollen from corn plants dating from thousands of years back at 150 feet below ground (Atwood 2004:9).

Cuneiform tablets may reveal the purpose of the rooms in which they were found, and one tablet may be meaningless when not placed in conjunction with the others with which it was found. The location of objects may reveal important evidence of trade or migration, and the chemical analysis of the contents of pots and jars may provide information on diet. This information is lost when objects are illegally excavated, particularly when they are cleaned to render them more aesthetically pleasing.[194] By stripping the artefact of its association, its scientific and historical value is lost. All that remains is to date it, identify it, and admire it. It has little, if anything, to add to our knowledge of the past. It is a mere commodity to be traded, "an expression of the free market philosophy of private ownership trumping the public good" (Elich 2004:4).

Collectors disagree, pointing out that even if we lose the context in which the artefact was found, it can still be examined to establish its method of manufacture, its form, style, iconography and ornamentation, and place it in the larger context of what is known about such artefacts, i.e. by treating it as a work of art. Philippe de Montebello, the Metropolitan Museum's director, is of the view that the context in which an artefact is found is virtually meaningless. He believes that it accounts for less than two percent of what can be learned from the artefact (quoted in Bogdanos 2008:59). One collector, George Ortiz, goes so far as to ask: "Isn't there a dimension to art that it much more worthwhile than the pursuit of context?", while an

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[194] Chemical analyses of the residues found in the bronze bowls from an eighth-century BCE tomb in Gordion, Turkey, found that those at the funerary feast had dined on a spicy meal of sheep or goat accompanied by a potent brew of barley beer, wine and mead (Brodie *et al* 2000:11).

antiquities dealer, Torkom Demirjian believes that: "Archaeological considerations are no longer paramount: now there is an increasing emphasis on aesthetics over rarity" (quoted in Brodie *et al* 2000:12). It is a sad indictment of our society when pretty trumps knowledge.

Few, if any, objects in the ancient world were created for aesthetic purposes, and to denigrate them to a modern category of purposeless and artificially valued objects is a poor substitute for the knowledge which can be gleaned from such objects. To reduce an object, which has the possibility of providing hitherto unknown information about the history of mankind, to the same level as objects consisting of decoratively arranged blobs of paint on canvas is at best cavalier, at worst insulting.

Collectors and dealers fail to recognise that the value of their looted antiquities still depends upon artefacts properly excavated with all their contextual information. As Renfrew (2000:23) points out, looted antiquities are parasitic upon artefacts found in context, for looted antiquities can only be dated, authenticated and identified by reference to similar artefacts which have been excavated within a coherent context.

In order to gain access to saleable artefacts, looters disregard other material which may be present; by disturbing the soil they destroy the stratigraphy and buried features. According to Bajjaly, looters have not spared

> one metre of these Sumerian capitals that have been buried under the sand for thousands of years. They systematically destroyed the remains of this civilisation in their tireless search for sellable artefacts: ancient cities, covering an estimated surface area of 20 square kilometres, which — if properly excavated — could have provided extensive new information concerning the development of the human race (quoted in Fisk 2007:1)

Humankind is losing its past for a cuneiform tablet, a sculpture or a piece of jewellery that a dealer sources from desperate people in a country devastated by war all for the pleasure of private collectors who egotistically order specific objects for the decoration of their personal surrounds. Our loss is incalculable:

> ...if we understand the story of looting in its universal aspects- that great volumes of information about our past have been destroyed, that great works of literature and poetry no longer exist, that chapters in our understanding of human development will never be written- then we can begin to feel the scope and depth of our loss (Garen & Carleton 2005:15).

4.   CONCLUSION

In 1921, an Assyriologist from Yale, Albert T Clay, said that "there is enough work to be done in the land to keep ten expeditions busy for 500 years" (Bernhardsson 2005:218). This statement is now questionable.[195] As a result of the looting which has, and is still taking place on archaeological sites, the damage and destruction of the archaeological record is extensive. Many sites have been completely destroyed or extensively damaged, some have lost the top three metres of their stratigraphy, while others have had their record so severely compromised by the introduction of foreign matter, such as soil from other parts of the site, or even completely different sites, that the knowledge which could have been gleaned from their scientific excavation has been irreparably compromised. Stein (2008:5) goes so far as to say that:

> What is currently taking place in southern Iraq is nothing less than the eradication of the material record of the world's first urban, literate civilization. "Eradication" is not too strong a word; the mounds that form the remains of the earliest cities of Sumer are undergoing systematic and wholesale destruction by heavily armed gangs of looters who feed into the vast and lucrative illegal antiquities trade. The scale and fevered pace of this looting is astounding. We can only guess at how many tens of thousands of artefacts are being looted, but the sites themselves bear mute testimony to how extensive the damage has become.

Unfortunately, once a site is excavated, whether scientifically by archaeologists or destructively by looters, information is lost forever unless properly documented. The scientific excavation of Mesopotamian sites is particularly challenging, for the mud brick settlements were often occupied for centuries, with later generations building upon the ruins of earlier generations. Consequently, since degraded mud-brick walls are nearly indistinguishable from the surrounding matrix, preserving the stratigraphy and chronological interrelationships requires great skill. Indeed, Sir Leonard Woolley postponed the excavation of the Royal Graves at Ur for four years in order for him to train his workmen properly (Foster *et al* 2005:216).

Why was the looting and destruction of archaeological sites during the period of occupation allowed to happen? According to Elizabeth Stone, who studied satellite imagery[196] of sites during and after the

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[195] In 2008, the World Monuments Fund included in its list of the world's 100 most endangered sites: "the Cultural Sites of Iraq, where ongoing conflict has led to catastrophic loss at the world's oldest and most important cultural sites, and where the damage continues." (Tarbush 2007:2)

[196] Stone purchased satellite images of seven thousand square kilometres, and counted the holes at 1 837 sites, comparing images from 2001-2002 with those taken in 2003 (Rothfield 2009:136).

invasion, looting diminished in the early summer of 2003 leading her to conclude that "if security had been established, the looting problem may have abated" (quoted in Rothfield 2009:137).[197]

Where guards were placed at sites, the looting decreased significantly; that they had the means to do so is clear. The Third Infantry Division confiscated almost 1 billion dollars from the palaces in Baghdad. Although they had the legal authority spend the money, they were specifically ordered not to "use the money to fund projects fulfilling obligations as an occupying power under international law, or responding to the legitimate needs within Baghdad" (Third Infantry Division 2003:6).

The United States had an obligation as occupier to protect archaeological sites and to prevent the looting, devastation and destruction that took place. They chose not to do so. We can refer to all the excuses: a shortage of troops, a lack of planning or even an absence of orders, but none of these are reasons why the looting took place – they are all symptoms of the same underlying cause. Many have spoken of a lack of political will, but I think the real reason goes even deeper. I believe it was caused by political indifference.

When the United States decided to invade Iraq, the decision was based purely upon narrow self-interest. Anything that did not directly serve this interest was irrelevant, and for this reason they took no steps to protect Iraq's cultural heritage during or after the invasion. As a result, Iraq's cultural heritage and mankind's cultural history and property were devastated. The fact that the United States chose to occupy such internationally significant and culturally important archaeological sites as Babylon and Ur, and that they wilfully and recklessly chose to destroy those sites with military construction, speaks of an indifference of breathtaking proportions.

The decision by American military authorities to occupy archaeological sites is inexplicable. Apart from the obvious illegality of such action, one has to wonder why it was even contemplated. The excuse that they were occupied in order to prevent looting is nonsensical, particularly since it is obvious that any military occupation, with simply the movement of troops and heavy vehicles, is bound to cause damage to the site. Further, when one considers the devastation caused to such sites as Babylon with unconstrained construction activities, it is almost as if they were going out of their way to destroy the site. There is no reason why they could not have built their base close by, and left the site untouched. Their close proximity to sites, with regular patrols would have achieved the

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[197] Garen and Carleton established a direct relationship between looting and security: looting is prevalent in the absence of authority. They noted that during short periods of increased insecurity, such as in the spring of 2004, when clashes erupted between coalition forces and the Mehdi army in southern Iraq, looting at sites increased dramatically (Garen & Carleton 2005:17).

true objective – protection, without the accompanying devastation that their presence wrought. Such activities lend support to those who argue that the true intention behind the invasion was the destruction of Iraq.

Although it was the looting of the Museum that drew the most widespread international condemnation, the losses from the sites are even worse, for most of the items looted from the Museum were scientifically excavated and properly documented and recorded. In the case of the looting of archaeological sites, it is not simply the undocumented artefacts looted that are an incalculable loss, but also the objects found in association with those artefacts that are damaged, destroyed and discarded for being of no interest to a collector. During this process, the sites are damaged and/or destroyed. We are all the losers in this process. It is not only the cultural property of Iraq that is being stolen, but the very essence of knowledge, the intellectual advancement of mankind.

CHAPTER 6

REACTION AND RESPONSES

The reaction of the international community to the looting of the Museum and archaeological sites in Iraq was one of outrage; that of the Bush Administration was one of indifference. In reaction, many governments, public and private organisations, and individuals donated time and effort to assist the country in recovering looted artefacts and restoring some of the damage. However, the Museum remains closed, and the archaeological sites are still being looted. Rural Iraqis living in grinding poverty have turned to subsistence looting to survive - encouraged by dealers and collectors. The United States is responsible for the looting and destruction of archaeological sites which took place during its occupation of the country, but it is doubtful that they will ever face prosecution.

1   POLITICAL CONTEXT

When he learned of the looting, UNESCO Director-General Kochiro Matsuura contacted both the American and British authorities. Emphasising the urgent need to preserve Iraqi heritage, he requested that they take immediate steps to protect Iraqi archaeological sites and cultural institutions. He also pointed to the need to protect archaeological museums in Baghdad and Mosul (Iglesias-Kuntz 2003:4). No action was taken in response.

The government of Jordan requested the United Nations to take charge of safeguarding Iraq's historic sites, which it described as "a national treasure for the Iraqi people and an invaluable heritage to the Arab and Islamic worlds" (quoted in Sandholtz 2005:190). Pakistan stated that it was "deeply concerned" about the plundering of the National Museum, that: "International law and accepted standards demand protection be given to such treasures that are a common heritage of mankind" (quoted in Sandholtz 2005:191).

When the BBC reported that the Museum was being looted on 11 April, Gibson again wrote to Kenworthy and Limbert (Rothfield 2009:98). He warned that: "If they get into either place, the

international condemnation of the ineptitude of the U.S. forces will be devastating" (quoted in Rothfield 2009:98) He further pointed out that since late January:

> I have been cooperating with the army to try to save archaeological sites. In every conversation I have had, and in a lot of e-mails, I have put first in importance the Iraq National Museum. I even pointed it out on a map to a group. I was told that a special effort was to be made to protect it. I also mentioned the importance of one of the buildings of the Central Bank. Again, I was assured that something would be done.

> For the last three days, I have been waiting to hear that the museum had been secured. I started to send special messages two days ago to everyone I had contact with in the Army. Now I see on the wires that the museum has been badly looted. The U.S. forces had to have been on the street right in front of the museum in the past three days. Why was the building not secured? (quoted in Rothfield 2009:98)

Gibson received a call from the State Department the same day, advising that the army would be flying in troops that evening to guard the Museum. As they also advised that the military did not know where the Museum was located, Gibson provided this information to John Limbert in Kuwait (Rothfield 2009:101).

Limbert felt helpless, the response from those he contacted in Washington was the same – "hand-wringing". Although the army was the only branch of the forces able to protect the Museum, their response was that it was "not a priority" (Rothfield 2009:99).

The official response of the American government at a press conference held on 11 April was both remorseless and dismissive: "Stuff happens! But in terms of what's going on in that country, it is a fundamental misunderstanding to see those images over, and over, and over again of some boy walking out with a vase and say, 'Oh, my goodness, you didn't have a plan.' That's nonsense. They know what they're doing, and they're doing a terrific job" (Rothfield 2009:111). [198]

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[198] Rumsfeld did not react well to criticism from his own side either. Kenneth Adelman, a member of the Defense Policy Board who confronted him over this remark, was requested by Rumsfeld to resign from the Board for being negative. In response, Adelman commented:

> I am negative, Don. You're absolutely right. I'm not negative about our friendship. But I think your decisions have been abysmal when it really counted. Start out with, you know, when you stood up there and said things – 'Stuff happens.'...That's your entry in Bartletts' [Famous Quotations]. The only thing people will remember about you is 'Stuff happens'. I mean, how could you say that? 'This is what free people do.' This is not what free people do. This is what barbarians do... Do you realize what the looting did to us? It legitimized the idea that liberation comes with chaos rather than freedom and a better life. And it demystified the potency of American forces. Plus, destroying, what, 30 percent of the infrastructure.

Adelman went on to recount:

> I said 'You have 140,000 troops out there and they didn't do jack sh_t.' I said 'There was no order to stop the looting.' And he says, 'There was an order.' I said, 'Well, did you give the order?' He says, 'I didn't give the order, but someone around here gave the order.' I said, 'Who gave the order?' So he takes out his yellow pad of

Unfortunately, the plan did not include the protection of Iraqi heritage, but rather the protection of those assets of more immediate value to the invading forces – oil.[199] A troop of marines with assault vehicles (Nisbett 2011:9) moved quickly to protect the Iraqi oil ministry in Baghdad, surrounding the complex with barbed wire (Gumbel & Keys 2003). This decision led to the view that American and British interests had determined to do "some looting of their own on behalf of Western corporate interests" (Elich 2004:2).[200] As the Bush Administration failed to comprehend the importance of the artefacts, they were unable to envisage the outrage that this would provoke and respond appropriately. This was clearly demonstrated by Rumsfeld during that press conference: "The images you are seeing on television you are seeing over, and over, and it's the same picture of some person walking out of some building with a vase, and you think, "My goodness, were there that many vases? Is it possible that there were that many vases in the whole country?"" (Rothfield 2009:111)[201]

On 13 April, Ibrahim and George sought assistance from Lieutenant Colonel Peter Zarcone, the Civil Affairs officer for the First Marine Infantry Division, who conceded that they were aware that the Museum had been looted. However, he said that there was little he could do, since it fell in the army's sector (Rothfield 2009:108). However, he undertook to send a unit to protect the Museum, comforting them with the comment that the unit might be in place by the time they returned to the Museum. Although Zarcone reminded the army of their responsibility to safeguard the Museum, they did not respond (Rothfield 2009:108).

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paper and he writes down-he says, 'I'm going to tell you. I'll get back to you and tell you.' And I said, 'I'd like to know who gave the order, and write down the second question on your yellow pad there. Tell me why 140,000 US troops in Iraq disobeyed the order. Write that down too' (Vanity Fair 2009:3).

[199] In December 2002, a study published in the *Oil and Gas Journal*, revealed that "Western oil companies estimate that they can produce a barrel of Iraqi oil for less than $US1.50 and possibly as little as $US1, including all exploration, oilfield development and production costs and including a 15% return. This production cost is similar to Saudi Arabia and lower than virtually any country" (quoted in Baker *et al* 2010:19). In an interview in 2007, the former chief of US Central Command, General John Abzaid, stated: "Of course it's about oil, we can't really deny that" (quoted in Baker *et al* 2010:18).

[200] Rieff (2004:25) quotes a leader in the Hawza, the Shi'ite religious authority, who informed him:"It is not that they could not protect everything, as they say. It's that they protected nothing else. The Oil Ministry is not off by itself. It's surrounded by other ministries, all of which the Americans allowed to be looted. So what else do you want us to think except that you want our oil?" A gallup poll taken in Baghdad asking about the American motives for the invasion found that 1% believed it was to establish democracy in the country, 5% believed that it was to assist the Iraqi people, but most attributed them to a desire "to take control of Iraqi resources and to reorganise the Middle East in US and Israeli interests" (Chomsky 2003:249).

[201] He accused the media of exaggeration:

I picked up a newspaper today and I couldn't believe it. I read eight headlines that talked about chaos, violence, unrest. And it was just Henny Penny-'the sky is falling.' I've never seen anything like it! And here is a country that's being liberated, here are people who are going from being repressed and held under the thumb of a vicious dictator, and they're free. It's just unbelievable how people can take that away from what is happening in that country! Do I think those words are unrepresentative? Yes (quoted by US Department of Defense 11 April 2003).

In a further interview on 13 April, Rumsfeld continued to abdicate any responsibility for the looting of the Museum, blaming it on the chaos that inevitably follows when emerging from a dictatorship: "We didn't allow it. It happened. . . . There's a transition period, and no one is in control. There is still fighting in Baghdad. We don't allow bad things to happen. Bad things happen in life, and people do loot" (quoted in Rothfield 2009:111).

Rumsfeld's response to the looting resulted in the resignations of several members of the President's Cultural Property Advisory Committee – in particular the chairman Martin Sullivan, Gary Vikan, director of Baltimore's Walters Art Museum, and Richard Lanier, director of the Trust for Mutual Understanding. In his letter of resignation, Sullivan pointed out that the destruction of the Museum was "foreseeable and preventable", a "tragedy" which "was not prevented, due to our nation's inaction" (Sullivan 2003:1). He stated that in his view the decision to invade Iraq was "burdened by a compelling moral obligation to plan for, and to try to prevent, indiscriminate looting and destruction." He was shocked by Rumsfeld's reference to the chaos in Iraq as "untidiness", stating that he could not "imagine a sadder or more ironic understatement" (Sullivan 2003:1). Richard Lanier criticised "the administration's total lack of sensitivity and forethought regarding...the loss of cultural treasures" (Grey 2003:1).

On 13 April, Carol Thompson, a Foreign Service officer at the State Department contacted Gibson and Gerstenblith requesting information on the Museum's inventory and the relevant international law that could be used to recover artefacts (Rothfield 2009:111). The same day, Limbert contacted Gerstenblith requesting recommendations from the Archaeological Institute of America on how to rectify matters.[202] Both parties required the information for a speech to be made by Secretary of State, Colin Powell (Rothfield 2009:111). Although the Administration had expected the outrage engendered by the looting of the Museum to dissipate within a few days, this had not been the case and damage control was required.

On 14 April, Powell issued a written statement dealing with the looting. In it, he recognised the importance of cultural property:

> The people of the United States value the archaeological and cultural heritage of Iraq that documents over 10,000 years of the development of civilization. In recent days, the National Museums in Baghdad and Mosul have been looted, as well as other cultural institutions and archaeological sites. Such looting causes irretrievable loss to the understanding of history and the efforts of Iraqi and international scholars to study and gain new insight into our past (quoted in Sandholtz 2007:251).

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[202] Her response included sealing off borders, using helicopter fly-overs to establish short-term security at sites, providing funds to rehire and train new Iraqi guards, and using the US military to establish a security perimeter around the Museum so that Baghdad police forces could inspect houses in the vicinity.(Rothfield 2009:111).

Although he invoked the United States National Stolen Property Act,[203] he did not accept any responsibility for what had happened, referring disingenuously instead to "the well-reported efforts made to protect cultural, religious, and historic sites in Iraq" (Rothfield 2009:112). He stated that troops had been instructed to protect museums and antiquities, and that American radio broadcasts were encouraging Iraqis to return items (Rothfield 2009:112). The Office of Reconstruction and Humanitarian Assistance, under Limbert, was to take the lead in restoring the artefacts and catalogues, and the United States undertook to work with UNESCO and Interpol to achieve this. The following morning, both the Federal Bureau of Investigation and Interpol announced that teams were being dispatched to Iraq (Rothfield 2009:112).

The following day, Rumsfeld, accompanied by General Richard Myers, Chairman of the Joint Chiefs of Staff, again met the press. When asked whether he was prepared to concede in retrospect that the military plan had failed to protect Iraq's antiquities or provide sufficient security for the Museum, Rumsfeld was unrepentant:

> Looting is an unfortunate thing. Human beings are not perfect. We've seen looting in this country. We've seen riots at soccer games in various countries around the world. We've seen destruction after athletic events in our own country. No one likes it. No one allows it. It happens, and it's unfortunate. And to the extent it can be stopped, it should be stopped. To the extent it happens in a war zone, it's difficult to stop . . . . But to try to lay off the fact of that unfortunate activity on a defect in a war plan—it strikes me as a stretch (quoted in Richard 2003:1).

When questioned on the foreseeability of the looting, Rumsfeld tried to deny that any warnings had been given (Sandholtz 2007:248). Although Myers intervened at this quite outrageous misrepresentation, he carefully underplayed the numerous warning given:

> Q: But weren't you urged specifically by scholars and others about the danger to that museum? And weren't you urged to provide a greater level of protection and security in the initial phases of the operation?
>
> Sec. Rumsfeld: Not to my knowledge.
>
> Gen. Meyers: [W]e did get advice on archaeological sites around Baghdad and in fact I think it was the Archaeological—American Archaeological Association – I believe that's the correct title—wrote the Secretary of some concerns (quoted in Sandholtz 2007:248).

At a press briefing on 15 April, Brigadier General Vincent Brooks, deputy director of operations, was keen to move on and forget about what had happened:

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[203] In terms of which the artefacts looted from museums and sites constitute stolen property.

First, as we entered Baghdad, we were involved in very intense combat, and our focus was the combat actions necessary to remove the regime and any of its appendages. In removing the regime, there is a vacuum that is created - that certainly did occur - and the vacuum will be filled as time goes on. I don't think that anyone anticipated that the riches of Iraq would be looted by the Iraqi people, and indeed it happened in some places. So while it may now be after the fact that that looting has occurred, it's still important to try to restore it as much as possible. It's simply not useful to speculate as to why we did, did not, what could we have done differently. We did what we did, and our operations were focused on objectives at hand at the time.

They are riches. They are important to not only Iraq, but the world, and we have to count on others as well at this point now to assist in trying to bring that back to a degree of closure and protecting those antiquities for the future (quoted in Rothfield 2009:113).

Still no troops arrived to protect the Museum. With the assistance of reporters, George was able to contact John Curtis, curator of the Near Eastern Department of the British Museum, on 15 April. After he was informed of the continued lack of protection, Curtis immediately advised Neil MacGregor, who contacted the Prime Minister's Office and requested that protection be provided (Curtis 2008:202).

Curtis also called Gibson, who contacted Varhola and John Marburger, the White House science advisor. Gibson pointed out that Powell's statements would "look pretty empty" in the event of further looting (Rothfield 2009:113).

On 16 April Conroy was instructed to secure the Museum, and did so. When they arrived, Conroy reports that there was a crowd of people and about two dozen cars outside: "About 50 people were outside, trying to get in. Another twenty or so were inside, behind locked gates, trying to keep the others out" (Conroy & Martz 2005:235).

On April 16, 2003, President Bush declared Iraq to be "liberated."

The looting of the Iraqi National Museum captured front-page headlines in major newspapers around the world. It was acknowledged to be a major cultural disaster. International reactions ranged from critical to scathing, with moral blame uniformly placed squarely on the United States.

Russian Culture Minister Mikhail Shvydkoi explicitly blamed American forces for permitting the looting, and an editorial in New Delhi's *Pioneer* proclaimed:

The sacking of the Baghdad archaeological museum—now home to smashed glass cases, broken pottery, torn books and mutilated statues—will forever remain a scathing indictment of this inexcusable and manifest indifference towards the very people the coalition claims to have liberated. The theft of irreplaceable antiquities, some going back over 7,000 years, represents a loss that cannot be calculated in material terms; it is an assault on collective historical consciousness and, hence, a spiritual dispossession and desecration of identity (quoted in Sandholtz 2007:244)

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Su Donghai, a Chinese specialist of cultural relics, described the looting as "a catastrophe to human civilization", declaring that "the U.S. forces should be held accountable as they should take the responsibility, in compliance with international laws, to protect Iraq's historic, cultural and religious legacies from being destroyed or looted..." (quoted in Sandholtz 2007:245)

An article in the *Korea Herald* summarized the events in Baghdad and concluded:

> American and British forces, their commanders and ultimately George W. Bush and Tony Blair, cannot avoid the blame for their negligence in protecting cultural assets of the nation they invaded. If some of the effort that they expended in winning control of Iraq's many oil fields had been allocated to protecting cultural assets, they would have successfully guarded the precious contents of the Baghdad museum (quoted in Sandholtz 2007:245).

ITAR-Tass, the Russian news agency, reported that museum experts meeting in Lyon, France in May 2003 considered the looting "the greatest cultural disaster of the current century." The agency criticized President Bush, who, although describing the looting as "horrible", failed to acknowledge "the complete passivity of American soldiers, who did not prevent those horrors" (quoted in Sandholtz 2007:245). The report also recorded the view held by a number of the experts that the United States and the United Kingdom had been obliged to "guarantee the safety of Iraq's national treasures" in terms of international conventions (Sandholtz 2007:245).

An opinion given in Edinburgh's *Evening News* asserted that "the loss of Iraq's cultural heritage will go down in history—like the burning of the Library at Alexandria—and Britain and the U.S. will be to blame" (quoted in Sandholtz 2007:245). *The Sunday Herald* quoted Lord Renfrew: "What has been allowed to happen has been nothing short of disgraceful. The invading country had a responsibility to look after its cultural heritage. It was foreseeable and preventable" (quoted in Sandholtz 2007:245).

The *Suddeutsche Zeitung* employed the headline "Barbaren in Bagdad"; the British Museum described the losses as tragic" (quoted in Sandholtz 2005:189). Eleanor Robson, an Oxford don and council member of the British School of Archaeology in Iraq took it even further, asserting that: "This is a tragedy with echoes of past catastrophes: the Mongol sack of Baghdad, and the fifth-century destruction of the library of Alexandria"; that: "The looting of the Iraq Museum is on a par with blowing up Stonehenge or ransacking the Bodleian Library" (quoted in Bogdanos 2005:21). According to University of Michigan Professor Piotr Michalowski, "The pillaging of the Baghdad Museum is a tragedy that has no parallel in world history. It is as if the Uffizi, the Louvre, or all the museums of Washington, D.C., had been wiped

out in one fell swoop." Professor John Russell of the Massachusetts College of Art held a similar view: "Ten thousand years of human history has been erased at a moment" (quoted in Bogdanos 2005:22).

Reactions within American society were just as vehement as those expressed abroad. Editorial writers, archaeologists, and archaeological associations expressed dismay and outrage at the looting of the Museum (Sandholtz 2007:246). According to a commentator in the *San Francisco Chronicle*, "We have to wonder how the Pentagon and the State Department could fail to see the cultural calamity coming, such a predictable consequence of urban war chaos",[204] especially in light of all the warnings they had received from experts (Sandholtz 2007:246). An editorial in the *Pittsburgh Post-Gazette* called the looting a "cultural tragedy": "Mr. Rumsfeld ridiculed news reports of the looting, saying that film clips appeared to show "the same guy with the same vase" time after time. What had actually taken place was a cultural crime, the loss of an irreplaceable history of the region long referred to as the Cradle of Civilization" (quoted in Sandholtz 2007:247).

Even members of the Coalition forces were quick to distance themselves. British cabinet member Clare Short called for a "massively bigger effort" by coalition forces to stop the looting, and suggested that by failing to prevent the looting in Baghdad American troops had violated the 1907 Hague and 1949 Geneva Conventions (Sandholtz 2007:244).

Australia, although a member of the Coalition, was not involved in the assault on Baghdad and denied any culpability. Indeed, General Peter Cosgrove, head of Australian Defence Forces, "rejected suggestions that Australia, as an invading and occupying force with international legal responsibilities for protecting Iraq's heritage, should share the blame for the loss of artefacts" (Sandholtz 2007:244).

Saleh Lamei, a member of the International Council of Monuments and Sites, pointed out:

> The risk is not only to existing monuments and museums, but to thousands of archaeological sites, many not yet excavated, which lie buried and could be devastated because the armies are fighting on Iraqi territory using bulldozers and heavy artillery. The identity of the nation depends on its cultural heritage. By destroying such evidence, thousands of years of civilisation have been lost (quoted in El-Aref 2003:3).

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[204] According to Atwood (2003:21):

> Around the globe, the aftermath of war in recent decades has come to mean the onset of looting. In Cambodia, the civil war that ended in 1991 was followed by the devastation of ancient Khmer cities that had basically stood intact since French archaeologists excavated them in the 19th century: Looters lopped the heads of nearly all the Buddhas at Angkor and chiselled off hundreds of stone carvings. In Afghanistan, the U.S. invasion was followed by waves of looters at remote archaeological sites, compounding the vandalism done by the Taliban. In Bosnia, looters barely waited for the guns to go silent before stripping old churches of their icons. The systematic removal of artifacts by teams of pillagers has become as much a part of the aftermath of modern warfare as blue-helmeted peacekeepers and cnn.

She also expressed concern that sites would be vulnerable to looters and antiquities smugglers: "It would become a free market for illegal activities. This was what happened in Baghdad in 1991, when priceless items made their way out of the country and were put up for sale at Ebay's Auction House in the USA" (quoted in El-Aref 2003:3).

George Bush made his only public comment on the Museum's looting on 28 April 2003, when he said: "we're working with Iraqis to recover artifacts, to find the hoodlums who ravished the National Museum of Antiquities in Baghdad. Like many of you here, we deplore the actions of the citizens who ravished that museum. And we will work with the Iraqi citizens to find out who they were and to bring them to justice" (quoted in Rothfield 2009:116).

Conservative media opinion makers went on the attack a few weeks later, seizing on the errors in the original reports and decrying the entire episode as "much ado over nothing, or worse" (quoted in Rothfield 2009:116). Charles Krauthammer accused George of deliberately allowing the incorrect figure of 170,000 to persist "because George and the other museum officials who wept on camera were Ba'ath Party Appointees, and the media, Western and Arab, desperate to highlight the dark side of the liberation of Iraq, bought their deceptions without an ounce of skepticism" (quoted in Rothfield 2009:117).

On 5 May 2003, it was reported that only 38 items were missing and that these had been taken from locked storage rooms, indicating an inside job. It was further alleged that:

> "There is no comparison in the level of destruction seen in the museum and that seen in the administrative offices," Bogdanos told the paper. "It's absolute wanton destruction in the offices. We didn't see anywhere near that destruction in the museum. (People) stole what they could use. They left the antiquities" (quoted in WorldNetDaily.com 5 May 2008).

On 7 May 2003, Lieutenant General William Wallace informed the Financial Times that there was in fact very little looting, and that "as few as 17 items were unaccounted for" (quoted in United Press International 2003:5). Krauthammer alleged on 13 June 2003 that only 33 artefacts were looted from the Museum, and accused those who criticised the looting as "indulging in "narcissism" and "sheer snobbery"" (Washington Post 13 June 2003).

2 RESPONSES TO THE LOOTING OF THE MUSEUM

2.1 THE UNITED STATES

2.1.1 **The Bogdanos Initiative**

Marine Colonel Matthew Bogdanos was detailed to investigate the looting of the Museum. His mandate was not to prosecute looters or smugglers, but to recover the stolen antiquities (Bogdanos 2003a:1). In order to accomplish this, four objectives were set:

(i)   To establish, identify and catalogue the items that had been stolen;

(ii)   To circulate photographs and descriptions of these items to international law enforcement and art communities to facilitate their recovery;

(iii)   To involve religious and community leaders and the media in publicising an amnesty campaign aimed at encouraging the return of artefacts; and

(iv)   To conduct raids on those suspected of looting and smuggling artefacts (Bogdanos 2003a:1).

Unfortunately, as many of the stolen items had not been documented or photographed, the first task proved more difficult and time consuming than originally anticipated (Bogdanos 2005:136).

The third objective proved very successful, and led to the return of thousands of artefacts. On 23 April 2003 they visited a nearby mosque and discussed the matter with one of the imams. He not only issued a fatwa, but also arranged for a chest full of stolen manuscripts to be returned to the Museum that afternoon (Bogdanos 2005:149). An earlier approach by George and other members of staff, who had visited local mosques requesting that people return looted items, had resulted in the return of George's computer printer and a number of the Nimrud ivories (Rothfield 2009:103).

A religious decree banning the dealing in or smuggling of antiquities was issued by the Grand Ayatolla Alil Sistani, the highest Muslim Shi'ite authority in Iraq (Rothfield 2009:125).

That the publicity was successful is unquestionable. Bogdanos even had a four-thousand-year-old Akkadian piece returned to him when he went on leave to the United States (Bogdanos 2005:231). Raids and seizures at airports, checkpoints and border crossings[205] led to the recovery of thousands more.

The first visitor to take advantage of the amnesty programme returned one of the copper bulls from Ninhursag (ca. 2500 BCE) and the statue of the Assyrian king Shalmaneser lll (ca. 850 BCE) on 2 April 2003 (Bogdanos 2005:151). Arabic-speaking agents were placed on the pavement to solicit and encourage people to return items, which they did, every day (Bogdanos 2005:152). Within the first three days over a hundred pieces were recovered. Each piece was checked for a Museum identification number, photographed, scanned into the computer, and entered onto an inventory (Bogdanos 2005:158).. However, when attempts were made to subtract these from the list of missing items provided by al-Mutawalli, it was discovered that none appeared upon the list – not even the copper bull from Ninhursag or the statue of Shalmaneser (Bogdanos 2005:158). Subsequently, Dr John Russell, conducting an inventory of the Museum for UNESCO, found that the most of objects returned were forgeries or reproductions Elich 2004:3).

Although Colonel Bogdanos was reluctant to offer cash for the return of antiquities, since it often encourages the black market and theft, it did prove necessary in certain cases. One man, claiming to have 96 items, demanded $500 for their return. These items, subsequently recovered, included the Sacred Vase of Warka (Bogdanos 2005:225).[206] A BBC team gave their driver $200 and sent him into Baghdad to see what he could find. He returned with numerous artefacts, some bearing the Museum's identifying mark (Bogdanos 2005:151).

The investigators also received information on the location of artefacts, which led to successful seizures. On 23 September 2003, they located the Mask of Warka, which was buried in the grounds of a farmhouse. On 3 November, further raids led, *inter alia*, to the recovery of the Nimrud brazier and the Bassetki Statue (Bogdanos 2005:232). Another raid on a smuggling ring operating in southeast Baghdad led to the recovery of 76 of the objects looted from the basement, including 32 cylinder seals (Vreeke 2006:5).

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[205] Iraq's borders cover almost 4000 kilometres, and provide access to Jordan, Syria, Turkey, Iran, Kuwait and Saudi Arabia (Herring & Rangwala 2006:164).

[206] When returned, the vase was broken into fourteen pieces. Upon examination however, Dr. Ahmed Kamel, the Museum's deputy director, noted that it was broken in the same manner as it had been when first discovered and could be restored. This was confirmed by experts from the British Museum (Bogdanos 2005:226).

Looted artefacts were also confiscated at the borders to neighbouring states and at airports in Europe and the United States. On 30 April 2003, United States customs officials at Newark Airport seized four boxes containing artefacts stolen from the National Museum (Bogdanos 2005:229).[207] In May, over 465 artefacts[208] stolen from the Museum were seized when a car *en route* to Iran was stopped (Bogdanos 2005:158).

Efforts at recovery continued after Bogdanos and his team were reassigned after six months.

It is dangerous work. In 2005, the Iraqi customs officials arrested several antiquities dealers in Al Fajr, near Nasseriyah, and seized hundreds of artefacts. The officials decided to return the artefacts to the Museum, but were stopped before they could reach Baghdad. Eight of the customs officials were killed, and the artefacts stolen once again (Fisk 2007:3).

By the end of 2003, Italian authorities had seized 300 objects, Jordan 1450, Syria 360, Iran over 400, Saudi Arabia 18 and Kuwait 38.[209] By June 2004, customs inspectors, police, and other authorities in the United States had seized over 600 artefacts stolen from the Museum (George 2005:2).[210]

In November 2004, police in Nasiriyah, with the assistance of the Carabinieri, recovered 70 antiquities and returned them to the city's museum (China View 2004:2). Another six items believed stolen from Iraqi museums were seized at the Jordanian border.[211] One item, discovered in the boot of a car, was a statue of a winged half-man, half-lion, and dated to around 1500 BCE (Al Jazeera 3 October 2004).

According to George, 16 077 objects returned to the Museum did not come from the Museum's collection, but were recently looted from archaeological sites: "If this is what is being returned, then what is being taken?" (English 2007:3)

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[207] The boxes, sent by Federal Express contained 669 artefacts stolen from the Museum, and included 87 cylinder seals. Originating in London, they were addressed to an art dealer in New York (Bogdanos 2005:229).

[208] They were comprised largely of cuneiform tablets, amulets, pendants, and some cylinder seals (Bogdanos 2005:158).

[209] According to an expert in the British Museum, royal family members in Kuwait and the United Arab Emirates have amassed private collections comprising thousands of artefacts (Rothfield 2009:139).

[210] On 11 June 2003, three cylinder seals clearly bearing identification markings from the Museum were discovered in the luggage of journalist Joseph Braude when he arrived at Kennedy Airport. Although he originally denied that he had travelled to Iraq, Braude subsequently admitted that he had purchased them in Baghdad for $200, fully aware that they had been stolen from the Museum. He pleaded guilty to smuggling and lying to federal agents. He was sentenced to six months of house arrest and two years of probation (International TV 2005:2).

[211] Some still had the metal museum identification plates on them (Al Jazeera 3 October 2004).

Not all countries were equally co-operative. When Bogdanos suggested to one European state that it increase the attention paid at borders in the search for Iraqi antiquities, he was informed that they had no such problem - evidenced by the fact that they had to date never made a seizure (Bogdanos 2005:234). When he asked officials of another country increase their random inspections for this purpose, they were horrified: "No, I mean do you have any idea what that would do to our customs and excise revenues?" (quoted in Bogdanos 2005:234)

According to Interpol, Iraqi artefacts finding their way into Switzerland reappear with certificates asserting that they were dug up in Syria or Turkey (Eagar 2004:2). As Sarah Collins points out, "Unfortunately, it is a question of proof. Someone has to prove legally that it came from Iraq. That's hard - an expert can say where and when it was made, but we can't prove where and when it was dug up" (quoted in Eagar 2004:2).

In May 2007, two Iraqis and a Syrian were arrested in the United Arab Emirates for smuggling one hundred and fifty artefacts worth Dh2 million into the country (Staff Report 28 May 2007).

In 2008, Syria returned 701 artefacts which had been seized by customs officials. On some of the artefacts, which included "gold necklaces, daggers, pots and statues", the original Museum catalogue markings could still be seen. Many of the other artefacts were believed to have been looted from archaeological sites (Editors 2008:9).

In 2009, Qahtan Juboori, the Minister for Tourism and Antiquities, advised that some 6 000 items stolen from the Museum had been returned. Of these, 2 466 were recovered in Jordan, 1 046 from the United States and 701 from Syria (Los Angeles Times 23 February 2009).[212]

2.1.2   The Oriental Institute's Database

After the looting of the Museum, the Oriental Institute at the University of Chicago created an online database of artefacts known to be stolen. The Institute was ideally suited for this purpose for, as a result of their own excavations in Iraq, they already possessed photographs and drawings of some 2 000 artefacts, and also possess one of the most comprehensive libraries on the area in the world (Reichel 2008:52).

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[212] An item is not necessarily an intact object, it may be a small fragment.

After the First Gulf War, the American Association for Research in Iraq, the British School of Archaeology and the Japanese Archaeological Mission published a series of three booklets called "Lost Heritage", which documented the artefacts looted from the museums (Reichel 2008:53). Unfortunately, their limited circulation and the failure of the State Board of Antiquities and Heritage to provide photographs of all of the items prior to publication limited their efficacy. This was exacerbated by the fact that other items were discovered missing after publication (Reichel 2008:54). It was thus clear that a more flexible medium was required.

On 18 April 2003, the Institute launched their website "Lost Treasures from Iraq",[213] as well as a subsidiary website for news on Iraq's cultural heritage (Reichel 2008:54).[214] In order to aid visual identification, the site includes:

- Photographs or drawings of the object concerned;
- Its material;
- Its dimensions;
- A short description of its appearance and characteristics;
- Its museum and/or excavation find number(s);
- Its archaeological provenance;
- Its date;
- Its current status (stolen/returned/damaged) (Reichel 2008:55).

In light of the fact that a final figure for the losses sustained by the Museum was not available, the authors decided to change the content of their database to "Objects known to be the property of any of Iraq's museums". The current status is now reflected as missing, damaged, recovered or unknown (Reichel 2008:58). Accordingly, although not all of the items on the site have been stolen, the authorities should be notified in the event that any are located (Reichel 2008:57).

This encouraged other agencies to set up websites upon which artefacts were listed. In mid-April 2003, the *Art Newspaper* set up a website which displayed photographs of some 300 artefacts from the Iraq Museum, taken from the catalogue published by Basmachi (Deblauwe 2005:84). It did not however list which of the items were missing. The magazine *Minerva* also published illustrations on the web with a

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[213] To be found at http://oi.uchicago.edu/OI/IRAQ/iraq.html

[214] To be found at http://listhost.uchicago.edu/mailman/listinfo/iraqcrisis

provisional list of important missing antiquities (Deblauwe 2005:87). In order to educate the public on this issue, the University of Pennsylvania published their materials, in particular those dealing with the Royal Tombs of Ur. Other organisations also placed photographs on the web in an attempt to raise public awareness (Deblauwe 2005:87).

2.1.3   **Other Projects**

Corine Wegener received numerous communications from both conservators and museum colleagues in the United States who were willing to travel to Iraq to assist at the Iraq Museum. However, these plans came to nought: individual civilian volunteers were not permitted entry to Iraq on the basis that they might become security burdens upon the military. The few cultural heritage professionals and archaeologists that were able to enter Iraq were admitted either as part of a media team or as members of one of the established humanitarian NGOs (Wegener 2008:164).

Wegener has since established the American branch of the Blue Shield, which offers training for Army Civil Affairs Units on "how to give first aid to cultural property", how to recognise art, and how best to deal with it in an emergency situation until professional assistance can be obtained. Her hope is that in the future, cultural heritage professionals can be deployed in areas where sites are threatened (Breitkopf 2007:4).

In 2003, USAID launched five projects to support Iraqi libraries, museums and antiquities programmes. However, when funding dried up a year later, most of the projects failed (Global Policy Forum 2007:19). One of the projects comprised an award to Stony Brook University to develop an academic course in archaeology for Iraqi archaeologists. Although the funding was to have been granted for a three year period, it was terminated after a year. The Mellon Foundation assumed responsibility for the costs for the remaining two years (Rothfield 2009:146).

When John Agresto, the Coalition Provisional Authority higher education chief, asked for $1.2 billion in the 2004 budget to revive Iraq's universities, he received $9 million. The CPA budget for Rene Teijgeler, Senior Consultant for Culture, whose portfolio included libraries and museums was so small that he was unable to address the problem. When Agresto and Teijgeler left in 2005, they were not replaced (Global Policy Forum 2007:18).

Chris Herndon, a political advisor to the Coalition Provisional Authority, together with a group of volunteers from the Navy Construction Battalion Unit, assisted in the rebuilding of the Nebuchadnezzar

and Hammurabi Museums at Babylon. He also utilized $50 000 of discretionary funding to pay local contractors for this purpose (Garen 2003:2).

On 16 October 2008, the US State Department announced that it had, through the American Embassy in Baghdad, awarded a $13 million grant to International Relief and Development, "a charitable, non-profit, non-governmental organization that directs assistance "in regions of the world that present social, political and technological challenges"" (United States Department of State 16 October 2008). Its goals included the establishment of a Conservation and Historic Preservation Institute in Erbil, which would focus upon technical and professional training in collaboration with the Walters Art Museum, the Winterthur Conservation Program, and the University of Delaware. In collaboration with the Oriental Institute of the University of Chicago, a two year professional development programme was provided to employees of the State Board of Heritage and Antiquities and the Iraqi National and other museums, to train conservators, collection managers, registrars and other skilled museum personnel (United States Department of State 16 October 2008). It also stated its intention to rehabilitate the Iraq Museum's infrastructure, design and the development of storage facilities, and improvements to the gallery space and conservation laboratory (United States Department of State 16 October 2008).

The Institute in Erbil has its own building and graduated its first classes of 6 conservation students and 9 historic preservation students. The second course was completed in December 2010 (American Institute for Conservation of Historic and Artistic Works website).

2.2 THE UNITED KINGDOM

2.2.1 **The British Museum**

On 15 April 2003, at a press conference called to celebrate the 250th anniversary of the British Museum, Neil MacGregor advised that the British Museum would be providing assistance to the Iraqi Museum by providing three curators and six conservators, and acting as the co-ordinator for the assistance proffered by other museums (Curtis 2008:202).

Curtis travelled to Baghdad in April 2003 to inspect the damage, and returned with George, who gave a presentation at the seminar "International Support for Museums and Archaeological Sites in Iraq" held at the British Museum on 29 April 2003. George made certain proposals, which were endorsed by those present, namely that:

1. Staff salaries be paid by the Office of Reconstruction and Humanitarian Assistance, and that salary scales be reviewed;

2. Staffing of the State Board of Antiquities and Heritage should be restored to full strength;

3. New equipment and repairs were required;

4. Sites and monuments be checked, damage recorded and published. War damage was to be verified by the Office of Reconstruction and Humanitarian Assistance;

5. Lists of objects stolen from museums and sites be prepared;

6. A conservation assessment be conducted by a senior conservator nominated by the British Museum;

7. Conservation materials be supplied;

8. Conservators be sent to Iraq to work with local conservators;

9. Curators be sent to the Iraqi Museum to assist with the audit of storerooms;

10. Training programmes be established in conservation and archaeology;

11. Books and publications be donated to Iraqi institutions;

12. Foreign assistance be co-ordinated by the British Museum in consultation with UNESCO and in collaboration with the Iraqi Department of Antiquities;

13. The publication of the journal *Sumer* be resumed;

14. The Department of Antiquities resume archaeological and ethnographic work;

15. Foreign teams, with more Iraqi involvement, resume archaeological work;

16. A separate plan be drafted for libraries and archives (Curtis 2008:203).

On 17-18 May 2003, Neil Macgregor joined the United Nations team that inspected the Iraqi Museum and monuments in Baghdad, and made recommendations based on their inspection. Sarah Collins was seconded to the Coalition Provisional Authority from 6 June to 31 August, where she acted as liaison between the American State Department and the Iraq Museum (Curtis 2008:204).[215] From 11-26 June 2003, a team from the British Museum visited Iraq to assess the damage and loss at the Iraq and Mosul Museums, the circumstances of the looting, the conservation required and also to conduct inspections of certain archaeological sites (Curtis 2008:204). The report which followed made recommendations on conservation requirements and on the training required by Iraqi conservators. It also dealt with the refurbishment and resupply of the conservation workshops in the Iraq

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[215] During this period, Helen MacDonald from the British School of Archaeology was also seconded to the Coalition Provisional Authority, and assisted curators at the Museum in sorting the damaged records. She also advised the military on the protection of sites (Curtis 2008:204).

Museum by the Italian Ministry of Cultural Heritage and Antiquities, and appealed to the international community to assist with the restocking of the conservation library (Curtis 2008:206).

The British Museum hosted three Iraqi conservators during the period from 27 January–27 March 2004, during which they worked in the Museum's conservation department, and received training in storage, environmental conservation and the testing of materials for display. They also met with conservation representatives from numerous international museums to exchange information and discuss areas of mutual concern (Curtis 2008:206).

The British Museum has held numerous seminars, given many talks, interviews and presentations, and attended meetings both in Iraq and elsewhere in an effort to highlight and resolve the crisis facing Iraqi cultural property. John Curtis prepared a report on the damage at Babylon, which caused an international outcry. Subsequent visits to archaeological sites have highlighted the plight of the many other sites across the country (Curtis 2008:208). Funded by the Foreign and Commonwealth Office, three Iraqis from Babylon attended a course at the British Museum from 30 March-27 May 2005, during which they attended numerous courses designed to assist them with site assessment and management (Curtis 2008:208). Two Iraqi museum curators joined the International Training Programme at the British Museum during July and August 2006, where a course on all aspects of museum management was provided (Curtis 2008:208).

In November 2006, the British Museum agreed an eight point protocol with the State Board of Antiquities and Heritage, in terms of which the Museum agreed to:

1.   Receive two Iraqi curators annually on its curatorial training programme;
2.   Assist with the identification and repatriation of looted Iraqi antiquities;
3.   Assist with the conservation of objects in the Iraqi Museum;
4.   Supply copies of their books to the Iraq Museum library and the Al-Qadissiya University;
5.   Provide assistance and advice on the restoration of provincial museums;
6.   Encourage the establishment of an international museum in Baghdad;
7.   Advise on the creation of a 'mobile' museum outside Iraq;
8.   Assist in setting up a Samarra database (Curtis 2008:209).

Since then, the British Museum has continued to provide conservation and curatorial assistance, and to highlight the plight of Iraq's cultural heritage.

2.2.2   **Other Projects**

Although on 29 April Tessa Jowell, the Minister of Culture promised to make £15 million available for cultural projects in Iraq, including the protection of archaeological sites, the promise was soon forgotten (Global Policy Forum 2007:19). The British Council collected books for Iraq, and in 2006 shipped some 25 tons of books to Baghdad (Global Policy Forum 2007:19).

2.3   UNESCO

In terms of Paragraph 7 of Resolution 1483 (2003) adopted by the Security Council on 22 May 2003, the Security Council:

> *7. Decides* that all Member States shall take appropriate steps to facilitate the safe return to Iraqi institutions of Iraqi cultural property and other items of archaeological, historical, cultural, rare scientific, and religious importance illegally removed from the Iraq National Museum, the National Library, and other locations in Iraq since the adoption of Resolution 661 (1990) of 6 August 1990, including by establishing a prohibition on trade in or transfer of such items and items with respect to which reasonable suspicion exists that they have been illegally removed, and calls upon the United Nations Educational, Scientific, and Cultural Organization, Interpol, and other international organizations, as appropriate, to assist in the implementation of this paragraph.

In light of the fact that the American military authorities would not authorize UNESCO's presence while Iraq was considered a war zone, UNESCO's first task following the looting of the Museum was to arrange a meeting in Paris on 17 April 2003 of all interested parties (Bouchenaki 2008:213). This meeting was attended by representatives of the foreign archaeological missions working in Iraq, as well as archaeologists and four Iraqi scholars in the field of heritage. In spite of efforts made by UNESCO, American authorities would not permit anyone from Iraq to attend the meeting (Bouchenaki 2008:214).

UNESCO entered into agreements with Interpol, the World Customs Organization, and the International Confederation of Art and Antiques Dealer Associations to create a consolidated list of stolen items. It also formed an international committee to coordinate the flow of aid to the Museum and the State Board of Antiquities and Heritage (Rothfield 2009:126).[216] UNESCO co-chaired, with

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[216] None of the experts invited to their meeting on Iraqi Cultural Heritage held in August 2003 were involved in the military, police, customs, or site-security. Of the $7.3 million allocated for culture-sector projects in the proposed 2004 budget, only $300,000 was earmarked for security at archaeological sites and museums (Rothfield 2009:146).

Interpol, a meeting on the looting of the Iraq Museum on 6 May 2003 at which UNESCO and Interpol agreed to create a database of stolen objects for circulation to police forces across the globe (Bouchenaki 2008:214). This database, the "Emergency Red List of Iraqi Antiquities at Risk" can be found on the website of the International Council of Museums.[217]

UNESCO conducted two missions in Iraq in May and July 2003 in order to assess and create a plan for the rehabilitation of cultural institutions in Iraq (Bouchenaki 2008:213). It took almost ten days of negotiations with American authorities in Iraq to obtain the necessary approval for the first team to go to Baghdad and the Iraq Museum in order to compile a report on the damage (Bouchenaki 2008:214).

UNESCO established an international coordination committee in October 2003 to deal with the safeguarding of Iraq's cultural heritage. Meetings were held in May 2004 and June 2005 (Bouchenaki 2008:215).

In 2004-2005, over $5 million was spent on the rehabilitation of the Iraq Museum, equipment, and training (Bouchenaki 2008:215). After the mosque at Samarra was bombed, UNESCO extended its activities to the protection of historic sites (Bouchenaki 2008:216).

2.4   GERMANY

In 2003/2004, the German Ministry provided seventy plan cabinets for the storage of the cuneiform tablets, together with polystyrene foils and plates to ensure their appropriate transport and storage (van Ess 2008:216). In 2004/2005, the Museum of the Ancient Near East in Berlin and the German Federal Foreign Office replaced all the locks on the showcases (van Ess 2008:216). A large scale scanner, plotter and storage materials for the paper and photographic archives were also provided (van Ess 2008:217).

Acting through UNESCO, the German Federal Foreign Office contributed €1 700 to the State Board of Antiquities and Heritage to help cover the costs of 1 700 additional site guards (van Ess 2008:217).

In 2005, forty scholars of various scientific disciplines from Iraqi universities were provided with scholarships by the German Academic Exchange Service, UNESCO and Qatar, to enable them to

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[217] To be found at http://icom.museum/resources/red-lists-database/red-list/Iraq/

spend three months in Germany. Another 70 long term scholarships were provided, two to graduate students engaged in Ancient Near Eastern studies. Between four and ten invitations are offered by the German Archaeological institute for a two month stay in Berlin to graduates from Near Eastern countries (van Ess 2008:218). Most come from Iraq (van Ess 2008:219).

Using funding from the German Federal Foreign Office, the German Archaeological Institute, in conjunction with the German Remote Sensing Data Centre, the Department for Geophysics at the Bavarian State Department for Historical Monuments, the European Space Imaging Company and the Definiens Imaging Company has initiated research to establish whether very high resolution optical space imagery "when fused with traditional maps and geophysical ground surveys, can support the mapping and even detection of archaeological features", and "whether space images taken before and after military conflicts can be used to detect looting activities", and whether new structures could be found using this imagery (van Ess 2008:219).

2.5   FRANCE

In 2003, a Ministerial Unit was formed under the auspices of Philippe Georgeais from the Ministry of Foreign Affairs and Annie Caubet from the Louvre Museum, which created an electronic network of skilled people who could advise and co-operate with international efforts in regard to the libraries, museums and archaeological sites (Lafont 2008:225).

This network has undertaken a number of initiatives, such as the collection of scientific books, the use of Iraqi trainees on French excavations in Syria and Jordan, training courses, assistance in post-excavation work and publications, and invitations to France for university academics or officials employed by the Department of Antiquities (Lafont 2008:225).

The Louvre also receives, trains, and maintains contact with their Iraqi colleagues (Lafont 2008:226).

2.6   ITALY

2.6.1   **The Centro Ricerche Archeologiche e Scavi di Torino**

The Centro Ricerche Archeologiche e Scavi di Torino has worked in Iraq since 1964, and founded the Iraqi-Italian Institute of Archaeology and the Iraqi-Italian Centre for the Restoration of Monuments (Parapetti 2008:229).

After the looting of the Iraq Museum in 2003, the Centro Ricerche Archeologiche e Scavi di Torino, in co-operation with the Carabinieri, extended the project upon which it had been engaged – identifying, cataloguing and publishing the items looted from the regional museums following the 1991 Gulf War (Parapetti 2008:229). Between December 2004 and February 2005, they also published an inventory of found and recovered antiquities (Parapetti 2008:229). Few of these objects are traceable to the Iraqi National Museum, most appear to have been illegally excavated, although there are a number of forgeries among them (Parapetti 2008:230).

Sponsored by Telecom Italia SpA, the Centro Ricerche Archeologiche e Scavi di Torino also provided the basic instruments and materials required to furnish and equip new laboratories within the State Board of Antiquities and Heritage compound. They also provided training courses, which focused on both practical and theoretical training for 14 restorers and conservators (Parapetti 2008:230). At these training courses, held between December 2004 and February 2005 in Amman, students were able to work on looted artefacts recovered by Jordanian customs officials (Parapetti 2008:231), and by the end of June 2004, they had successfully restored the following objects:

- The Sumerian mask of Warka;
- One of the Old Babylonian terracotta lions from Tell Harmal;
- Some of the Assyrian ivories from Nimrud. Others were cleaned and preserved to facilitate their future conservation; (Parapetti 2008:230)
- The partial restoration of the Sumerian Warka Vase;
- Fifteen pieces of Parthian stone sculptures from Hatra (Parapetti 2008:231).

Another three week course was held in Rome in July 2005, where 6 technicians attended lectures and technical surveys of the city's museums. Further courses for the State Board of Antiquities and Heritage technical staff were held in Rome between May and September 2006, which provided

more practical training on the conservation of cultural heritage. Participants gained practical experience at the Central Institute for Restoration, the excavation at the foot of the Palatine Hill, the structural and architectural restoration of the Tiberius Palace, the Central Institute of Book Pathology, and the National Gallery of Modern and Contemporary Arts (Parapetti 2008:231).

Their plans for the restoration of certain areas of the Iraq Museum are being held in abeyance until such time as the Museum has been reopened (Parapetti 2008:233).

2.6.2 **The Carabinieri**

Within its national police force, Italy created in 1970 a unit with a specialist function, the Carabinieri, which is designed to combat the looting of its cultural heritage (Zottin 2008:235).[218] In order to assist with the issue of looting, Italy deployed Carabinieri units to Iraq to participate in the Italian military peace contingent dealing with Babylon and the Iraq Museum (Zottin 2008:236).

In June 2003, Lieutenant Giuseppe Marseglia, an archaeologist with the Italian Carabinieri, assumed responsibility for scanning and inserting the information on the missing items onto the international databases used by museums, dealers, and law enforcement agencies. Working together with Claude Davenport, he provided an accurate and readily accessible data base (Bogdanos 2005:154). They also disseminated photographs of the missing items to prosecutors and police departments in major cities like London and New York. In cases where they did not have photographs of the item in question, they used a photograph of a similar item (Bogdanos 2005:154). Over 3000 antiquities have been documented and photographed and circulated (Zottin 2008:237).

The Carabinieri were also involved in operations aimed at combating looting and the trade in artefacts looted from Iraq (Zottin 2008:238).

2.7 POLAND

The Polish President's resolution, adopted by the Cabinet on 5 June 2003, stipulated that the protection of Iraq's cultural heritage would be one of the tasks assigned to the Polish forces during

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[218] The principal duties of the Carabinieri are the prevention of crimes against cultural heritage, to assist with prosecutions, recover stolen antiquities and works of art, and to manage a database of stolen antiquities (Zottin 2008:235).

their participation in the International Stabilization Forces in Iraq. Archaeologists were assigned to work within the Multinational Divisional Division Central-South in an attempt to prevent antiquities from being smuggled out of Iraq (Oledzki 2008:242).

A scholarship programme was established to enable Iraqi archaeologists and graduates to receive training in Poland following the signature of an agreement between Iraq and Poland in regard to co-operation and cultural exchange (Oledzki 2008:242).

At the request of the State Board of Antiquities and Heritage, Poland became involved in the development of a research centre and programme to protect Iraqi cultural heritage in Al Diwaniyah. The Polish Development Cooperation Programme donated $60 000 to this project, which was designed to build specialist laboratories and a modern archaeological museum with archaeological storerooms (Oledzki 2008:243).

The Ministry of Culture and National Heritage has also arranged seminars and participated in international meetings on the issue of the protection of Iraq's cultural heritage (Oledzki 2008:243).

However, Poland's principal function in Iraq was monitoring, training and advising on the rescue of Iraq's cultural heritage in their area of responsibility (Oledzki 2008:243). In the discharge of this responsibility, the Ministry of Culture and National Heritage, working in conjunction with the Polish Centre for the Rescue of Archaeological Heritage, recruited a number of specialists in archaeology and cultural heritage to work with the State Board of Antiquities and Heritage. The projects undertaken in this capacity include:

- Rebuilding and restoring the infrastructure of museums and local antiquity inspectorates;
- The purchase of computer equipment and software as well as specialist equipment for the State Board of Antiquities and Heritage;
- The application of engineering solutions to protect archaeological sites damaged by conflict or looting;
- Protecting aspects of Iraqi cultural heritage such as Islamic religious and cultural centres;
- Assisting the Iraqi Archaeological Police (Oledzki 2008:244).

By 2008, they had spent some $1 500 000 on such projects (Oledzki 2008:245).

2.8   OTHER COUNTRIES, ORGANIZATIONS AND INDIVIDUALS

Acting in co-operation with French, German and Jordanian institutions, the Japanese International Co-operation Agency presented two six-week training courses in cultural heritage for Iraqi scholars in Jordan in February/March 2005 (van Ess 2008:218).

Francis Deblauwe directs the *Iraq war and Archaeology* project, which, in conjunction with Archaeos Inc and the Institute of Oriental Studies at the University of Vienna, collates articles and information on the subject on the internet. On his blog he also lists sites looted and damaged during the invasion (Breitkopf 2007:4).[219]

At the Regional Meeting to Fight the Illicit Trafficking of Cultural Property Stolen from Iraq held in Amman in June 2004, Jordanian officials reported that they had appointed liaison officers to assist customs officials at the border with the assessment of seized objects (Interpol 2004:3). Once seized, these items are placed on computerized inventories, which are shared both with the Iraqi National Museum and UNESCO. They were also co-operating with neighbouring states, UNESCO and regional organizations to provide practical assistance, which included the funding and training of Iraqi archaeologists (Interpol 2004:3). Saudi Arabia and Syria also reported on their activities in seizing Iraqi artefacts.[220] A delegate from the United Kingdom advised that no antiquities of museum quality had "surfaced" in his country (Interpol 2004:4).

An Italian delegate reported on the activities of the Carabinieri; on their recording of stolen artefacts from the Iraq Museum, their recovery of stolen artefacts,[221] and the mapping of archaeological sites (Interpol 2004:5). A delegate from the US Homeland Security Service reported on seizures made in that country, and advised that a "zero tolerance" policy had been adopted in regard to soldiers returning with looted artefacts (Interpol 2004:6).

The involvement of the public has also been invaluable. Information provided by a European businessman, who learnt that dealers in the Lebanon wished to sell one of the Museum's prized

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[219] Although still online, the blog was terminated on 16 September 2008 as a result of Deblauwe's disillusionment with many of the people involved in this area, who are "more concerned with petty quarrels and fingerpointing" http://iwa.univie.ac.at).

[220] Not all of the neighbouring states were as informed. The representative from Kuwait complained of a lack of information on stolen items and the activities of various organisations to protect and recover Iraqi antiquities, and was courteously referred to the numerous internet sites which carried this information (Interpol 2004:4).

[221] During these operations, they seized several hundred artefacts and arrested more than 50 suspects. 86 Cuneiform tablets and 5 other artefacts were recovered in Italy and Sardinia. The items were obtained from an intermediary living in London. All were looted from illegal excavations (Interpol 2004:5).

possessions - the statue of Entemena, led to its recovery (Vreeke 2006:7). The small second-century BCE stone head of King Sanatruq I from Hatra was recovered after the Italian archaeologist who excavated it saw it displayed on the mantelpiece of a Lebanese interior decorator being featured in a television programme (Rothfield 2009:138).

3   RESPONSES TO THE LOOTING OF ARCHAEOLOGICAL SITES.

3.1   THE UNITED STATES

After the National Geographic tour of sites in May 2003, Gibson sent a report to White House science advisor John Marburger and to Brigadier General John Kern, pointing out that: "the worst thing happening to antiquities is the continuing looting of sites, especially in the south. Maybe there is something that you can do to help stop this" (quoted in Rothfield 2009:131).

He again requested that helicopters be used to fly over archaeological sites to deter looters, and that announcements be made in the local media reminding the public that looting was prohibited. Undeterred by their failure to respond Gibson wrote again, pointing out that members of the Civil Affairs staff, such as Corine Wegener, Chris Varhola and William Sumner could be used more effectively if their curatorial and archaeological expertise were placed in a task force formed to address this problem. He asked Marburger if he could use his influence to achieve this. Again he received no response (Rothfield 2009:132).

In May 2003, Lieutenant Colonel Daniel O'Donahue stated that: "[w]e don't have anywhere near enough marines to police every fixed site in the country...Our view is that if it's a fixed site, it's primarily an Iraqi responsibility" (quoted inThurlow 2005:180).

American Army Colonel John Malay supported the view that guarding archaeological sites was not a priority. Indeed, he took it a step further: "If the looters were not looting... they might be killing instead" (quoted in Garen 2003:2).

Although on 14 July 2003, the State Department announced that an interagency working group to assist in rebuilding Iraq's cultural heritage had been formed, site security was not included within the remit of the group (Rothfield 2009:132).

Gibson wrote to Ryan Crocker requesting that guards be deployed at archaeological sites. In response, an official from the Coalition Provisional Authority advised him of a pilot project that might provide a model for the protection of sites. A special force, comprised of 200 men, was being trained in Babil Province to protect the province's archaeological sites (Rothfield 2009:131). However, one drawback was immediately apparent – not only did it require the co-operation of local provincial governors, but it also relied upon United States commanders to pay for reconstruction projects. One of the projects being undertaken, at Bremer's request, involved the museum at Babylon (Rothfield 2009:131). However, "Bremer's involvement suggested to Gibson that the whole initiative was little more than a public-relations gimmick that was unlikely to be replicated any time soon for Nippur or any other site not immediately recognizable by the viewers of Fox News" (Rothfield 2009:133).

In desperation, Gibson hired Wathiq Hindo, who ran an Iraqi security firm, to assist him in tackling the looting at Nippur. Since neither the site guards nor the local authorities were permitted to carry weapons, the looters were running amok. Gibson instructed Hindo to hire at least three additional guards and to obtain permission for them to carry weapons (Rothfield 2009:133).

To garner support for armed guards, Gibson contacted Colonel Kessel, commander of the Special Functions Team of the US Army 352nd Civil Affairs Command. He suggested that if the local elder was also permitted to arm his family, the looting at Nippur could be stopped (Rothfield 2009:134). If this was not possible, Gibson requested that a small detail be despatched to the nearest village, Afak. He pointed out that Nippur had been excavated by Americans since 1900, and that during that period there had been no illegal digging, emphasising the irony that the site was looted "only after U.S. troops take the country" (quoted in Rothfield 2009:134) Kessel ignored the request for troops,[222] but replied that the military was attempting to equip, train and provide the State Board of Antiquities and Heritage with satellite communications equipment, weapons and vehicles. He asked Gibson to advise him if he knew of any donors to fund this task (Rothfield 2009:135).

Although twenty-seven police advisors, including some correctional officers subsequently sent to Abu Ghraib, were allocated by the United States Department of Justice's International Criminal Investigative Training Assistance Program to deal with policing, no real efforts were made regarding cultural heritage. Indeed, when John Russell arrived in Baghdad in September 2003 as

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[222] Rothfield (2009:134) believes that his decision may have been influenced by the killing of a number of his soldiers who had been working on the looting and trade in antiquities.

senior advisor to the Coalition Provisional Authority, he discovered that only one member of the Civil Affairs' Arts Monuments team had any cultural expertise (Rothfield 2009:127).[223]

In 2005, the Archaeological Institute of America initiated an educational programme at the Marine Corps base at Camp LeJeune in North Carolina. Prior to their deployment to Iraq and Afghanistan, around 2 000 soldiers were lectured on the archaeology, history and cultural heritage of the country concerned (Stone & Bajjaly 2008a:13).[224] The United States Committee for the Blue Shield has undertaken a similar programme with those reservists in the United States Army Civil Affairs and Psychological Operations Command who advise military commanders on cultural property. English Heritage provided training for Territorial Army units (Stone & Bajjaly 2008a:13).

Acting in conjunction with Colorado State University, the American military produced decks of cards. Each card bears the picture of an artefact or site and provides concise information on either the avoidance of unnecessary damage to sites or the prevention of the illegal trade of stolen artefacts. Each suit deals with a specific aspect: "diamonds for artefacts and treasures, spades for historic sites and archaeological digs, hearts for 'winning hearts and minds' and clubs for heritage preservation" (Stone & Bajjaly 2008a:13).

The United States military contributed towards the payment of three hundred and fifty guards to protect four hundred and thirty two sites in Babil Province. Guards were also provided to guard Nippur (Rothfield 2009:142). The Getty Conservation Institute's Iraq Cultural Heritage Conservation

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[223] There were complaints that the staff seconded to the CPA from government ministries had low levels of expertise. This was particularly the case for the US, where their government departments were not prepared to transfer their best staff to the Department of Defence for deployment to Iraq (Herring & Rangwala 2006:100). According to Robin Raphel, Senior Advisor on Trade for the CPA:

> (I)t was very obvious to me that we (ie, the CPA) couldn't do this, we could not run a country that we did not understand. We were a bunch of amateurs largely except for the engineers, and even they didn't have a professional means to interface with the Iraqis, so they were missing...It was very much amateur hour to me, with all respect (quoted in Herring & Rangwala 2006:100).

When a team toured Iraq with National Geographic in May 2003, a Civil Affairs officer in Nasiriyah, when meeting Wright exclaimed: "Boy, am I glad to see you. We are supposed to guard these sites and we need to know where they are!" (quoted in Rothfield 2009:128)

[224] Rothfield (2009:144) is critical of these lectures as he feels that they represent a wasted opportunity; that they focused upon the importance of sites and artefacts rather than provide concrete suggestions upon how to deter looting.

Initiative provided grants for site protection, which were used to replace the protective roofing over the Palace of Sennacherib at Nineveh and employ guards at sites (Rothfield 2009:147).

In 2006, and in spite of the fact that the American-sponsored Iraqi government had a budget surplus and a problem with unspent funds, the budget of the Antiquities Department was cut. This resulted in the inability of the Department to purchase fuel for patrol vehicles (Baker *et al* 2010:28). When American assistance to prevent the looting was requested, the response was that "we weren't going to fly helicopters over the sites and start shooting people" (quoted in Baker *et al* 2010:28). It is noteworthy that the $30MM contract paid to a security firm in 2006 to provide 800 guards to protect the oil pipelines in the Dhi Qar province resulted in not a single attack on the pipeline (Garen 2006:1).

Nabil al-Tikrit asserts that in the six years following the initial destruction, the American government has provided a "modest set of vacuum cleaners" and has also funded staff training initiatives through the National Endowment for the Humanities (al-Hussainy 2010:100). According to Zainab Bahrani (2010:73), those living in Iraq saw little of the projects launched to rescue Iraq's heritage; that they were "more geared for the benefit of European and North American consumption rather than being of much use to heritage in Iraq itself." Although the United States designated $14 million for such assistance,[225] a large part of the money was earmarked for American universities[226] and other institutions in the United States. As Bahrani (2010:75) points out, the irony of Iraqis being taught how to take care of their cultural heritage by the country that destroyed it is hard to miss.

The World Monuments Fund, supported by $100 000 from the United States National Endowment for Humanities, is preparing satellite and topographical maps which provide the locations and information of over 10 000 Iraqi sites, as well as information on their conditions. The user will be able to click on a site, and call up information on its history, condition, archaeological status and photographs (Berg & Woodville 2004:1).

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[225] In a speech delivered at the Iraqi embassy in Washington in October 2008, the then first lady, Laura Bush, stated that the money was to remedy the unfortunate collateral damage to Iraq's cultural heritage and also to compensate for the years of neglect that cultural institutions and sites had suffered under Saddam Hussein (Bahrani 2010:75).

[226] Unfortunately, the Committee on Iraqi Libraries at Harvard University was unable to provide advanced preservation training to Iraqi librarians as they were refused visas (al-Hussainy 2010:100).

The extent of the looting across Iraq has not been fully established (Rothfield 2009:136). Although Elizabeth Stone's project provided evidence for a particular period after the invasion,[227] a lack of funding has prevented the purchase of additional satellite images in order to take her project further. It costs approximately $300 000 to purchase a set of commercial images. The Department of Defence is in a position to provide these images at little or no cost, but Gibson's request that satellite photographs be used to monitor illegal digging was not granted by the United States Department of Defense (Rothfield 2009:137).

Unfortunately, it appears that the occupying forces themselves participated in the looting of artefacts. In February 2006 Mohammed Mehdi, who was in charge of antiquities in the Province of Najaf, reported that the police had apprehended seven smugglers in possession of 174 artefacts. The smugglers alleged that they worked for foreign troops, and that they possessed badges which enabled them to enter foreign military camps in southern Iraq (Stone & Bajjaly 2008a:10). Medhi did not stipulate the nationality of the troops concerned, but stated that the artefacts were mostly sold to troops serving in Diwaniya. The American authorities in that area declined to comment on the allegation (al Jaberi 2006:1).

Such allegations were confirmed by Marine Corps reservist Matthew Boulay. He reported that while stationed in Diwaniyah in 2003, the camp commander sanctioned a flea market on the base. The stall selling artefacts did good business, in spite of the fact that there were standing orders that declared it illegal to purchase, possess or repatriate antiquities. Boulay emailed Gibson, who suggested that he report the matter to the base commander (Rothfield 2009:139). However, since "Corporals don't saunter up to colonels and make complaints", he reported the matter to his platoon commander, who sent it up the chain of command. In response, Boulay received a "cease and desist" order. Reluctant to let the matter lie, and in order to obtain evidence, Boulay purchased eight cylinder seals, which cost from $20 to $80 (Rothfield 2009:139). Upon his return to the United States, the seals were examined by Zainab Bahrani, an archaeologist from Columbia University. She authenticated them, dated them, and estimated their value at several thousand dollars each. They were handed over to the Federal Bureau of Investigation, who returned them to Iraqi authorities (Rothfield 2009:139).

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[227] As has the work of an archaeologist Susanne Osthoff and freelance journalists Joanne Farchakh Bajjaly and Micah Garen Micah Garen and Susanne Osthoff were kidnapped during the course of their investigations into the state of archaeological sites (Rothfield 2009:137).

In Mosul in March 2007, soldiers from the Army's 82nd Airborne looted a Torah scroll, some 400 years old, which was hidden below the floor of an abandoned building. They called Rabbi Menachem Youlus, who runs the 'Save A Torah' foundation, who facilitated its sale for $20 000 (Barford 2008:1).[228]

The State Department rejected a number of proposals for joint United States-Iraqi site policing programmes, on the basis that as order had been restored, no assistance was required - the Iraqis were capable of managing this on their own. According to Laura Bush, wife of the President at the time, "Recent security gains and increased stability have set the stage now for a more vigorous effort to promote Iraq's cultural history" (Rothfield 2009:154).

At the beginning of July 2008, this viewpoint suddenly became a popular topic in a number of press reports: "Iraq's Top Archaeologists Says Looting of Sites Is Over"; "'Cultural Heritage Sites Safe.' According to State Board of Antiquities Inspector Qais Rashid" (quoted in Rothfield 2009:154). Another popular view expressed at this time was that looting had never really been a problem: "'So Much for the 'Looted Sites'" (Rothfield 2009:154).[229]

3.2   ITALY

The most professional response to the looting of archaeological sites was carried out by the Italian Carabinieri, who established their base in Nasiriya during June 2003. By mid-July they had launched Operation Antica Babilonia, which had three principal aims: the prevention and suppression of looting at, and the management of archaeological sites (Russell 2008:34). In practical terms, they trained, equipped and provided financial and logistical support to the State Board of Antiquities and Heritage in Dhi Qar province, carrying out joint missions to achieve their aims (Russell 2008:36).

The Carabinieri soon encountered problems. The first was unavoidable: the large number of sites in the province is spread over a vast area, and many are not readily accessible (Russell 2008:36). In

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[228] In terms of Iraqi law, this should have been handed over to the SBAH. Not only was its export illegal in terms of Iraqi law, but also contravened Security Council Resolution 1483 and the Emergency Protection for Iraqi Cultural Antiquities Act of 2004 in force in the United States at the time. Youlus commented that "getting it out wasn't so easy", alleging that the 60 panels of the scroll had to be disassembled in order to smuggle it out of Iraq (Barford 2008:1).

[229] The basis for these allegations was the report on eight sites in southern Iraq examined by a team from the British Museum. However, what was overlooked was the fact that these sites "were either close to (and in one case within!) coalition bases, were under the long-standing control of local sheikdoms paid to guard them, or had received special protection after media reported on their looting in 2003" (quoted in Rothfield 2009:154).

October 2003, the Dhi Qar province had 591 registered archaeological sites, hundreds of unregistered ones, and only 109 guards to protect them. Although the Carabinieri hired another 56 guards, as soon as they stopped the looting at one site, the looters simply moved to another (Russell 2008:36). The task was overwhelming.

The other two problems were more practical. Looters neither respected nor obeyed the local policemen or guards placed at the sites, and local tribal leaders did as they pleased. Although at some sites such as Ashur, guards were forbidden by United States soldiers to carry guns, fear of reprisals often made even armed guards unreliable.[230] Further, the topography enabled sentries posted by looters to see patrols well in advance of their arrival (Russell 2008:36).

Accordingly, the Carabinieri began to conduct raids using three helicopters, which approached the site from three directions. They caught looters by dropping troops at one end of the site and flying to the opposite end and trapping fleeing looters between them. The raids were very successful (Russell 2008:37).

From the commencement of the Carabinieri's Cultural Heritage Protection Command until the end of March 2006,[231] they carried out 25 aerial reconnaissance missions,[232] 1636 artefacts were confiscated,

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[230] Bogdanos found the guards to be ill prepared: "[T]hey are usually alone at the sites they guard and have very little formal security training, communication or vehicles. Thus disposed and with no support, they are no match for determined and armed looters" (quoted in Elich 2004:7).

According to Thabit Gassad al-Fatlawi, head of Iraqi government inspections in southern Iraq: "Sometimes the looters come by the hundreds. By the time the guards get help, it is days later and the damage is done." The looters were well prepared. According to Pietro Cordone, former advisor for cultural affairs for the CPA, "The looters stop at nothing. They use trucks, excavators, and armed guards to steal objects of great value without being disturbed.." Gibson is concerned about this state of affairs, since "Iraq is losing more of its antiquities each day from looting of sites than were taken from the museum" (quoted in Elich 2004:7). The problem is exacerbated by the looters attitude towards the artefacts that they find (Elich 2004:7). According to Eleanor Robson:

> Only the most complete, robust and attractive artefacts make it from the looter's pick to the middleman's hands: somewhat less than 1 percent of the assemblage an academic archaeologist might salvage. The other 99 percent is destroyed in the process of excavation or discarded as unsaleably unattractive or unstable. Needless to say, all archaeological context is demolished in the looting process too, from the large-scale built environment (usually made of fragile mud-brick) to the microscopic food residues detectable on ancient floors and storage vessels (quoted in Elich 2004:7).

Gibson fears that some of the sites will be so badly destroyed that archaeologists will not return (quoted in Elich 2004:7).

[231] On 12 November 2003, a suicide truck bomb blew up in front of the Italian military headquarters in Nasiriya killing 33 people, including 4 members of the archaeological site protection project. As a result, the Carabinieri's site protection activities were suspended until late in December (Russell 2008:35).

[232] The US Coalition force only authorised three such missions, and one was cancelled as a result of inclement weather and not rescheduled (Russell 2008:37).

127 looters were identified and 53 arrested. They also organised six courses for the site guards (Carabinieri Unit 2008:137).

The Carabinieri also catalogued those archaeological sites they considered to be most at risk, and prepared an archaeological map of Dhi Qar province. This provides data on 621 sites, and records their "size, importance, ancient and modern names, coordinates, civilization, period, state of conservation, rate of looting, and catalog number" (Carabinieri Unit 2008:137).

In light of their success, Mario Bondioli Osio, the Senior Advisor for Culture to the Coalition Provisional Authority, decided to create an Iraqi Archaeological Site Protection unit modelled upon the Carabinieri.[233] Bondioli proposed the use of a Facilities Protection Service at archaeological sites, which was approved by L Paul Bremer on 25 October 2003 (Russell 2008:37).

Bondioli's idea was to provide training, vehicles and weapons to the State Board of Antiquities and Heritage site guards. The guards were also to be placed in radio communication with the police, to enable them to request assistance when necessary (Russell 2008:37). They would also be authorised to carry weapons and detain suspects (Rothfield 2009:142). A former Iraqi Army officer, holding the rank of colonel, was appointed to head the force. After receiving his training, he was to train the most capable State Board of Antiquities and Heritage site guards from each province, who would then train the other guards in their province.(Russell 2008:37). The idea was that the project would cover the entire country (Rothfield 2009:142). By mid-February 2004, the colonel had been trained and had in turn trained 148 site guards in Dhi Qar province (Russell 2008:37). Mike Gfoeller, the Coalition Provisional Authority's co-ordinator for the Central Region, agreed to provide $1 million to pay for the necessary vehicles, radios and other necessary equipment, and UNESCO provided $90 000 to cover the costs of training (Rothfield 2009:142).

The equipment provided by the Packard Humanities Institute included 20 four-wheel drive pickup trucks, 15 police radio base stations, 20 mobile vehicle-mounted police radios and 90 hand-held police radios (Russell 2008:39). However, by the time the trucks were delivered two had been

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[233] A non-profit strategy to protect archaeological sites was developed by Iraqi businessmen Wathiq and Nader Hindo with the assistance of Motorola, Inc. This strategy aimed to employ guards at archaeological sites in southern Iraq, who would be provided with handheld radios enabling them to contact a central office (Page 2008:146). Such central offices, which could liaise with each other, were to be established in each province. In addition, mobile supervisors would travel throughout the region, relaying information to the central offices. At an estimated cost of $1.35 million, this strategy would provide protection to over 860 sites. Although it provided less protection and was twice the price, Osio chose the Carabinieri's proposal (Page 2008:146).

stolen and two would not start.[234] The remaining trucks were delivered to the provinces of Dhi Qar, Qadissiya, and Babil. The chief archaeologist of Dhi Qar subsequently reported that the use of the trucks cut looting by 90 percent (Russell 2008:41).

Unfortunately, in the long run the project proved unsuccessful. According to an Iraqi official, the "1200 guards in Diwaniyah, Wasit, Nasiriyah were not able to prevent the looting (in their sector) because of the lack of cooperation between the CPA and the guards" (quoted in Rothfield 2009:142).

Accordingly the plan was amended, creating instead a mobile unit of armed guards to patrol and respond to calls in Dhi Qar (Russell 2008:40). Unable to secure sufficient funding from the Italian government, Osio turned the plan over to the American military (Page 2008:147). When sovereignty was handed back to the Iraqi government on 28 June 2004,[235] American funding was terminated and the guards were retrenched (Rothfield 2009:143).

In September and October 2004, Italy sponsored a three week training programme for 51 site protection guards. In September 2004, and at UNESCO's request, four Carabinieri officers and officials from the State Board of Antiquities and Heritage based in Amman, Jordan, began training site guards. This practical training was intended to provide them with the information and skills necessary safeguard and protect archaeological sites (Carabinieri Unit 2008:139).

By 2008, the Ancient Babylon project had trained 140 of the 200 archaeological guards employed in Dhi Qar province. This training focused upon the prevention of looting, setting up and using surveillance systems at archaeological sites, and cataloguing seized artefacts (Carabinieri Unit 2008:139).

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[234] Although the mobile radios were installed in the trucks, the base stations were put into storage as a result of the security situation. The weapons were not received (Russell 2008:41).

[235] The handover was endorsed by UN Security Council Resolution 1546 dated 8 June 2004. In terms of the Resolution, although the presence of Coalition forces and their use of "all necessary measures" for security and stability were approved, they remained with the consent of the Iraqi government and were required to coordinate with it.

According to Herring and Rangwala (2006:102), an imbalance in numbers, capabilities and experience resulted in the military assuming a senior position to the civil administration in the CPA, resulting in their methods and priorities taking precedence. Coercion, rather than political and economic development, "became the primary *modus operandi*." According to the 2006 US Quadrennial Defense Review, the focus was on killing insurgents rather than protecting the population (Henning & Rangwala 2006:184), which might explain why the US took no effective action when the International Committee of the Red Cross told them repeatedly during 2003 and 2004 of torture and mistreatment in prisons, and chose to respond instead that this was part of their standard operating procedures (Henning & Rangwala 2006:186). It might also explain their 'brutal behaviour during arrests', confiscation of property without receipts, few protections against arbitrary arrest, and their determination to ignore verdicts by the Iraqi Central Criminal Court when inconvenient (Henning & Rangwala 2006:187). The poor relations between the Coalition and Iraqi authorities resulted in the refusal by Iraqi authorities to deploy thousands of policemen trained by the US/UK-led Civilian Police Assistance Training Team in 2006 (Henning & Rangwala 2006:194).

The Centro Ricerche Archeologiche e Scavi di Torino prepared a "risk map" of archaeological sites where it had previously worked in Iraq, and a 1/2000 map for the central monument area of Babylon. The Centro Ricerche Archeologiche e Scavi di Torino also participates on an international committee co-ordinated by UNESCO on a reclamation plan for Babylon (Parapetti 2008:232).

The Consiglio Nazionale delle Ricerche put the site maps, satellite photographs, and aerial reconnaissance provided by Italian military forces to good use. Not only has it been used in scientific studies and the design of a virtual version of the Iraq Museum, but photographs of such sites as Ur, Eridu, and Ubaid led to the discovery of a Sumerian library and a commemorative stone. The commemorative stone, only the second ever found, dates to 2100 BCE (Carabinieri Unit 2008:137).

3.3   POLAND

In November 2003, Poland deployed archaeologists to Iraq to document and protect archaeological sites and monuments which fell within their jurisdiction, namely An Najaf, Al Qadisiyah, Babil, Karbala' and Wasit. They were alternately based at the sites of Babylon and Tell al Uhaimir-Tell Ingharra. In southern Iraq, they were based close to Ur (Kila 2008:183).

They immediately realized that the only way to protect the archaeology of Babylon was to relocate the military camp (Oledzki 2008:252). A report was published on Babylon in November 2004, and based upon this report an inspection of the site was conducted by the International Audit Commission in December 2004 (Kila 2008:184).

Following the acceptance of the report they introduced certain practices, which were intended to protect the site: earth moving and building works were reduced, particularly those which would disturb stratigraphy, such as the digging of trenches or the levelling of mounds (Oledzki 2008:251). They also required that any sand required be extracted from areas not in proximity to the archaeological site, and replaced defensive trenches with defensive surface devices, such as barbed wire, concrete walls, or earth-filled containers. In addition, they demarcated the tourist areas of Babylon by the use of wire fencing, marking out the tourist routes with tape and wooden balustrades (Oledzki 2008:252).

In December 2003, barbed-wire was placed around the most important monuments within the Babylon site that fell outside Camp Alpha. In July 2004, the damaged fence around the archaeological site at Tell al Uhaimir was replaced; warning signs were erected, and shelter for the guards provided (Kila

2008:185). Shelter and protection was also provided at the ruins of the Summer Palace of Babylon at Barnum, and observation towers were erected at the Birs Nimrud site in late 2004. In the spring of 2005, the western part of Tell es-Sadoum was protected with barbed wire, and a police station provided (Kila 2008:185).

The archaeological police in the Al Qadisiyah province were provided with basic equipment (Kila 2008:186). Together with the State Board of Antiquities and Heritage, the Polish team identified twenty-eight important sites, and erected barbed-wire fences, warning boards, guard posts, and observation towers at some of these sites (Rothfield 2009:141).

Inspections of sites were undertaken using helicopter inspections, convoys and military satellite photographs (Kila 2008:183). In early 2004 the archaeologists became involved with the Facilities Protection Service, and by early 2005 they had created archaeological police units within their area, comprised of local inhabitants (Kila 2008:185).

The troops left Babylon on 22 December 2004, and the former Camp Alpha was transferred to the Ministry of Culture in terms of a document signed on 31 December 2004. Thereafter, the site was secured by Iraqi archaeological police (Kila 2008:184). Prior to the handover, workshops were arranged in order to instruct the archaeological police on the protection of the site, the use of weapons and first aid. A section of the former camp was adapted to cater to the needs of the police protecting the site by the provision of guard and observation towers and fortified entrance gates (Oledzki 2008:252). Accommodation, potable water tanks, generators, lights, weapons, helmets and bullet-proof vests were also provided (Oledzki 2008:253).[236] The detachment of archaeological police in Babil province, which was located at Babylon, was also provided with equipment, uniforms, helmets, bulletproof vests, metal detectors, and walkie-talkies (Kila 2008:186).

Efforts were also undertaken to restore the infrastructure of the Babylon Museum, the Hammurabi Museum, and the State Board of Antiquities and Heritage office in charge of the Babil province. The State Board of Antiquities and Heritage offices were provided with computer hardware and software, and twenty members of staff received training in its use. Both the State Board of Antiquities and Heritage office and the Department of Archaeology at Babil University in Al Hilla were equipped with a theodolite

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[236] Between November 2003 and January 2005, over $150 000 was spent on the training of archaeological police, and almost $240 000 was spent on infrastructure (Oledzki 2008:253).

and a digital video camera, notebook, and multimedia projector to facilitate the creation of proper inventories (Kila 2008:186).

According to Oledzki (2008:253), when the Polish cultural heritage specialists had finished with Babylon, apart from the damage caused by the Coalition forces during the period of occupation, it "had been provided with the necessary scientific, tourism and administrative infrastructure for the use of Iraqi archaeologists, the Archaeological Police and tourists."

After their work on Babylon, there was only some $200 000 of their budget left to spend on other projects. The investigation and monitoring of the damage caused to the site by United States' construction, also prevented Polish archaeologists from dealing more fully with the issue of looting (Rothfield 2009:141).

Steps were taken against military personnel who were illegally trading in looted artefacts and the luggage of repatriated military and civil personnel were inspected (Kila 2008:184). At Babylon during 2003-2004, almost fifty artefacts were either handed in or confiscated from Polish soldiers (Rothfield 2009:141).

Oledzki (2008:255) emphasises that the activities of the cultural heritage specialists was not only compliant with international, Polish and Iraqi law, but that they were undertaken at the request of, and in consultation with the Iraqi archaeological authorities. He asserts that

> Polish activity on behalf of the protection of the cultural heritage of Iraq is based on assisting local specialists, providing them with the support and assistance necessary to help them carry out their responsibilities in such a difficult situation, and trying to return them to the pre-1990 situation, when the relevant institutions were among the best developed and most efficient in the Near East (Oledzski 2008:255).

3.4   OTHER COUNTRIES, ORGANIZATIONS AND INDIVIDUALS

In 2004 the Global Heritage Fund and the World Bank co-sponsored the Iraq Heritage Congress in Jordan. Delegates from Iraq completed the conservation planning, prioritization and recommendations for five sites: Hatra, Samarra, Ctesiphon, Al-Ukhaidir and Ur. These plans were designed to cover key aspects of site conservation and site-development (GHF Iraq Heritage Congress Proceedings 2004:1).

In 2005, Japan purchased 45 vehicles and equipped them with radios for site protection. Although 8 were stolen in transit, the remaining 37 were distributed to all of the provinces except Anbar, Diyala, and Tamim, which were experiencing security problems. Japan also funded the purchase of 53 satellite telephones to be utilized for the protection of archaeological sites, but they were not used as they lacked the necessary SIM cards. Although the Czech Republic donated 1 000 AK-47s and accessories for use by the Facilities Protection Service site guards, these weapons were detained by the Ministry of Culture, and it is uncertain how many reached their intended destination (Russell 2008:41).

The Dutch Battle Group took over responsibility for the province of Al Muthanna from United States forces in 2003, which included the site of Uruk (Kila 2008:179). Local inhabitants had traditionally guarded the site on behalf of the German Archaeological institute, and they again assumed this responsibility after payment was arranged by both the Germans and the Dutch. These payments continued until the Dutch forces withdrew in March 2005 (Kila 2008:180).

NATO Civil Military Affairs intervened to secure Hatra, where the ongoing programme involving the demolition of ammunition had caused damage to the site. As a result, the vibrations from the programme were reduced by some 50% (Kila 2008:182).

From September 2003 until April 2004, the Al Qadisiyah province fell within the jurisdiction of the Spanish brigade. During that period, the major archaeological sites in the region were inspected (Kila 2008:184). Spanish forces encircled Tell Nuffar with some seven kilometres of barbed wire, and in March 2005 24 policemen were employed to patrol the site, with helicopter overflights (Rothfield 2009:142).

At the end of 2003, the Spanish brigade encircled Nippur with wire entanglements, over four miles long. A new police station, staffed with twenty-four policemen who patrolled the site twenty-four hours a day, was established. These measures proved extremely effective and stopped illegal excavation (Kila 2008:185).

According to Mohammed Djelib, who heads UNESCO's Iraq office in Jordan, the 37 vehicles donated by UNESCO to protect sites were not used. The guards were of the view that the trucks would make them targets and refused to use them (Zavis 2008:4).

4.   AMERICAN RESPONSIBILITY DURING THE PERIOD OF OCCUPATION

As has been seen above, there was an international response, and a determination on the part of many to protect Iraqi cultural property as far as possible. The question however which remains to be answered is: What was the responsibility of the American-led Coalition during the period of occupation? Were they legally obliged to protect the property, or was it acceptable for them to take a back seat while everyone else sprang into action?

Occupation is a question of fact, and cannot be denied simply on the basis of the Bush Administration's decision to refer to themselves as liberators rather than occupiers. This is mere political obfuscation.

Accordingly, once the United States and its coalition partners established their authority in Iraq, they became subject to the rules and responsibilities imposed by international occupation law. In regard to Baghdad, the United States became an occupying power when it established its authority in the city. According to Bogdanos, the United States became responsible for all of the damage and looting after 12 April 2003 (Bogdanos 2008:38). It is submitted (ignoring the illegality of the entire invasion for a moment) that even in terms of the laws of occupation they should be held liable for looting which took place on or after the 10th, when Schwartz gave the order to bury the dead and tidy up by moving disabled and abandoned vehicles - in the very sector in which the Museum stood (Conroy & Martz 2005:227).

As for the rest of the country, it would appear at first blush that there should first be an enquiry in order to ascertain whether that area of the country was in fact "occupied" in terms of the definition. Although it is common cause that there were insufficient troops to restore order, protect public safety, and safeguard Iraq's cultural treasures, can this really succeed as an excuse/reason to argue that they were not fully in control? How can it be a valid defence to the failure to comply with one's legal obligations to plead that you disregarded them as irrelevant? Even with the benefit of expert advice on the foolhardiness of sending in such a small force, the Bush Administration deliberately elected to do so. O'Connell (2004:22) points out that:

> Even if it was necessary to overthrow Saddam, the decision to invade and occupy the country while intentionally disregarding the obligations of an occupying power amount to ad bellum violations. The decision by the US military and political leaders to send a force that had neither the orders to fulfill the *in bello* obligations, nor the practical means to do so, undermined any legal basis the US had to invade the country in the first place.

However, it was not merely the lack of troops that created problems. It was also a question of orders. Orders were not given to protect the Iraq Museum – indeed; orders were specifically given not to interfere in the looting. Similarly, orders were not given to protect cultural property at archaeological sites.

O'Connell (2004:26) believes that the failure to issue proper orders is

> related to the general contempt for international law on the part of the same US officials advocating for war. Secretary Rumsfeld has made clear time and again that he does not recognize international law as applying to the United States. .....President Bush's lawyer, White House Counsel Judge Alberto Gonzalez has referred to the Geneva Conventions as outmoded and "quaint."

It is commonly accepted that when a country embarks upon such an invasion of another country, it must ensure that it is "in a position to make their authority felt and their protection effective within that newly occupied territory" (Clarke 2006:157). The United States and its Coalition partners clearly failed to do this, and, as a result, both inhabitants and cultural property in Iraq suffered at the hands of criminals and looters.

The deliberate and conscious decision by the United States to deploy insufficient troops and its failure to provide them with appropriate orders made them non-compliant with their obligations in terms of the 1907 Hague Regulations, the 1954 Hague Convention, and the Geneva Convention.[237] They should be held responsible for this.

However, probably the most flagrant breach of American international obligations was the occupation of Babylon, and the damage caused by military occupation at that and various other sites. The construction of the military base at Babylon and the permanent damage done to the site cannot be justified on any legal basis whatsoever. In terms of Article 43 of the 1907 Hague Regulations, the United States was obliged to "respect, unless absolutely prevented, the laws in force in the country." In terms of Iraqi law construction activities conducted on or near archaeological sites were strictly regulated, and there were no circumstances that "absolutely prevented" the United States from compliance. Even if it were applicable, the justification of military necessity is unavailable in such cases.

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[237] Resolution 1483 also referred to "the need for respect for the archaeological, historical, cultural, and religious sites, museums, libraries and monuments".

Clarke (2006:158) points out that where occupiers are unable to fulfil their obligations under international law, they have four options:

1. End their occupation and withdraw from the territory,
2. Declare certain portions of the occupied territory to be under the effective control of other belligerents,
3. Negotiate the transfer of control over the territory to local inhabitants preferably under UN auspices, or
4. Hand over control of the territory to a UN peacekeeping force.

Although none of the applicable treaties or conventions dealing with occupation confer immunity on occupiers from the jurisdiction of local courts, this immunity was accorded to the American military forces by the Coalition Provisional Authority, making them subject to the United States Uniform Code of Military Justice. In terms of section 2(4), they are "subject to the military law of that (occupying) State" (Varner 2010-2011:1222).

According to the Department of the Air Force, Air force Pamphlet 110-31: International Law – The Conduct of Armed Conflict and Air Operations (1976): "[A]s a general rule, in the absence of some...fault such as inadequate supervisions or training, no obligation for compensation arises on the part of the state for...violations of the law of conflict committed by individual members outside their general area of responsibility" (Thurlow 2005:173). In addition, Thurlow (2005:172) avers that the American military denies that it is obliged to "protect or preserve cultural property in times of war."

There are unfortunately no mechanisms for the enforcement of this body of law, and, as Clarke (2006:140) points out, in the absence of an "independent umpire, justice is discretionary."

However, the violation of the laws relating to conflict constitutes a war crime. Accordingly the failure to protect cultural property is a war crime, and political and military officers should be held responsible for the war crimes either ordered by them or implemented by their subordinates:

> Every individual, regardless of rank or governmental status, is personally liable for any war crime or grave breach that he might commit.

A commander, that is to say, anyone in a position of command, whatever his rank might be, including a Head of State or the lowest non-commissioned officer, who issues an order to commit a war crime or a grave breach is equally guilty of the offence with the subordinate actually committing it. He is also liable if, knowing or having information from which he should have concluded that a subordinate was going to commit such a crime, he failed to prevent it, and if being aware of such commission, fails to initiate disciplinary or penal actions.

Any commander failing to exercise proper control over his forces with the result that they commit crimes, even if he remains unaware of this when he should have known, is also liable for war crimes. This is because a commander is responsible for the behaviour of his troops and ensuring that they behave in accordance with the laws of armed conflict (O'Connell 2004:29).

Thus any crimes committed by the Coalition forces will be subject to their own domestic jurisdiction, unless they elect to hand over those charged with war crimes to the International Criminal Court. It is unlikely that the United States will agree to this.[238] Clarke (2006:176) is of a similar view in light of the adverse findings against the United States in <u>Nicaragua</u> v <u>United States of America</u>.[239] It is thus unlikely that the Coalition forces, and the United States in particular, will ever be brought to task for their failure to comply with their international obligations as occupiers.

O'Connell (2004:30) points out that as international law generally requires states participating in an unlawful invasion to pay reparations,[240] the Coalition partners should be held similarly responsible. Clarke (2006:153) agrees that they could be held liable in the event that a competent tribunal were to determine that the invasion was illegal. Resolution 1483 has been criticised for not requiring the Coalition forces to pay for war damage and reconstruction costs in Iraq (Clarke 2006:153), particularly since the

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[238] Clarke (2006:140) points to the numerous "Article 98" agreements employed by the Bush administration to exempt US citizens from the jurisdiction of the International Criminal Court in support of this view.

[239] In this judgment, the International Court of Justice rejected the collective claim of self-defence put forward by the US in connection with its military and paramilitary activities in Nicaragua, and found that its actions constituted a breach of its obligation under customary international law not to interfere in the affairs of another state. http://www.icj-cji.org/docket/files/70/6457.pdf

[240] Iraq has already paid over $18 billion of the amounts awarded to Kuwait and others for its unlawful invasion in 1990 in terms of United Nations Security Council Resolution 687 (1991) passed on 3 April 1991. In terms of paragraph 16 of that resolution:

> ... Iraq, without prejudice to the debts and obligations of Iraq arising prior to 2 August 1990, which will be addressed through the normal mechanisms, is liable under international law for any direct loss, damage, including environmental damage and the depletion of natural resources, or injury to foreign Governments, nationals and corporations, as a result of Iraq's unlawful invasion and occupation of Kuwait.

The resolution was passed 12:1(Cuba) with two abstentions (Ecuador and Yemen). Iraq accepted the provisions of the resolution on 6 April 1991.

United States has never paid reparations for its unlawful use of force (O'Connell 2004:30) .It is therefore unlikely to do so on this occasion in the absence of compulsion.[241]

In spite of this, O'Connell (2004:28) is of the view that there is a "moderate possibility" that members of the Coalition forces may pay damages, or make in-kind reparations[242] by returning Iraqi antiquities held by them for their failure to protect Iraqi cultural property.

5. CONCLUSION

With the imposition of sanctions and no-fly zones, the ability of the State Board of Antiquities and Heritage to fulfil its functions was severely compromised. Their budget was completely inadequate, and sanctions rendered the maintenance of equipment and restoration of artefacts impossible. The rural local antiquities officials were infrequently paid and lacked the necessary vehicles to inspect sites. The imposition of the no-fly zones also meant that remote sites could not be reached quickly, making looters more confident.[243]

In an effort to address this problem, local antiquity officials permitted site guards to live on site and farm small areas (Rothfield 2009:19). Such farming activities obviously impacted upon the cultural property lying close to the surface and completely destroyed the archaeological landscape. The Oriental Institute paid guard to protect the sites that they were excavating, as did archaeologist Nicholas Postgate (Rothfield 2009:19).

After the looting of their offices and their vehicles on 10 April, they were bereft, with no possible way to fulfil their functions. Although the United States had the money and the legal obligation to assist Iraqi local authorities in fulfilling these obligations, they chose not to do so. In the absence

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[241] In Germany criminal proceedings were instituted against members of the German government for their indirect assistance to the US in the invasion (O'Connell 2004:30).

[242] The US has been sympathetic to the Russian retention of antiquities looted from Germany to replace those looted or destroyed by the German forces during the Second World War. In support of their argument, the Russians point to the Treaty of Versailles, which required Germany to replace the books they destroyed at the University of Louvain with books from its own collections. After the Second World War, some agreements for substitutions in kind were also made with Italy, Hungary and Bulgaria (O'Connell 2004:32).

[243] Some collectors were particularly bold. Rothfield (2009:17) records that in 1992 or 1993 Shlomo Moussaieff asked at least one archaeologist whether he could "clean out the basement of the Iraqi Museum for him." Moussaieff stated that when he wanted antiquities, he ordered them.

even of a police force, there was no organization capable of implementing Iraq's laws to protect its cultural property. People were thus free to loot at will. It is submitted that as the United States abrogated its responsibilities to protect cultural property during the period of occupation, it should be held responsible for the losses and damage to that nation.

Thurlow (2005:179) believes that the United States has learned a lesson from the excoriation its contemptuous disregard for Iraqi cultural property attracted, pointing out that " In real terms, it does not matter who destroys cultural property, it only matters that it is lost. In the minds of Iraqis and in the eyes of the international community the loss of cultural property in either case was attributable to American callousness" (Thurlow 2005:179).

The author is not so sanguine. The Bush Administration, through its spokesmen, made it clear that they cared not a jot for the destruction and devastation of cultural property which followed upon its unlawful invasion of Iraq. Rumsfeld's cultural ignorance was exceeded only by his arrogant dismissal of its significance. This response to the looting simply served to corroborate the perception that the Americans had disinterestedly stood by while Iraq was robbed of artefacts which told the story of the beginnings of civilization, the rise of early nations and their magnificent achievements.

The initial response by the Bush Administration did however give way to lip-service when its philistinism attracted international ridicule and condemnation, and it realized that the issue was not simply going to blow over. A small team of marines, led by Bogdanos, was appointed to investigate the looting at the Museum, but only for some six months. The financial contributions of the American government were negligible, particularly when measured in terms of their effectiveness.

It was left to other countries, organizations and individuals to address the issues. Most of the assistance was targeted towards the Museum, its repair and reconstruction as well as the improvement and advancement of the skills of the staff employed by the State Board of heritage and Antiquities. Many others directed their efforts towards the publication of looted artefacts in an effort to make it more difficult for dealers to sell on the artefacts. Unfortunately the prized items in the Museum collection were probably looted to order and are unlikely ever to be seen in this lifetime. They are simply too well known and the right of Iraq to demand their recovery too unassailable.

The physical environment in the Museum can be restored and its laboratories and storage facilities enhanced. This is long overdue – the Museum paid the price of international sanctions for far too long, sanctions which contributed substantially to the depredations and damage to its collection. It is further laudable that assistance and skills are being imparted to Iraqi technical staff, scholars and archaeologists; their readmittance to the international community is long overdue. The cultural property of Iraq can only benefit from such programmes.

During the period of occupation, it became clear that sites could be guarded properly and looting could be substantially reduced where sufficient guards, appropriately equipped and supported, were placed at sites. The efforts of such forces as the Carabinieri set a good example of how to deal with looting until such time as such guards can be placed at sites across the country.

However, nothing can address the problem of the looting and devastation of the sites that has already taken place. Further, it is clear that many of the recovered items have been looted from sites, which means that their context is lost and the information which can be obtained from them is limited. The issue which remains to be addressed is how to stop the looting at the sites across the country, for the current efforts are akin to the efficacy of an elastoplast upon an amputated limb: the lifeblood of Iraq's cultural property is draining away.

CHAPTER 7

OBSTACLES TO THE ERADICATION OF LOOTING

1.   SUBSISTENCE LOOTING

Economic sanctions imposed by the United Nations in 1991 had a disastrous effect upon the Iraqi population. Foster *et al* (2005:207) point out that by the end of 1991 not only had food prices in Iraq increased by some 1500 - 2000%, but the average monthly income was below the poverty line. In 1993, the United Nations Food and Agriculture Organization reported on:

> chronic hunger, endemic malnutrition, massive unemployment and widespread human suffering ... a vast majority of the Iraqi population is living under the most deplorable conditions and is simply engaged in a struggle for survival ... large numbers of Iraqis have food intakes lower than those of the populations in the disaster-stricken African countries... (quoted in Foster *et al* 2005:207)

By 1996, the monthly salary of a mid-level civil administrator would purchase only three kilograms of flour, and people living in urban areas were selling their furniture and fixtures to buy food. By the time the "oil-for-food" programme was implemented in January 1996 over 100,000 people a year were dying as a result of sanctions (Foster *et al* 2005:208).

The United States also participated in attrition against the Iraqi population. Two American decisions in particular were pointlessly and unjustifiably inhumane: the decision to prevent water tankers from reaching Iraq at a time when the major cause of child mortality was lack of access to clean drinking water after a drought, and the decision to withhold vaccines for infant diseases (Chomsky 2003:127). According to Chomsky (2003:128), "The argument, then, was that we had to punish Saddam for his crimes by crushing his victims and strengthening their torturer."

Subsistence looting became a matter of survival. Saddam introduced the death penalty in the 1990s in an effort to deter looters, and in some cases it was imposed (Bajjaly 2008:55). However, the no fly-

zone[244] made the protection of sites in the south difficult, and the State Board of Antiquities and Heritage was obliged to carry out limited salvage operations at some of the most heavily looted sites, such as Umma, Zabala, and Umm al-Aqarib (Foster *et al* 2005:208).

By 2000, looting in the no-fly areas had become so rampant that the State Board of Antiquities and Heritage sent its staff to a few important sites that were being extensively looted. Additional armed guards were employed from local villages and spot inspections were instituted. This proved successful (Rothfield 2009:20).

At the end of the 1990s, Hussein tried to regain the support of the local tribes and leaders by giving them control over their areas. His government supported and funded programmes to stop the looting of archaeological sites, and also offered local people employment on the sites. During and after the 2003 invasion, these people became looters, doing the same work as before (Bajjaly 2008:55).

In these circumstances, the looting of archaeological sites began in earnest. Over the course of the decade, haphazard looting of archaeological sites throughout the country became organized, fuelled by the

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[244] Hussein's violent suppression of the 1991 Shia uprising led to the UN imposition of a no-fly zone from the 33rd parallel southward, which deprived Saddam of control of the countryside. The subsequent plundering of archaeological sites not only fed families, but was also a form of resistance as looters sought to destroy something Hussein cherished (Bajjaly 2008:55).

After the Ba'ath regime came to power, funding for archaeology was significantly increased. However, the reasons were political rather than cultural. Less than a year after it came to power, the Ba'ath regime sought to create a national consciousness based upon the history of Mesopotamia. It fostered local archaeological research and raised the profile of the country's ancient history. It introduced Mesopotamian ceremonies, names and symbols into administrative, political and cultural life, all in an effort to unite the peoples of Iraq and to emphasize Iraq's uniqueness in the world (Baram 1991:25).

In 1979, President Saddam Hussein informed Iraqi archaeologists that: "Antiquities are the most precious relics the Iraqis possess, showing the world that our country ... is the legitimate offspring of previous civilizations which offered a great contribution to humanity." Hussein incorporated Mesopotamian heroes into his cult of personality, depicting himself as the direct heir to Nebuchadnezzar, Hammurabi, Sennacherib, and other powerful figures (Bernhardsson 2005:215).

Archaeological sites were reconstructed: Hatra, Nineveh, Nimrud and Ashur in the north, and the Ziggurat of Aqarquf to the west of Baghdad. But the most ambitious was the reconstruction of Babylon (Baram 1991:45). Babylon was transformed into a "cultural-ideological instrument"(Baram 1991:49). In September 1981, the war with Iran was marked in the ruins of Babylon and the city of al-Hilla in three days of celebrations under the slogan: '*Nabuchadnasr al-ams Saddam Husayn al-yawm'* (Yesterday Nebuchadnezzar, today Saddam Hussein) (Baram 1991:48). Saddam particularly favoured Nebuchadnezzar II (605-562 BCE), describing him as 'an Arab from Iraq', who, like Hussein, had fought against the Persians and the Jews. As Kriwaczek (2010:2) points out, Nebuchadnezzar was a Chaldean who lived over two and a half millennia prior to the creation of Iraq, when Judaism as we know it did not yet exist.

Reference to Mesopotamia also became common in preambles to legislation (Baram 1991:66). As a result, archaeology was not perceived to be a neutral science, but an integral part of the political regime. The archaeological heritage had become associated with the Hussein government. One form of rebelling against government power, therefore, was to destroy museums and to loot archaeological sites.

desperate living conditions of Iraqis under United Nations' sanctions and a surge in international demand from collectors, especially for small, valuable cuneiform tablets and cylinder seals.[245]

John Russell believes that "the isolation and impoverishment wrought by prolonged trade sanctions and travel restrictions has led to far greater devastation of heritage than armed conflict did" (Russell 1998:50).[246] Further, that:

> The permanent legacy of the sanctions is the destruction of a fundamental part of our common heritage and once this is gone, it is gone forever. To the age-old question "Where do I come from?" we will at last be able to provide a final answer: Ï don't know – we burned the library (Russell 1998:51).

The crops from the south had traditionally been purchased by the Iraqi government, and although the United States agreed to buy these crops after the first harvest under occupation, this policy was

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[245] It was the flood of Mesopotamian artefacts, especially cylinder seals and cuneiform tablets, upon the international antiquities market that alerted scholars to the problem of looting. In the early 1990s, a London dealer attempted to sell a large, black stone statue torso for $400,000 (Gibson 2008a:14). There was a cuneiform inscription upon the torso which caused great excitement, since it dealt with a rebellion in southern Mesopotamia against Samsuiluna, the son of Hammurabi(Gibson 2008a:14). Although the dealer alleged that it had been in a Swiss collection for many years, no-one believed it, as a collector would have shown it to a cuneiformist for authentification. Once authenticated, it would have been published as "An Important Historical Document in a Private Collection." When about a year later, it was again offered for sale for $40,000, its new provenance alleged that it had been found in Jordan and exported with the permission of the Jordanian Department of Antiquities. Again, the provenance held no water, since Old Babylonian objects are not excavated in Jordan, and the Antiquities Department would not have approved its export (Gibson 2008a:14).

When the Banco di Roma recently published its collection of Mesopotamian cuneiform tablets, it made no reference to provenance. However, the origin of the tablets can be deduced from the tablets themselves, and are from sites looted in southern Iraq in the 1990s (Gibson 2008a:14).

Rather than the usual one annual sale of antiquities, which featured a few Mesopotamian items, by the mid-1990s there were several auctions held by major auction houses annually. Although international trade sanctions against Iraq forbad the purchase of Iraqi goods, governments made no effort to stop the trade in such antiquities (Gibson 2008a:14).

[246] In late 1994, an international group of archaeologists met in Bagdad to discuss the crisis facing Iraq's heritage. Their conclusions were:

> We, the participants in the conference, believe that an embargo legitimately can never include a cultural component, since culture and the cultural heritage of any country are the common property of all human beings. Any action which harms the cultural heritage of Iraq, as the current embargo does, damages the cultural heritage of the entire world. The cultural sphere, including antiquities, must be freed from the embargo. We should emphasize action to address the most urgent needs: (a) a practical intervention to stop the smuggling and the trading of stolen antiquities from Iraq and (b) help the responsible Iraqi authorities in the rehabilitation of the Iraqi museum system, starting first with the Iraq Museum in Baghdad. A high priority must also be given to the assessment of damage due to illicit excavations, followed by the establishment of a system for monitoring the areas under greatest risk. We appeal to the Director General of UNESCO to ask that UNESCO carry out in Iraq its constitutional task: the protection of a heritage belonging not only to the Iraqi people but also to mankind (Russell 1998:50).

terminated, and farmers had no market for their produce. Looting therefore became their source of income (Foster *et al* 2005:210).[247]

Tribal leaders do nothing to stop the looting in light of the economic benefit to the community. Further, they do not view looting as a crime. When arrested, looters are not charged with theft, but rather as 'peasants farming by mistake on archaeological sites'. In some cases, dealers live in the farmers' villages, purchasing all the looted antiquities, and, where necessary, extending credit to looters to tide them over (Bajjaly 2008:138).

Farmers were not the only ones with financial problems following the invasion. Salaries were not being paid. However, even those still in receipt of an income were crippled by runaway inflation which made money almost worthless. Food was so scarce that in April, May and June 2003, starvation was a serious problem. Bombing had destroyed electricity, purification and sewage facilities (Polk 2005:171). As a result, only bottled water was potable – but few could afford to buy it. The situation was desperate. Looting was the only way to survive (Polk 2005:172).

This problem was compounded by a number of other factors:

(i)   The Iraqi police force was greatly weakened as a result of defection and the looting of its equipment (McCalister 2005:33). Crime could no longer be effectively investigated (Polk 2005:172).

(ii)   On 24 May 2004, Bremer demobilized the army. Almost half a million soldiers, who were still in possession of their weapons were suddenly unemployed with no source of income (Polk 2005:171).[248]

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[247] When Robert Fisk and Joanne Farchakh Bajjaly travelled to southern Iraq in June 2003, they were informed by the looters that "since the collapse of the Saddam regime no-one purchased their crops and the only way they had of surviving was by providing the goods demanded by antiquity dealers" (Stone 2008a:78).

[248] His predecessor, General Jay Garner had intended to employ them as labour battalions (Polk 2005:171). Garner's plans were completely different to those of his successor. He intended to leave the oil in Iraqi hands, retain the lower ranking police officers and keep in place the major bureaucratic, technocratic and judicial institutions so that the basic functions of government could continue (Baker *et al* 2010:34). His successor could not have been more different. On 10 May 2003 he drafted a memorandum providing for the dissolution of 11 key state institutions, including the National Assembly, their affiliated offices and all military organizations and industries (Baker *et al* 2010:34).

(iii)   Bremer also instituted a de-Ba'athification programme and dissolved those entities which had been associated with the former regime. All those who had been in the top four ranks of the Ba'ath party were excluded from public sector employment, and the next three layers were subject to "discretionary exemption". The dissolution of the entities resulted in the unemployment of a further 400 000, and some 30 000 people were dismissed from their positions (Herring & Rangwala 2006:73).[249]

(iv)   Policies which lifted all restrictions on the importation of goods placed local businesses and manufacturers at a severe disadvantage. They simply could not compete with the cheap imported goods. According to Polk (2005:206), the consequent redundancies and business failures played a major role in the resulting unemployment of almost seven in every ten male workers.

(v)   American firms were given all the major reconstruction contracts, while most Iraqi firms were excluded. The Pentagon began awarding contracts out of the Iraq Relief and Reconstruction Fund in March 2004, and only Coalition countries were initially able to bid for primary contracts (Herring & Rangwala 2006:77).[250] The position with Iraqi funds was no better. According to Iraq Revenue Watch, "The CPA awarded US firms 74% of the value of the total $1.5 billion in contracts paid from Iraqi funds. When British firms are added to the equation, U.S. and U.K. companies wind up receiving 85% of the value of contracts paid for from Iraqi funds" (Herring & Rangwala 2006:238).

(vi)   The Coalition Provisional Authority issued an Order permitting all businesses in Iraq to be 100% foreign owned, with the exception of those involved in the extraction and initial processing of natural resources, banking and insurance. They also allowed all profits to

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[249] Under Hussein, the state was the primary employer and eligibility for such employment was based upon membership of the Ba'ath Party. Membership of the Party thus generally had little to do with ideology. As Baker *et al* (2010:35) point out, Bremer's policy led to the collapse of many professions, industries and social projects. Those remaining continued with "greatly diminished competence." Pensioners suffered the same fate (Baker *et al* 2010:35). The American response to this human devastation was cavalier – Peter McPherson referred to the dismantling of the public sector as "shrinkage". John Agresto, then the director of higher education reconstruction, considered the devastation wrought at schools and universities, (some 84% of Iraq's institutions of higher education were burnt, looted or destroyed), as an "opportunity for a clean start" (Baker *et al* 2010:31,37).

[250] In December 2003, Deputy Secretary of Defence Paul Wolfowitz, issued an order banning French, German, Russian, and Canadian firms from any access to these contracts, together with contractors from all countries that had opposed the invasion. This Order did not prevent the Coalition prime contractors from using other sub-contractors, and was rescinded in 2004 (Herring & Rangwala 2006:236). However, of 59 prime contracts awarded up to November 2004, 48 were awarded to US companies, and US capital had a significant share in several of the others (Herring & Rangwala 2006:237).

be transferred out of the country. Although foreign investors could not be treated less favourably than Iraqis, more favourable treatment was permitted (Herring & Rangwala 2006:227).

(vii)   Although American companies declared a commitment to subcontracting to Iraqi businesses and employing local Iraqis, the scale of employment was small and generally only in the lowliest capacities (Herring & Rangwala 2006:237).

(viii)   American Government auditors found that of the $37.1 billion of the Iraqi funds employed to March 2005, only a small portion was used for reconstruction. It was used "mainly for wages, fuel subsidies, food rations and the other running costs of the government" (quoted in Herring & Rangwala 2006:241). A KPMG audit found that the Coalition Provisional Authority and Iraqi ministries had failed to keep a proper account of Iraq's oil money, but no proof of fraud was found (Herring & Rangwala 2006:241).[251] However, the second KPMG audit for the first half of 2004 was damning:

> There were contracts with no public tenders, contracts with no records of bidding or justification for sole-source supply, absence of evidence of goods or services being provided, use of funds for activities specifically prohibited by regulations, huge discrepancies in records and straightforward theft (quoted in Herring & Rangwala 2006:243).

Although the Coalition Provisional Authority launched the 'Hundred Thousand Jobs' Programme to create employment in the civil works programme, by the time the Programme was abandoned in March 2004, it had created only 77 000 jobs. Subsequent programmes by the Coalition Provisional Authority's Programme Management Office all increased the number of unemployed, particularly after November 2004 (Herring & Rangwala 2006:74). By December 2004, only 23.4% of a sampled adult male population was in full-time employment, 13.8% in part-time employment. 13% of women of working age were employed (Herring & Rangwala 2006:75).

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[251] The Pentagon was complicit in covering up some of the abuses. Herring and Rangwala (2006:249) record that at Halliburton's request, "the Pentagon 'redacted' (censored) all references to questioned and unsupported costs, so that in December 2004 the chairman of the IAMB (International and Advisory Monitoring Board) reported himself unable to assess the scale of the problem."

In contrast to this grinding poverty, looters can become relatively wealthy by the discovery of only a few artefacts. A find of a gold statuette of a cow and calves[252] at Ur enabled a former cobbler to purchase a new BMW motor vehicle. According to Bajjaly (2007:4), a cylinder seal, a sculpture or a cuneiform tablet can earn $50, which is half the monthly salary of an average government employee in Iraq. The Archaeological Institute of America estimates that looters generate an annual income of between $10 and $20 million (Rothfield 2009:138).

According to Iyad Mohammed Hussein, a local archaeologist, looters excavate in a day an area which would take archaeologists a month to excavate (Zavis 2008:3). According to Bahaa Mayah, an advisor to Iraq's Ministry of Tourism and Antiquities, looters sometimes use heavy machinery to speed up the process, destroying the site (Associated Press 19 March 2008). At some sites, looters provide employment for hundreds of local people, who are driven to the site in buses (Global Policy Forum 2007:17). According to Elizabeth Stone, "There's been more dirt moved after the (2003) war by looters than there ever was by archaeologists and looters combined before the war" (quoted in Onians 2005:1).

When Roger Atwood and Susanne Osthoff went to Isin they were offered looted artefacts, including a clay tablet bearing a cuneiform inscription for $100, an exceptional cylinder seal for $200, a clay votive plaque depicting an image of Ishtar for $500, all of which would have fetched thousands in New York or London (Atwood 2004:4).

They are not only searching for artefacts. In Basra, residents dug up the foundations of old Islamic buildings and used the bricks to build homes (Zavis 2008:3).

A number of studies have demonstrated that there is a clear relationship between looting and a lack of "viable economic alternatives". These studies have also shown that subsistence looting is common in areas where earning a living is difficult and one major find can provide the family with the equivalent of a year's wages (Hollowell 2005:75).

There is also a chasm between the perception of subsistence looters and archaeologists in regard to cultural property, one which is founded in the class struggle:

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[252] It was worth $50 000 to the middleman (Rothfield 2009:138).

Archaeologists arrived each year with elaborate equipment, treating local people as low-paid workers with little or no chance of advancement. They returned to fancy homes and well-paid careers made possible by the artefacts and information excavated and extracted with government permission, while those who used the proceeds of their digging to buy corn, medicine, clothing and food were considered villains.... To paraphrase Anne Pyburn, archaeologists 'take the gap between vernacular perceptions of the world and ours to be cultural gaps', or gaps in understanding, as if 'they' don't understand the importance of heritage, when the differences are to a great extent economic – and often not by choice but by necessity... (Hollowell 2005:76)

Research indicates that the real problem lies in the "unequal power and economic relationships" that compel people to turn to looting, and which remove "their own ability to manage their cultural resources" (Hollowell 2005:87).

2.   OFFICIAL IRAQI ATTITUDES

When George was appointed director of museums in 2004, he persuaded the newly elected Iraqi government to provide an annual amount of \$3.4 million for an armed antiquities police force. By 2006, the force was comprised of 1 400 guards, who earned a monthly salary of around \$200 (Rothfield 2009:147). However by 2009, only 25% of the guards were armed, and the State Board of Antiquities and Heritage's patrol vehicles lacked the necessary fuel (Rothfield 2009:147).

Devout Muslims consider pre-Islamic artefacts to be "idols", and according to George, followers of the Shi'ite cleric Muqtada al-Sadr have been informed that looting is acceptable if the proceeds are utilized for the building of mosques or the purchase of weapons (Rothfield 2009:149). In May 2004, his followers in Nasiriyah destroyed Sumerian-inspired sculptures and looted and burned the local museum. They also instructed the guards to inform the local inspector that "we will do to your antiquities exactly what the Taliban did!" (quoted in Rothfield 2009:149)

In December 2005, a Shi'ite-dominated government was elected, and the party led by Muqtada al-Sadr was well represented (Rothfield 2009:149). His party was placed in charge of the Ministry of Tourism and Antiquities, which controlled the State Board of Antiquities and Heritage, and in 2006 a dentist who was related to al-Sadr by marriage was placed in charge of the Ministry (Rothfield 2009:149). George complained bitterly:

> They interfered in every single thing and changed things without our knowledge... They encouraged the staff of the department to go directly to the ministry, rather than through us. They removed people not connected to the party and put people in who were not qualified. It is worse than under Saddam (quoted in Rothfield 2009:148).

Emphasis was placed upon managing tourism and pilgrimages to Muslim holy shrines. According to Sumedha Senanayake, "The ministry is only focusing on protecting Islamic sites and artifacts and turning a blind eye to pre-Islamic ones" (Rothfield 2009:149).

Archaeological sites were also placed at risk. The Iraqi government's budget for guards to protect the sites was exhausted in mid-2006 (Global Policy Forum 2007:17). Although George was of the view that the Ministry was not doing enough to protect archaeological sites as a result of influence from Shi'ite Muslims, this was denied by Zahra Talaqani, media director for the Ministry of State for Tourism and Archaeology (Zavis 2008:4).

After a mass kidnapping took place close to the Museum in April 2006, George decided to close the Museum and seal the building. Thick brick walls and steel gates now barricade the entrances (English 2007:3).

Dr Abdul Amir Hamdani, the archaeologist in charge of antiquities for Qui Qar province, is of the view that the sentences of two or three years handed down to smugglers are not a sufficient deterrent: "It's not enough. They should be getting 10 years or more. I would like to kill them, but then what happens to human rights in this country?" (quoted in Onians 2005:2)

A trip by the Washington-based Iraq Sustainable Democracy Project to ancient Khinnis in northern Iraq in 2006 discovered damage caused by tourists, who had chipped away pieces from the rock carvings. They also located bullet holes where the reliefs had been targeted (Söderlingh 2006:1). There were concerns expressed when it was reported that local Kurdish authorities had contracted with a construction company to dynamite the rock face to create caves to provide shade for the tourists. Later however it was established that although there had been some dynamiting, the reliefs had not been damaged, and rather than create caves for tourists, a new road had been built (Söderlingh 2006:1).

In 2006, Hamdani was informed by local authorities that they had approved the sale of some land, which included several Sumerian archaeological sites, for the construction of mud-brick factories. Once he established that the factory owners intended to take the ancient mudbricks from the sites, render them to

create new ones and sell any antiquities discovered during the process, Hamdani refused to sign the necessary authorisation (Fisk 2007:3). Retribution was swift: he was arrested on corruption charges and jailed for three months awaiting trial. After his acquittal, he was reinstated. Although the project did not proceed, there have been reports of similar attempts elsewhere (Fisk 2007:3).

George and his family left the country in August 2006 following threats to his life for "co-operating with foreign elements" (quoted in Rothfield 2009:150). By then, he had already applied for retirement following an official decision by al-Sadr supporters to remove him as President of the State Board of Antiquities and Heritage. This decision was allegedly partly based upon the fact that he was a Christian rather than a Shi'ite Muslim (Rothfield 2009:150).

After George's departure from the department, efforts to protect Iraq's heritage deteriorated. However, in September a new acting minister, Mohammed Abbas Oreibi was appointed following a decision by al-Sadr to resign from the Cabinet (Zavis 2008:4).

In May 2007, the Basra Museum was occupied and held to ransom, and three months later armed men attacked the State Board of Antiquities and Heritage building in Samarra and looted it, taking everything from archaeological equipment to furniture and motor vehicles (Rothfield 2009:150). Shortly thereafter, the State Board of Antiquities and Heritage representative in Basra was killed (Rothfield 2009:150).

During a presentation at the British Museum in June 2008, Abbas al-Husseini showed pictures of sites such as Isin and Shumpak, dating from the second millennium BCE, that appear to have been completely destroyed by looters (Jenkins 2007:2). Although al-Husseini reported that he had employed 11 teams to engage in rescue work across the country collecting the detritus left behind by looters, they were no match for the armed looters (Jenkins 2007:2).

Government rewards are offered for the return of artefacts. These rewards range between 10 000 ($8) and 5 million ($4 000) Iraqi dinars depending on the value of the artefact concerned (Zavis 2008:4). However, concerns have been expressed by UNESCO that this may encourage more looting (quoted in Zavis 2008:4).

It was reported in 2008 that senior Iraqi officials were involved in smuggling antiquities out of the country during their trips abroad. According to Farouq al-Rawi, a professor in ancient Mesopotamian languages, these artefacts were sold into private collections in the Gulf States (al-Laithi 2008:1). He stated that a member of the Kuwaiti ruling family had almost 6 000 Mesopotamian pieces in his collection - looted from the province of Missan. Missan is particularly rich in Sumerian sites (al-Laithi 2008:1).

Meyers reported in 2010 that the antiquities police force, which was to be some 5 000 officers strong by 2010, employs only 106 officers and thus lack the manpower to protect the sites: ""I am sitting behind my desk and I am protecting the sites," the force's commander, Brigadier General Najim Abdullah al-Khazali, said with exasperation. "With what? Words?"" (quoted in Meyers 2010:1)

It appears that the Iraqi government lacks the desire to devote the resources necessary to protect the country's cultural heritage and to take the action necessary to put a stop to the looting: ""The people who make these decisions, they talk so much about history in their speeches and conferences", said the director of the State Board of Antiquities and Heritage, Quais Hussein Rashid, referring to the plight of the new police force, "but they do nothing"" (quoted in Meyers 2010:1).

Although to Meyers (2010:1), the looting is not as bad as it was following the invasion, there were dozens of new excavations in 2009-2010 and the antiquities police lack the manpower necessary even simply to record the reported looting.

According to Rashid, the State Board of Antiquities and Heritage's 2010 budget of $16 million was reduced to $2.5 million, and the police officers ordered by the Prime Minister Nuri Kamal al-Maliki did not materialize (quoted in Meyers 2010:1). Although invited, the spokesperson for the Interior Ministry declined to comment on this issue (Meyers 2010:1).

Indeed, Rashid went so far as to state that law enforcement officers were in collusion with the looters in some southern provinces, and that the looters were accordingly above the law (Meyers 2010:2).

Mohammed Djelib believes that a more determined governmental effort is required. However he concedes that: "It is difficult to talk about antiquities when people are dying, or they don't have water and electricity. But you can't wait for the situation to improve before deciding what to do, because by then it will be too late" (quoted in Zavis 2008:4).

3. COLLECTORS

Gibson (2008:34) points out that there were two events in the late 1980s that had an impact upon the demand for antiquities: the collapse of the stock market, which led to investors seeking new forms of investment, and the high profile sale of the Erlenmeyer Collection, where record prices were achieved.[253] Created during the 1920s and 1930s, the collection was unaffected by the 1970 UNESCO Convention. In 1994 a fragment of a relief from Nimrud was sold for almost $12 million (Gerstenblith 2005-2006:286). Later that decade, when cylinder seals were reaching prices in excess of $100,000, and an Iranian seal was sold for $400,000, dealers in Baghdad began actively encouraging looting (Gibson 2008:35).[254]

Tablets and cylinder seals are particularly popular, and George believed that ill-informed purchasers were not only inflating prices, but also "inspiring more thieves". Archaeologists are becoming desperate. According to Richardson, "They've been taking out at least 3000 tablets a week, by the truckload. That's got to be 400 to 500 dissertations" (quoted in Onians 2005:3).

High prices continue to fuel the efforts of dealers to obtain artefacts. In December 2007, a 4000 year old cuneiform tablet, suspected to have been smuggled from Iraq was withdrawn from eBay's Swiss website only minutes before bidding closed (Zavis 2008:3). In 2007, a 3¼ inch limestone Mesopotamian figure of a lioness was sold at Sotheby's in New York for $57.2 million (Rothfield 2009:138).

The Principles of Ethics in Archaeology of the Society for American Archaeology state that: "The buying and selling of objects from archaeological contexts contributes to the destruction of the archaeological record.... Commercialization of these objects results in their unscientific removal from sites, destroying contextual information" (quoted in Merryman 2007:277)

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[253] A relief from the throne room of Sennacherib was sent by the excavator Henry Layard to one of his patrons Lady Charlotte Guest, who displayed it in her Nineveh Porch. The house was sold and eventually turned into a school, where the Nineveh Porch was converted into the tuckshop. The relief was painted over, and generally assumed to be a plaster cast. However, after its authenticity was established in 1992, the piece sold at auction for £7.7 million (McCall 1998:199).

[254] By 2001, cylinder seals were commanding prices as high as $424,000. Small and easily transportable, cylinder seals are sufficiently common to motivate large scale looting (Rothfield 2009:17).

Dealers do not share this view. According to the American antiquities dealer Torkom Demirjian, "Archaeological considerations are no longer paramount; now there is increasing emphasis on aesthetics over rarity" (quoted in Brodie *et al* 2000:12).

Most countries have enacted legislation designed to protect ancient sites, monuments and artefacts located within their borders. There are also international conventions which regulate the trade in artefacts, such as the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property and the Unidroit Convention of 1995.[255] The UNESCO Convention deals with prevention, restitution, and international co-operation. It restricts the traffic in looted antiquities, and is employed when countries wish to recover looted items located in another country.

These Conventions have not found favour with dealers and collectors. One of the criticisms relates to Article 1 of the 1970 Convention, which provides that:

> For the purposes of this convention, the term `cultural property' means property which...is specifically designated by each State as being of importance for archaeology, prehistory, history literature, art or science.

Bator and Merryman believe that this definition provides the basis for "nationalist retentionist cultural property laws" and provide a nation with a wide discretion to designate whatever it pleases as cultural property. Bator is of the view that "the national patrimony should not be defined so as to suggest that it is desirable that a nation retain all of its art, or even all of its important art" (quoted in Cuno 2008:34). John Merryman takes it even further:

> (s)keptics might conclude that this Convention (UNESCO 1970), in the name of cultural property internationalism, actually supports a strong form of cultural property nationalism. It imposes no discipline on a State's definition of the cultural property that may not be exported without permission. It leaves States free to make their own self-interested decisions about whether or not to grant or deny export permission in specific cases.... In this way, the Convention condones and supports the widespread practice of over-retention or, less politely, hoarding of cultural property (quoted in Cuno 2008:34).

Merryman complains that "major source nations prohibit the export of undistinguished works of art and retain stores of deteriorating antiquities that are not "important" enough to be studied, published, or exhibited" (Merryman 2007:276). He and his supporters point out that the storerooms and basements of museums in major source regions have many duplicates, which are often poorly cared for and neglected

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[255] Although the World Trade Organization and European Union treaties prohibit export controls on "goods", both provide exceptions for the "the protection of national cultural treasures" (Merryman 2007:281).

(Rothfield 2009:44). They argue that they would be better cared for if they were traded to collectors who would preserve them and take care of them. According to Ashton Hawkins, former chief counsel of the Metropolitan Museum, "legitimate dispersal of cultural material through the market is one of the best ways to protect it" (quoted in Rothfield 2009:44).

Some argue that the trade in cultural property serves a great and noble purpose, for it engenders mutual respect between cultures (Cuno 2008:xxxi).[256] The argument however fails in its practical application, for trade is uni-directional, from the poor to the rich. Poorer countries are stripped of their heritage, while richer countries retain theirs (Elich 2004:4). Accordingly, in practice it does not promote harmony, it engenders resentment. Further, there is no reason to believe that looting would cease if restrictions on the trade in antiquities were relaxed. Indeed, this has proved not to be case in countries where this has been implemented (Hollowell 2006:81).

Another argument is that there would be no loss of knowledge since the artefacts have already been scientifically excavated and studied. Jane C. Waldbaum (2003:6), former president of the Archaeological Institute of America, refutes this argument. By excavating the basements and storerooms of institutions where material from excavations are housed, she asserts that she gained a "much richer picture" of the contact between Greece and the Levant during the 7th - 4th centuries BCE than would have been possible had she only studied published sources (Waldbaum 2003:6).

In the preamble to its 1976 Recommendation Concerning the International Exchange of Cultural Property, UNESCO recognised that:

> Many cultural institutions, whatever their financial resources, possess several identical or similar specimens of cultural objects of indisputable quality and origin which are amply documented, and ... some of these items, which are of only minor or secondary importance for these institutions because of their plurality, would be welcomed as valuable accessions by institutions in other countries.

and supported the international exchange of cultural property on the basis that:

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[256] Collectors argue that the trade in antiquities promotes an appreciation of foreign cultures. For this reason they believe that encyclopaedic museums should be encouraged. According to Neil MacGregor, director of the British Museum:

> All great works of art are surely the common inheritance of humanity.... This is a truth that it is surely more important to proclaim now than ever before. In a world increasingly fractured by ethnic and religious identities, it is essential that there are places where the great creations of all civilizations can be seen together, and where the visitor can focus on what unites rather than what divides us (quoted in Cuno 2007:145).

the international circulation of cultural property is still largely dependent on the activities of self-seeking parties and so tends to lead to speculation which causes the price of such property to rise, making it inaccessible to poorer countries and institutions while at the same time encouraging the spread of illicit trading.

However, it remains opposed to international trade, which has drawn fierce criticism from dealers and collectors. Cuno (2008:43) believes that the United States should renounce, or at the very least ignore the Convention just as it has ignored international prohibitions on torture when they were considered contrary to the national interest. Quite how the acquisition of stolen property by dealers and collectors advances the American national interest is unclear. There is another problem with this argument in that the provisions of the Convention are enforced in the United States through domestic legislation, namely the Cultural Property Implementation Act of 1983 (Atwood 2008:68).

Cuno (2008:148) believes that his views are supported by the destruction of pre-Islamic antiquities by the Taliban in the National Museum in Kabul in March 2001, and the Iraq Museum in Baghdad in 2003. In early 2001, UNESCO was contacted by the Kabul museum's director, Omara Khan Masoodi, who voiced his fears that the Taliban would destroy the museum's collection of pre-Islamic antiquities and requested that they be removed from the country and placed in safekeeping (Solomon 2007:240).[257] UNESCO declined to assist on the basis that it was contrary to its policy to remove from any country a part of its cultural heritage (Solomon 2007:240).

There is no question that the loss of antiquities from the Kabul Museum is devastating, but whether the museum was retentionist or internationalist is irrelevant – artefacts would still have been destroyed, only the nature of the artefacts destroyed would have been wider (Rothfield 2008b:2). The losses sustained by the Iraq Museum were directly attributable to an illegal invasion and the failure of American forces to protect the Museum.

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[257] By 2000, the Afghanistan Museum in Exile had received numerous urgent requests from Taliban officials and members of the Northern Alliance to remove the antiquities from Afghanistan. Dr. Bucherer, the director of the Afghanistan Institute and Museum in Switzerland, travelled to Afghanistan on a number of occasions to make the necessary preparations to transfer the holdings to Switzerland for safekeeping until Afghanistan was at peace (Solomon 2007:243). As the Swiss government required international permission before the holdings could be imported, approaches were made to UNESCO. UNESCO refused to grant permission. Members of the Taliban entered the museum, broke open the packing cases in which the antiquities had been packed for shipment, and destroyed them (Solomon 2007:243).

At a British Museum conference in November 2002, Dr. Bucherer displayed the letter in which UNESCO finally gave permission for the removal of Afghanistan's art to safekeeping. It was dated after the destruction had taken place. Fortunately, much of the collection had been hidden in the early 1980s to protect it during the Soviet occupation, and so not everything was lost. As the Taliban also burned the museum's archives, it has proved difficult to catalogue the losses (Solomon 2007:243).

Another issue raised by Cuno relates to the relationship between the ancient civilisations and the modern nations within whose boundaries the antiquities are located. In terms of international law, the modern nation, as custodian of the property which falls within its territory, has the right to retain and legislate on the antiquities and sites which fall within its borders. Cuno (2008:141) argues that modern countries should have no claim to the antiquities located in their borders, since they have no relationship to the ancient nations that created them. He argues that laws relating to cultural property "perpetuate the falsehood that living cultures necessarily derive from ancient cultures" (Cuno 2008:141); that, as a result of migration, war, and cultural change, modern nations have no relationship to these ancient cultures (Atwood 2008:70; Cuno 2008: xxxvi).[258] As such, they have no right to retain them.

In the case of Iraq, this argument is on shaky grounds. It has been established that the people of southern Iraq persist in the ancient traditions and use the artefacts of their predecessors. There is also linguistic evidence of descent from the Sumerians and Akkadians (al-Hussainy 2010:85). Atwood (2008:70) also points out that Cuno's argument is ill conceived, for such laws have nothing to do with nationalism, they are rather "policy instruments" designed to protect cultural property from looters.

There is little merit in the argument that if every antiquity were retained in its country of origin the rest of the world would learn nothing of Assyrian, Babylonian, Egyptian or Mayan art, since a system of organised loans between museums could easily address this issue. Indeed, such loans are common. Further, there has already been such a widespread dissemination of artefacts from the world's ancient civilisations that most cultures are already well represented in major museums (Renfrew 2000:21).

Article 3.2 of The Code of Professional Ethics of the International Council of Museums, first adopted in 1989 and revised in 1995, provides that:

> A museum should not acquire, whether by purchase, gift, bequest or exchange, any object unless the governing body ... are satisfied that the museum can acquire a valid title to the specimen or object in question and in particular it has not been acquired in, or exported from, its country of origin ... in violation of that country's laws (quoted in Renfrew 2000:69).

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[258] Cuno (2008:xxxv) argues that:

> No culture of any consequence is free of influences from other cultures. All cultures are dynamic, mongrel creations, interrelated such that we all have a stake in their preservation. National retentionist cultural property laws deny this basic truth. They depend on the myth of pure, static, distinct, national cultures. And not just about living cultures, but about ancient cultures, too. They define and seek to regulate access to ancient cultures on the grounds that they belong to the modern nation as the work of its descendents and the origins of its modern culture and identity. They promote a sectarian view of culture and encourage the politics of identity at a time when nationalism and sectarian violence are resurgent around the world.

The Code does not contain enforcement procedures, and Renfrew is of the view that most museums adopt a relaxed view, only refusing acquisitions that are clearly looted (Renfrew 2000:69).

Auction houses are generally unconcerned by provenance. After their questionable conduct was exposed in two television documentaries, the Antiquities Department at Sotheby's in London ceased selling antiquities, and appointed a Compliance Officer to enforce their internal code of conduct (Renfrew 2000:38).[259] However, other auction houses in London, such as Christie's, Bonham's and Phillips, continue to sell unprovenanced antiquities (Renfrew 2000:38). According to Renfrew, "unprovenanced" is virtually synonymous with "looted" (Bogdanos 2005:262).

The World Monuments Fund places the blame for looting at the hands of collectors, stating that Iraq's sites "are being ravaged by looters who work day and night to fuel an international art market hungry for antiquities" (quoted in Global Policy Forum 2007:17).

Bajjaly believes that "[h]umankind is losing its past for a cuneiform tablet or a sculpture or piece of jewellery that the dealer buys and pays for in cash in a country devastated by war. Humankind is losing its history for the pleasure of private collectors living safely in their luxurious houses and ordering specific objects for their collection" (quoted in Fisk 2007:1).

However, Hollowell's research suggests that the market "is driven less by the needs of diggers or the desires of collectors than by dealers, who create and manage both the supply and the demand. It is the job of dealers to promote the market and cultivate taste for objects, and they do so with the (unwitting) help of museums, art historians, archaeologists and the media" (Hollowell 2006:78).

4.   CONCLUSION

Saddam Hussein exploited the glories of Mesopotamia to raise his own profile and employed them as an ideological tool in his efforts to create a united national identity. By portraying himself as the

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[259] According to Sotheby's, this decision was motivated by "their concerns on issues of patrimony and heritage", and had nothing to do with the television documentaries (quoted in Bogdanos 2005:262). Sotheby's in New York however continues to sell antiquities (Renfrew 2000:38).

natural successor to great Mesopotamian kings, he created the risk that cultural property would be destroyed in effigy. This had previously happened - following the 1991 Gulf War, nine of the thirteen regional museums were looted, and some were burned. Some four thousand items were stolen, and only around 54 have been recovered (Brodie 2006:206). Although Hussein's punishment of looters was draconian, it had little effect as poverty became widespread and the popularity of Mesopotamian antiquities increased.

The lack of respect for cultural property, when combined with grinding poverty is a recipe for disaster. It is difficult to appreciate cultural property and the knowledge that it imparts when the sale of just a few items will put food on the table and buy medicine for your sick children. There are few parents who would place the quest for knowledge above the survival of their family, particularly when there are no alternatives.

The invasion of Iraq, the degradation of the infrastructure and Bremer's reforms in particular had a devastating effect upon an already poor and desperate population. They resulted in almost seven in every ten men becoming unemployed (Polk 2005:206).[260]

Although the looters themselves receive very little for the antiquities they loot, $7-10 for a small cuneiform tablet and $100 for a particularly fine example, $50-60 for a small figurine, or $200 for a cylinder seal, it must be borne in mind that a site guard was only paid $60 a month under the Coalition Provisional Administration (Foster *et al* 2005:220), and to many, this money was the difference between starvation and survival. Obviously, as the antiquities climb the chain to the collectors, prices rise steeply. Such sales as that of one Mesopotamian artefact in 2007 for $57.2 million (Rothfield 2009:138) encourage the desperate poor in their search for antiquities, resulting in a trade in Mesopotamian artefacts of some $10-20 million per annum (Foster *et al* 2005:221).

Although looting is not a new phenomenon and has been going on for centuries, modern technology has accelerated the process; now it is not merely a few looters digging in the sand, it is organised – in some cases with front end loaders, bulldozers and similar items of heavy machinery, as George discovered at Umma (Jenkins 2007:1). Further, digital photographs can be sent directly to dealers in

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[260] The wholesale dismissal of the army, rather than simply removing selected leaders and personnel considered to be unacceptable, was inexplicable. This difficulty had been considered by numerous qualified entities, such as the Army War College, the Future of Iraq Project, and the Centre for Strategic and International Studies. Without exception they had all warned against this course of action (Fallows 2004:23).

order to establish whether the artefact in question is likely to stimulate interest, or whether it will suit a potential buyer.

The political and economic situation in Iraq remains bleak and the country is still suffering from the ravages of the war. It will take many years to recover from the devastation, degradation of infrastructure and displacement of peoples. In the meantime, looting will continue as a mechanism for survival. It appears that the same excuse used by American apologists applies equally now, although perhaps with more merit – it's a question of priorities. When people are dying as a result of starvation and disease, it is difficult to focus on cultural property. While the validity of this argument must be recognised, it must also be recognised that like people, cultural property is a dying resource. Once gone, once destroyed, it cannot be restored and is lost forever. It is important that both be dealt with as part of the political rebirth and reconstruction of the country.

According to Gibson (2003a:1), it is also difficult to recover looted objects once they have left the country. He has pointed out that it took over a year to recover one item after it was recognised in an auction catalogue. Gibson argues that there should be an international ban on the trade in Iraqi antiquities. Although this would not put a stop to the trade, it would reduce it substantantially. However he considers this unlikely as "many of the people who collect and exhibit this material are extraordinarily powerful people, with lots of connections in Washington, lots of connections in London, and various places (Gibson 2003a:1).

The destruction of the archaeological record and the accompanying loss of knowledge have become critical. It is being fuelled by unscrupulous dealers, collectors and disreputable museums, and there are some in Iraq who are looting not simply for survival but for profit. There is a lot of money to be made, and the high prices which these antiquities command on the international market simply add fuel to those in Iraq who see this as the road to wealth and luxury. As long as dealers and collectors view artefacts as works of art and a good investment, and remain willing to pay a great deal of money to own them, looting will continue.

It is easy to say that laws must be passed to stop this, but laws alone are not enough. Without proper enforcement, they are worthless and simply bring the legal system into disrepute.

In order to prevent the looting in Iraq one cannot simply address not just the trade in antiquities, but it will be necessary also to alleviate the poverty, lack of employment and access to wealth currently being experienced by the Iraqi population.

CHAPTER 8

CONCLUSION

The aim of this dissertation was to consider the cultural property of Iraq, with particular reference to Mesopotamian civilizations that developed and flourished within its borders; to consider whether Iraq does in fact possess cultural property of value, cultural property worth protecting. Further to consider the impact that the 2003 invasion had upon this property, the reasons for this impact, if any, and the long term consequences thereof. In so doing, the dissertation considered whether there were in place legal provisions which could protect cultural property in the situation in which Iraq found itself, whether they were effective, whether there was compliance therewith and, if not the reasons for this non-compliance and whether the United States could be held culpable.

Within the borders of modern Iraq lies the Fertile Crescent, the "cradle of civilization", the area where civilization began and developed, with the earliest transition from hunter-gatherer leading to a written language, social stratification and organised religion, the building of towns and cities, and large-scale trade. Over the millennia, various ancient cultures flourished across the region, each contributing to a rich cultural history and to the growth and development of engineering, medicine, mathematics, the written language, law and technology. Iraq therefore has a rich archaeological and cultural record, and the discoveries in the country have particular significance not only for Iraq, but for the world. Scientific excavation has enabled us to identify the origins of many aspects of our own cultures and technologies; the discoveries and innovations of these ancient civilizations still live through us today.

As a result of scientific excavations, we have gained access to documents, artefacts and a wealth of archaeological data. We have learned of early civilizations, of their diet and their dreams, their hopes and their inventions, their aspirations and their destruction – and that is the gift of cultural property. Through the study of cultural property we acquire insight into the lives and views of early civilizations that sought their place in the world and tried to make sense of the universe. By studying cultural property we gain an understanding of these cultures, for the artefacts do not seek to teach us simply what they considered to be beautiful, for even utilitarian objects can be beautifully crafted, but how they made their way in the world,

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manipulated their environment and furthered their technological, literary and communication skills in order to progress further and further from their humble beginnings as hunter-gatherers.

Although excavations have already provided us with an abundance of material relating to the early civilizations of the region, the search for knowledge is ongoing. Further scientific excavation is required in order to flesh out the picture of these cultures, to supplement our knowledge by providing information on periods, nations and sections of society for which we have little or no information. The civilizations of Mesopotamia spanned a period of over 3000 years and have so much to teach us. Iraq is virtually one large archaeological site, of which only a small part has been excavated; the exposure of the knowledge which can be recovered from this country is still in its earliest stages. The information which has been retrieved to date proves beyond doubt that Iraq is possessed of cultural property which is of value to the whole world, and that its scientific excavation and interpretation can advance of the knowledge of us all. Accordingly, further scientific excavation in the country is critical.

It is clear that the Bush Administration was fully aware of the dangers of looting and damage to cultural property prior to the invasion. There had been numerous meetings, emails, letters and telephone calls with various departments within the Administration, and the number of times lists of sites were requested and provided verged upon the ridiculous. Although expressly informed of the dangers of looting to the Museum, this was something of which they should have been already aware, for in the First Gulf War nine museums had been looted. The risk therefore was readily foreseeable, even had the warnings been absent. But this was not the case, for McGuire Gibson was tireless in his determination to warn of the dangers of looting and to do everything in his power to protect Iraq's cultural property. He was not alone. Numerous organizations both within the United States and internationally warned of these dangers, and urged the Administration to take precautions against looting and to protect in particular the Iraqi National Museum in Baghdad. The Future of Iraq Project established by the Administration gave similar warnings. Efforts were also made in the United States to impress upon the government the dangers of looting and the importance of protecting cultural property. Questions were even raised in parliament when letters did not have the desired result.

In spite of the warnings and the foreseeability of looting and damage to cultural property, the United States-led Coalition took no steps to prevent it even though the Office of Reconstruction and Humanitarian Assistance sent all senior military commanders, prior to their arrival in Baghdad, a list of sixteen institutions that were to be secured as soon as possible upon their arrival in that city in order to prevent damage, destruction, and/or looting. The first institution on the list was the Iraqi Central Bank,

which was bombed, the second was the Museum which was looted. Sixteenth on the list was the Oil Ministry, the only place that the United States forces secured and protected.

The invasion of Iraq commenced on 20 March 2003. On the very day that the attack began looters began to move in on unprotected sites. Although 2000 troops and armoured vehicles were sent to secure the oilfields, no efforts were made to protect archaeological sites.

The attack on Baghdad began on 5 April 2003. Baghdad fell after two "thunder runs" through the city, on 5 and 7 April respectively, one of which passed right in front of the Museum. Had the American forces sent troops and armoured vehicles to protect the Museum at that time, and had they taken the same steps to protect it as they did with the Oil Ministry, then the Museum would not have been looted and its cultural property would have remained unscathed. At that time, the Museum staff were still in occupation of the Museum and were not under threat. It was only after the arrival of Iraqi militants in the Museum grounds on 8 April that they were obliged to leave the Museum for their own safety.

An analysis of the evidence indicates that the looting began in the area of the Museum on the afternoon of 9 April; that when this came to the attention of the military authorities, orders were given not to interfere with the looting, an order passed on to the troops on the ground on 10 April 2003. It further appears that looters entered the Museum and commenced looting its cultural property on 10 April, but that the looting was over by the time a reporter end a television crew entered the Museum early on 11 April.

The subsequent investigations indicate clearly that the impact upon the cultural property held by the Museum was catastrophic. Although the Museum staff had taken many of the more portable items to safety and locked and blocked off doorways to certain storerooms, it did not prevent the loss of some 13 515 artefacts and the stripping of the administration offices right down to the electrical wiring. The records were also damaged and partially destroyed. In addition to these losses are the many artefacts that were damaged and broken when they were swept onto the floor or discarded. As yet, no information is available on these items and we are thus unable to establish the extent of these losses, whether the items damaged are capable of restoration or whether they are damaged beyond repair. Indications are that the number of looted artefacts may rise once a thorough and painstaking inventory has been conducted; something which cannot be undertaken until such time as the Museum is reopened. At present it is closed and sealed.

The Iraqi National Museum was unique – it chartered the origins and steps towards the rise of civilization, and many of the artefacts stolen are irreplaceable. None of the looted cuneiform tablets had been translated, and the information upon these tablets, which could have provided hitherto unknown information, is

probably lost forever. As pointed out earlier, the importance of each individual tablet cannot be overstated. The loss is incalculable.

The American military forces displayed complete indifference to the safety of the local population and their cultural heritage; an indifference which mirrored that of the Bush Administration. The Administration was dismissive of the devastation suffered by the Museum, choosing to revel in cultural ignorance. It was completely taken aback by the international outcry and condemnation of its failure to protect the Museum. Unfortunately this did not spur it to meet its international obligations towards Iraqi cultural property during the period of occupation.

During the period of occupation, sites were looted, damaged, and in some cases completely destroyed. Stone's findings clearly indicate that had the United States stepped in immediately, the looting at sites could probably have been stopped and most of the losses prevented, for, in instances where guards were placed at sites, the looting decreased significantly. It is clear that money was available to employ and pay such guards and to provide them with the necessary equipment. There was simply no interest in doing so in spite of the fact that, as occupier, the United States had an obligation to protect archaeological sites and to prevent their looting, devastation and destruction.

The actions of the military authorities in deciding to occupy archaeological sites is completely inexplicable, given that it was not merely a contravention of international law, but also constituted a contravention of the laws of Iraq and the United States. The two sites most severely damaged by the occupation, Ur and Babylon are perhaps the two sites in Iraq best known to the Western world; their importance is even marked in the Bible. The knowledge that has already been recovered from these sites, even though they have not yet been fully excavated is extensive. The prospects for Babylon are inauspicious, given the extent of the contamination and destruction wrought upon the site. This is not something from which we can ever recover. The knowledge has been lost forever.

Although the looting of the Museum attracted the most international attention, the losses sustained at the sites are far more critical. Our ability to advance our knowledge of Sumerian culture is now extremely limited as it appears that these sites are largely destroyed. Umma, a site considered exciting because of its early achievements in the rise to civilization appears to be completely destroyed. In addition to the loss of the items looted, we have also lost most of the information associated with them. Items such as broken pieces of pottery, pollen, fauna and flora are of no interest to looters are either destroyed in the process or cast aside. This tragedy is being played out over and over again at archaeological sites across the country.

Efforts have been made to recover artefacts looted from the Museum and archaeological sites, with varying measures of success. It is unlikely that the pieces taken by the professional looters will ever be recovered. Stolen to order, they were probably already safely in the hands of the unscrupulous people who sought them long before Bogdanos was even appointed to investigate. This is also probably true of many of the others items subsequently looted from sites. Deprived of context, the knowledge which could be gleaned from items looted from sites is in any event limited, even if they were to be recovered.

The looting continues and every day unprovenanced antiquities are purchased from dealers, many of whom are even so bold as to advertise their existence upon the internet with no fear of retribution. Knowledge is being looted or destroyed in the avid search for "art"; a purposeless and trivial category for which these items were not created, but to which they have been demoted by collectors and investors. The intellectual advancement of mankind is being held hostage by those who are prepared to purchase unprovenanced antiquities.

It is in answer to "How could this have happened to the cultural property of Iraq?" that the politics canvassed earlier in the dissertation becomes relevant, for the answer lies in the political context of the war. From the very outset, the Bush administration employed dishonest and underhand tactics in its determination to achieve its goals. It lied and manipulated the American public into believing that Saddam Hussein was a threat to national security: when the intelligence agencies refused to support the official line regarding weapons of mass destruction, they created their own agency to do so. This fundamental dishonesty set the tone for the entire invasion, and created an attitude and atmosphere in which the people of Iraq and their cultural property were delegated to a position of unimportance, mere collateral damage in the execution of the Administration's objective.

In terms of international law, it is illegal for a country to invade another. It can only be done legally when sanctioned specifically by a resolution of the United Nations. When faced with the prospect that their resolution would fail, the United States and United Kingdom withdrew their resolution and decided to proceed without one – then they erected a smokescreen of legal subterfuge to justify their fundamentally unlawful conduct. The cynical statements of both the President and members of his Administration lend credence to the view that they knew that an invasion in the absence of an authorizing resolution would be illegal – and that they simply did not care.

The complete disregard for international law displayed by the Bush Administration in the pursuit of their ambitions ran like a thread through the invasion and the occupation. No attempt was made to comply

with any of the international obligations which are associated with war and occupation. Instead we were treated to more propaganda, in terms of which this omission was deflected, and attributed to errors in planning rather than a deliberate strategy. The attempt to avoid their responsibilities by referring to their forces as "liberators" rather than occupiers was simply insulting. The occupation of archaeological sites, another breach of international law, was allegedly done to deter looting. However, the occupation itself wrought such damage that one wonders whether sites such as Babylon might not have been better off if it had been left to looters. In short, the illegal invasion was followed by a complete abrogation of international law.

Did the law fail Iraq? It is submitted that it did not. Had it taken cognisance of international law, the United States-led Coalition would never have invaded Iraq. Had it accepted its obligations under international law, the United States would have taken steps to protect both the Museum and archaeological sites. Although most of the Coalition partners were signatories to the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict at the time of the invasion, the United States and United Kingdom were not. These two countries would thus only be bound by the provisions in the Convention protecting cultural property if it were to be found that they had attained the status of customary international law. It is submitted that they have.

There is no question that international law could be improved in order to protect cultural property, but in this case, it is submitted that the state of the law was irrelevant. The United States and its collaborators flouted international law at every turn. They paid it no mind and proceeded to do exactly as they pleased. The law can only be effective when it is enforced, and there are no enforcement mechanisms in this area of international law. Further, the United States is unlikely to ratify or participate in any law which will require it to be accountable for its actions. It has come to believe in its right to behave as the bully in the international playground.

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