

The legislation, search, recovery, identification and repatriation of conflict casualties worldwide: Introducing the WWI and WWII Special Issue.

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Abstract: Conflict casualties refer to those individuals who are lost due to military conflict or war. The involvement of forensic archaeologists and anthropologists in the legal search, recovery, documentation, identification, and repatriation/reburial of conflict casualties is well known. Internationally, there are a number of professional organisations who ethically recover and identify these individuals. However, at the same time, some organisations and individuals have raised significant concerns about working in other countries, understanding specific laws and protocols, and how the whole recovery and identification process should be undertaken. Through this special issue, Forensic Science International is interested in promoting these investigative good-practice procedures, illustrated with case studies, and ethical and legal considerations when undertaking and disseminating these humanitarian missions to the wider forensic community. This Special Issue focuses primarily on the First and Second World Wars, yet other conflicts are covered, and includes the views and perspectives from different organisations within specific countries in the format of original papers, commentaries, and case reports. Specifically, these papers include the legislative regulations, information regarding the authorities to be consulted on and who deal with human remains, the organisations and professionals who are involved with the recovery and analysis of human remains, the process of identification, and how this information is disseminated to the public.

Keywords: First World War, Second World War, forensic anthropology, forensic archaeology, human remains, legislation

Introduction and background: WWI and WWII Symposium

Globally, there are a number of specialist groups that reside within their respective countries who specialise in the recovery and identification of conflict casualties. The World Wars are strongly associated to these organisations due to the large number of individuals missing or killed in action. However, due to the varying locations of casualties, and the complexities of experts working in an international context, it is evident that the legal and ethical framework varies from one country to another.

On the 13th of March 2020, on behalf of Cranfield's Forensic Institute, Cranfield University, UK, a workshop took place coordinated by the authors (NMG, DE). This was a closed symposium, and took place at Wolfson College, Oxford. The event was in the form of a roundtable. Invited speakers and attendees came from a wide variety of backgrounds: the military, administrators, historians, forensic pathologists, archaeologists, physical/forensic anthropologists, crime scene investigators, academics and PhD researchers. The full outline of the programme is listed below (Table 1).

The aim of the workshop was to understand how nations manage WWI and WWII military war casualties, especially regarding the human remains of those missing, discovered and unidentified. Specifically, the event was used to address how organisations can improve existing practices by exchanging their own knowledge and experience in the search, recovery and identification of human remains. In addition, as many teams work in different countries, for example a British team may work on searching for British casualties in another country, it was important to be clear on what authorities that team has to liaise with abroad, and anything regarding permits and other legal requirements.

The aims listed above stem from the work Cranfield Forensic Institute at Cranfield University has undertaken globally and the experience the authors have gained over the years not only regarding First and Second World War casualties, but also from other historical, humanitarian and forensic cases in other countries. With exception to widening the network of people who passionately work with the same common purpose of ‘bringing the dead back home’ or at least remembering the fallen, finding the missing and providing a dignified burial, participants in the roundtable were asked to address the following questions, where possible:

1. Which authority deals with WWI and WWII human remains in your country?
2. Which organisation undertakes this work?
3. What legislation needs to be considered?
4. What professionals work on the recovery and analysis of human remains?
5. How is identification achieved if at all?
6. What is your interaction with the public and disseminating this information to the media?

As a result, in the articles following this introduction in the Special Issue, these points for contemplation are included where possible. Therefore, this unique symposium focussed on legislation, methods, management and memorialisation of the war dead. The main focus, due to funding, was centred around conflicts in Europe, especially the WWI theatres of France and Belgium and the WWII theatres of Italy, Germany and other regions in Europe. However, in addition to inviting organisations dealing with the WWI and WWII dead, it was thought that the workshop would benefit from discussing other conflicts of the 20th century, so that any exchange of knowledge could be more beneficial. Thus, other conflicts such as the Spanish Civil War (1936-1939) or the Cyprus Conflict during the 1960s and 1970s, were discussed.

Table 1. Participating organisations, countries on the 13th of March. Names of participants have been omitted, although those from JCCC, RAF Air Historical Branch, VBGO, CMP, ICRC, France, Belgium, Italy, Serbia, Slovakia and Spain are authors in the Special Issue. This table only includes those who presented, as there were a number of people who attended from the University of Oxford, University of Glasgow and University of Buckingham. Physical attendance was affected by COVID19.

WWI and WWII Symposium: Legislation, Recovery, Identification and Burial of Human Remains. Wolfson College, University of Oxford, UK 13th March 2020		
Organisation/Country	Affiliation	Observations
Cranfield university	Cranfield Forensic Institute (CFI)	3 staff, 1 PhD student and two MSc students
	Joint Casualty and Compassionate Centre (JCCC)	Head of ‘War Detectives’

British Ministry of Defence	Defence Infrastructure Organisation (DIO)	Archaeologist
	Royal Air Force (RAF)	RAF Heritage, Air Historical Branch and RAF Police
Organisations	Commonwealth War Graves Commission (CWGC)	Commemorations Case Manager. Remote presentation.
	Humanitarian and Human Rights Resource Center (HHRRC)	International Advisory Council Member. Pre-recorded video.
	Committee on Missing persons in Cyprus (CMP)	Identification coordinators. Remote presentation.
	The Association of the Recovery of the Fallen in Eastern Europe (Germany) (VBGO)	Forensic Anthropologist and Archaeologist
	Fundacion Indortes (Spain)	Forensic Anthropologist
	International Committee of the Red Cross (ICRC)	Forensic Coordinator, Forensic Unit. Remote presentation.
Countries	Belgium (Flanders)	Flanders Heritage Agency, Archaeologist.
	France	Aix-Marseille Université, Physical Anthropologist
	Hungary	Hungarian Institute for Forensic Sciences. Remote presentation.
	Italy	Masaryk University, Brno. Anthropologist.
	Netherlands	Dutch Army Recovery Unit, Dutch Army. Two officers.
	Lithuania	Faculty of Medicine, University of Vilnius Forensic Pathologist and Anthropologists
	Russia	Institute of Archaeology, Russian Academy of Sciences Archaeologist and physical anthropologist.
	Serbia	Faculty of Medicine, University of Belgrade. Professor of Anatomy and Forensic Anthropologist.
	Slovakia	Institute of Forensic Medicine and Medicolegal Expertise, Comenius University
	Spain	Aranzadi Society of Sciences . Presented by forensic anthropologist.

The event was a success, although with its challenges too. Due to the recent discovery of COVID19, there were last minute cancellations and apologies from Finland and Poland. Likewise, other members of international organisations such as the USA Defense POW/MIA Accounting Agency (DPAA), who undertake recovery and identification of U.S casualties in

Europe were also invited but had to unfortunately cancel. Nevertheless, the event provided a good exchange of knowledge and ‘much food for thought’ (see Márquez-Grant et al. 2021).

The wealth of knowledge and experience had to be captured, and the discussion that involved all attendees contributing to valuable learning points should be disseminated among the wider community (see Márquez-Grant et al. 2021). In view of this, understanding how legislation works around Europe in particular (although see Márquez-Grant and Fibiger, 2011; Ubelaker, 2015), and the practice of forensic archaeology and anthropology worldwide (see Groen et al. 2015; Blau and Ubelaker, 2016, Parra et al. 2020), this publication sits in the grey area between historical / archaeological legislation, humanitarian and forensic casework.

Special Issue

When deciding on this Special Issue, additional countries outside of Europe were invited to contribute to enhance this learning and knowledge exchange. Following these invitations, a number of countries accepted including Australia, Canada, Colombia and Japan. Similarly, additional countries within Europe were also approached, and contributions were received from Austria. Finally, we also approached individuals who had been working on a number of sites or had undertaken research on the topics of recovery and identification of WWI and WWII remains and are now included in the Special Issue. Of course, there are many other individuals and organisations that work on WWI and WWII remains in the different countries, for example in the UK there are a number of commercial archaeology companies (see Loe et al. 2014) or groups and other organisations (see Brown and Osgood, 2009). However, the balance for inclusion was between legislation, recovery and identification. Similarly, although other structures such as trenches, buildings, etc. are part of Conflict Archaeology (e.g. see Desfosseés et al. 2009; Saunders, 2012; Stichelbault, 2018), only organisations dealing with the war dead were invited for this Special Issue. Finally, although civilians were also the casualties of conflict, particular attention has been given to learning about war casualties, as they may have been buried in particular mass graves, trenches, and military aircraft sites, there are certain identifiers such as identity tags, life support equipment, and personal effects that aid in the identification of human remains.

The papers presented are varied and may not be a typical structured scientific article. The special issues include commentaries, review articles, case studies, perspectives and research articles. This illustrates a variety of the material but also the different types of specialists involved, from social policy makers, to archaeologists, forensic scientists, academics, army personnel, practitioners, managers, administrators, and it reflects an interdisciplinary and multidisciplinary nature of the work. Whilst the content of each article has been reviewed by two or three anonymous reviewers, the content remains the responsibility of the authors. Nevertheless, as editors we have tried to ensure correct standards and the appropriate ethical approach with consideration to a number of sensitive issues has been applied. There may be images of human remains in this Special Issue, but these have been included for remembrance because they are the best witnesses for society today, they can be educational in terms of awareness of what happened in the past, and they contribute to research which will ultimately help other combatants to be identified. Therefore, the images in this special issue have been depicted as best as possible with respect. Likewise, a number of cases have been anonymised, but others may include the initials or names of the deceased, and where possible that has been consented by any living next of kin.

Finally, one aspect to consider, being as this Special Issue is in a 'forensic' journal, is the 'forensic' nature of this work. The cases presented here, primarily deal with human skeletal remains and we reach the realm of forensic anthropology or physical anthropology and (forensic) archaeology (e.g. see Groen et al. 2015; Hunter et al. 2013; Buikstra and Komar, 2008). Thus, the focus is heavily on the use of archaeology for search and recovery and the use of physical anthropology to assist with the identification of remains. Nevertheless, all these investigations require a team of historians, geneticists, social anthropologists, witnesses, logistics personnel and many managers with different roles to see this through. Although these periods in most countries are historical and do not fit into the framework of a forensic, medico-legal or judicial case, and these investigations may rather be considered as humanitarian, it is perhaps important to cover the 'forensic' nature of this type of work. First, it may be worth indicating that the word 'forensic', which in a number of dictionaries includes the work carried out to solve crimes, yet not everything that is 'forensic' is a crime (potential suicide and accidental death for example). It of course derives originally from the word 'forum' which relates to public debate and adopted in medieval times as 'open court'. Arguments for this type of work being considered as forensic archaeology and anthropology can be provided:

- 1) This can be considered Humanitarian work, and there is a concept now which is Humanitarian Forensic Action or Forensic Humanitarianism (Cordner and Tidball-Binz, 2017; see also Parra et al. 2020). This term, according to the authors, would be applied to the field of forensic medicine and other forensic sciences to humanitarian action, especially regarding the missing, disappeared and unidentified, especially from conflicts and mass disasters. This term has been used however, mainly for work related to late 20th century conflicts onwards.
- 2) Although the time period of these conflicts may fall outside of the medico-legal or judicial timeframe, which can be as little as 25 years in some countries (e.g. see Márquez-Grant et al. 2016; Ubelaker, 2015), they still may be judged as part of Crimes Against Humanity.
- 3) Moreover, although the primary purpose may be the identification of the human remains, some of the associated labs carrying out the DNA analysis or even the scientists involved have often derived from independent forensic science providers or government institutes of legal medicine, and therefore forensic protocols and chain of custody are applied.
- 4) It has often been the case, for example in the investigation of a mass grave where the perpetrators needed to be prosecuted, where law enforcement agencies, crime scene investigators, forensic photographers and forensic pathologists and scientists have had to be involved in the investigation due to their understanding of criminal procedures.
- 5) With the earlier points in mind, the term 'forensic' would seem appropriate for these cases that are humanitarian, with living relatives, living perpetrators, where location and identification are primary objectives, and in some cases, where justice is sought.
- 6) Lastly, any misidentifications of human remains or the wrong return of the remains to the relatives can be investigated judicially.

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The hours spent have also meant hours away from our families and friends, and we thank and send our love to our immediate and extended families, our friends and colleagues at home and overseas.

We must not forget, that although the Issue is published in an academic journal and may be a topic of interest, that the heart of this publication is to really exchange knowledge, to create a collaborative network, to help improve future practice, to assist with better ideas to manage an investigation in benefit to all those who perished and to those individuals affected by the disappearance and/or death of their loved ones. We hope that some of this experience can be brought to countries who are starting to investigate these crimes or disappearances, inspire the work that can be undertaken and to provide a dignified burial to the deceased, a name on a gravestone, community remembrance and closure to families if possible. These deceased are all heroes in their own ways.

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