

Another argument is based on military capacity. It was said that other sites such as hospitals, water plants and ministries had to be secured first.⁸² More dramatically, General [Richard Myers](#) reminded: ‘when some of that looting was going on, people were being killed, people were being wounded (...) So I think it’s, as much as anything else, a matter of priorities.’⁸³ However, States are equally engaged to protect both cultural property and human life and it is the State’s responsibility to ensure that they have the necessary means to fulfil their obligations. Saying that the task cannot be fulfilled because of a lack of troops⁸⁴ is simply not acceptable.

What’s more worrisome is that the US was clearly aware of the dangers of looting before and during the occupation. Americans had previous experience of individual lootings by civilians in times of military occupation.⁸⁵ General Vincent Brooks admitted this awareness before lootings took place: ‘we know that there is often in liberated areas a vacuum in terms of control’.⁸⁶ Before the war, cultural experts warned the Army of possible dangers to specific museums and sites even if they experienced difficulty to be put in relation with the US Army in the planning phase and during the war.⁸⁷ Furthermore, the Pentagon’s Office of Reconstruction and Humanitarian Assistance (ORHA) memo to the Coalition Forces Land Component command listed buildings to be secured after the taking of Bagdad. The Central Bank and the National Museum were listed first and the list referred to the National Museum as a ‘prime target for looters’.⁸⁸

Despite those warnings, the Army was not prepared to protect cultural property from lootings. Neither stability police forces nor infantry troops were present and tanks were ill equipped to threaten looters while respecting humanitarian law obligation to distinguish between civilians and soldiers when attacking.⁸⁹ However, the Secretary of Defence was well advised to increase the number of troops for the maintenance of order after the invasion but simply ‘refused to listen to his military experts’.⁹⁰ To respect its obligations under international law,

⁸² USDD 11 April 2003.

⁸³ USDD 15 April 2003.

⁸⁴ JF Burns 2003.

⁸⁵ In the no fly zones of Iraq in 1991 for instance.

⁸⁶ V. Brooks 2003.

⁸⁷ L. Rothfield 2009, p. 36-37.

⁸⁸ P. Martin 2003.

⁸⁹ L. Rothfield 2009, p. 91.

⁹⁰ M. O’Connell 2004, p. 347.

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