

WIEBKE AHRNDT
Übersee-Museum
Bremen

Recommendations for the care of human remains in museums and collections

INTRODUCTION

In light of the increasing number of claims for the return of human remains and a growing sensitivity towards the handling of human remains in collections, the Human Remains Working Group of the German Museums Association (GMA) drew up the ‘Recommendations for the care of human remains in museums and collections’, which was published online in German and in English on the homepage of the GMA in 2013.¹ The members of the Working Group include ethnologists, archaeologists, anthropologists, medical historians, cultural scientists, lawyers and ethicists. This paper is a summary of these recommendations.

INTERNATIONAL DEBATES

Since the 1990s, the handling of human remains in museums and collections has increasingly become a matter of international debate. The debate was triggered by growing numbers of claims for the return of human remains, mostly of non-European origin. In many instances, the result is a clash between different value systems and world views.

The issue initially gained relevance in countries that are home to indigenous minorities such as the USA, Canada, Australia and New Zealand. It was in those countries that in the 1990s the first comprehensive statutory provisions on the handling of human remains, originating from indigenous groups living within

¹ Deutscher Museumsbund e.V., *Empfehlungen zum Umgang mit menschlichen Überresten in Museen und Sammlungen*, 2013, available at <http://www.museumsbund.de/fileadmin/geschaefts/dokumente/Leitfaeden_und_anderes/2013_Empfehlungen_zum_Umgang_mit_menschl_UEberresten.pdf> [retrieved: 14 December 2015].

those national territories, were subsequently introduced. As a result of the growing worldwide self-confidence of indigenous peoples, claims for the return of human remains are increasing, particularly from former colonial territories, with claims being made either by the state or state representatives on behalf of the indigenous people, by representatives of the indigenous groups themselves or by individuals and descendants.

In Europe, the former colonial powers of the United Kingdom and France initially formed the focus of the claims for return. The United Kingdom and Australia issued a joint declaration in 2000 which recognised the legality of certain indigenous claims. Later, in 2005, general standards and guidance for the handling of human remains in museums and collections were developed in the United Kingdom in the publication “Guidance for the care of human remains in museums”² issued by the Department for Culture, Media and Sport; that guidance is not, however, legally binding. To date, France has passed two laws (in 2002 and 2010)³ governing specific, individual cases for returns to South Africa and New Zealand. However, the laws cannot be applied to other individual cases. In Germany, the only guidelines available until 2013 were the ‘Recommendations for the treatment of human remains in collections, museums and public spaces’⁴ produced in 2003; however, those recommendations relate primarily to anatomical, anatomical–pathological, forensic and anthropological collections.

SCOPE AND OUTLINE OF THE RECOMMENDATIONS

Many German museums and other collections are home to human remains from all over the world. In addition to specimens in anthropological collections and anatomical and pathological preparation, ethnological museums and collections in

² Department for Culture, Media and Sport, “Guidance for the Care of Human Remains in Museums” (2005), available at <http://webarchive.nationalarchives.gov.uk/+http://www.culture.gov.uk/reference_library/publications/3720.aspx> [retrieved: 14 November 2012].

³ Assemblée nationale, France, “LOI n° 2002–323 du 6 mars 2002, relative à la restitution par la France de la dépouille mortelle de Saartjie Baartman à l’Afrique du Sud” (2002), available at <<http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=LEGITEXT000005632399&dateTexte=20151202>> [retrieved 15 December 2015]; Assemblée nationale, France, “LOI n° 2010–501 du 18 mai 2010, visant à autoriser la restitution par la France des têtes maories à la Nouvelle–Zélande et relative à la gestion des collections” (2010), available at <<http://legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000022227321>> [retrieved: 15 December 2015].

⁴ Arbeitskreis ‘Menschliche Präparate in Sammlungen’, *Empfehlungen zum Umgang mit Präparaten aus menschlichem Gewebe in Sammlungen, Museen und öffentlichen Räumen*, “Deutsches Ärzteblatt PP”, vol. 2, no. 8, 2003, pp. 378–383, available at <<http://www.aerzteblatt.de/archiv/38021/Mitteilungen-Empfehlungen-zum-Umgang-mit-Praeparaten-aus-menschlichem-Gewebe-in-Sammlungen-Museen-und-oeffentlichen-Raeumen>> [retrieved: 4 March 2013].

particular also hold human remains in a variety of forms: shrunken heads, tattooed heads, scalp locks, mummies or bone flutes. Additionally, human remains such as hair and bones can also be considered as ritual or other objects. Furthermore, skeletons, parts of skeletons and bog bodies, for instance, are permanent features of many archaeological collections. Human remains are also occasionally found in other collections.

The recommendations are intended for the individuals directly responsible for collection and also for the funding bodies of the establishments concerned. They act both as guidance for the day-to-day handling of human remains (including those originating from outside Europe) and for addressing questions relating to claims for return. The German Museums Association primarily focusses on museums, while the Working Group is of the view that the recommendations may also be applied equally to collections, in particular university collections.

Since the human remains originate from all over the world and from all periods of human history, museums and collections are faced with a multitude of different cultural ideas and beliefs. Even in the case of claims for return, a good many complex issues have to be considered for which there is often no easy answer. A further factor is the heterogeneity of the remains themselves, as was made clear by the short list of examples provided above.

In principle, the recommendations apply to all items in German museums and other collections that fall under the definition of human remains. This means all physical remains belonging to the biological species *Homo sapiens*.

The recommendations are primarily intended for museums and universities in Germany with collections of human remains, irrespective of their geographical origin and age (both European and non-European), in particular for ethnological museums and collections, natural history museums, museums of history, archaeological museums, museums of European ethnology, museums of cultural history, museums of local history and anatomical-pathological, forensic or anthropological museums and collections.

Many different branches of science are concerned with human remains, and in many cases, little information is exchanged between these branches. Thus, for example, there are gaps in the knowledge of humanities scholars in relation to physical anthropology, and the same is true of scientists in relation to ethnological questions. For this reason, the actual recommended actions are prefaced by information about the target groups and terms used as well as background information from five different fields. The contributions from physical anthropology, ethnology and law provide an overview of the relevant issues in each. The legal contribution is also concerned in detail with questions relating to return. It may therefore be of use in connection with the legal assessment of claims for return. These three background contributions appear between the overview on the history of collections and the contribution on ethical principles.

Relevant questions on the preservation, care and use of human remains are dealt with after the just mentioned articles with regard to the four main areas of museum work: collecting, preservation, research and exhibiting. In view of the increasing number of claims being made, issues regarding the return of human remains are also covered. The recommendations are intended to facilitate decision-making with a view to ensure the responsible handling of human remains in the work of museums and collections. In light of the heterogeneity of the collections, even the answers to the questions formulated in this chapter will vary significantly.

AWARENESS OF THE SENSIVITY OF THE ISSUE

A conscious decision has been made to use the German term *menschliche Überreste* in the German version of the recommendations, instead of the fairly common English term ‘human remains’. The German term, which calls to mind the expression *sterbliche Überreste* [in English: ‘mortal remains’], clearly brings home to the reader what is generally being talked about here: deceased human beings. Unlike the English term, which because it is in a foreign language is more remote for the German reader, the term *menschliche Überreste* has an emotional resonance, which was indeed the intention, since this contributes to making people more sensitive to this issue.

Efforts to raise awareness of this sensitive issue are particularly important in connection with the handling of human remains as such items are unlike most other items in museums and collections. It is often difficult to strike a balance between the interests concerned. Respect is owed to the deceased individuals and their descendants, but the concerns and interests of third parties can also be affected a great deal. In many non-European indigenous communities, the connection with the dead often lasts much longer and is shaped by cultural and religious values that differ from Western European ones. Since in the majority of cases the items in question are the bodies (or body parts) of deceased human beings, questions of ethics and human dignity are particularly prevalent. At the same time, man’s interest in mankind is also the starting point for the importance of such research and must be reconciled with those questions. For this reason, museums and collections are being called upon to retain their holdings for further research.

As a general rule, there are no simple answers. It is in the very nature of the matter that consideration must always be given to the individual case in question. One particular objective is to raise awareness of the sensitivity of the issue in order to ensure ethical responsibility in the handling of human remains and in order to deal with claims for return made by the state of origin, people of origin or individuals. It is clear just from consideration of the legal issues that, from a purely legal perspective, satisfactory answers cannot be given, particularly in connection

with claims for return. It is rather often a question of ethics which is most significant when dealing with human remains and the descendants of the deceased.

Are museums and universities today allowed to collect and store non-European collections? Are they allowed to do research on them, to exhibit them, and are they obligated to return everything? How should they store these sensitive collections? The longer these institutions are in possession of such collections, the more ethical questions arise surrounding this issue.

CONTEXT OF INJUSTICE

A key issue in relation to the care of human remains is how to assess, with regard to legal and especially ethical considerations, the circumstances of the death, the acquisition of the remains and the circumstances of production of the ritual and other objects mentioned above. The Working Group uses the term ‘context of injustice’ to describe circumstances that appear to be particularly problematic. However, this is not a legal term or an established ethical concept.

Our point of departure was past injustices inflicted by Germans on other peoples. We agreed that a person who had been killed by the Third Reich in a concentration camp and whose remains were placed in a collection afterwards had suffered grave and irreparable injustice. No scientific interest — no matter how important it might be — can justify the retention of such human remains in a collection and or even their eventual use for research. In this case, only a return of the remains to the bereaved (when possible) or a dignified burial is appropriate.

Given this agreement, doesn't the same apply to victims of other genocides as well? How do we judge injustices that have been inflicted upon persons by those other than the Germans? In which cases do we share the responsibility? The injustice does not have to have been caused by the museum employees, by the collection itself or by German nationals; there are also potential cases where major injustices have been committed by perpetrators amongst the peoples of origin. For example, there are individuals who have been killed by their own people for the purposes of conducting trade in human remains. But what about those cultures that are familiar with and practise headhunting; and those in which killing one's enemy and making use of his physical remains is socially accepted?

As a general rule, a context of injustice is indicated when: a) the person from whom the human remains originate was the victim of an act of violence, and/or b) parts of an individual's body have been processed and retained against his or her will.

The above-mentioned example of headhunting shows that there can be exceptions. The legal concepts and the values of the people of origin may be, but do not necessarily have to be, the decisive factor when determining whether the

origin or the acquisition is to be regarded as problematic. A careful balance between different legal concepts and values must always be struck on a case-by-case basis.

There may be a further exception when the killing and/or subsequent use and preservation of the human remains occurred so far in the past that the injustice cannot be regarded as any longer having an effect in the present day. This is likely to be true in any killing that dates back to prehistoric times and periods of early history, and may also be true in specific cases of events that occurred in the not so distant past. From an ethnological perspective, memories of a deceased person fade after approximately four to five generations. This equates to approximately 125 years, thus providing a period of time that can also serve as a guide from a physical anthropology perspective. In the case of people who were killed or whose bodies were handled in an unlawful manner more than 125 years ago, genealogical mapping to living relatives is usually no longer possible. Consequently, it is also no longer possible to identify the direct descendants on whom the injustice could continue to have an effect. It must, however, be kept in mind that memories of injustices, in particular those involving the persecution of certain groups and genocides within a people or state of origin, are likely to remain vivid in people's minds for longer than 125 years. That period of time can, therefore, only be used as a guideline with regard to individual cases of injustice. Where there is doubt, a dialogue should be pursued.

A further indication of a context of injustice within the meaning of the recommendations exists where the human remains have been added to a collection against the will of the original owner(s) or person(s) entitled to dispose of them, especially when physical violence, coercion, theft, grave robbery or deception are involved. It is, of course, also possible that the injustice perpetrated with regard to the human remains is so long ago in the past that it no longer continues to have an effect in the present day. The limitation placed upon the exception above applies equally here.

It should be kept in mind that throughout the ages there have been grave-openings, the removal of items from graves and sometimes also the trading of human remains, all of which may not necessarily have been deemed to be wrong at the time that the act(s) were committed. In some cases, the values of the respective peoples or states of origin have now changed with the result that some such past events are now viewed differently.

It is difficult to give a standard and conclusive definition of what constitutes a context of injustice, since very different values apply in different cultures and at different times. The museum or collection in question must instead establish whether in a given case a context of injustice can be assumed with regard to the origin or acquisition of the item in question.

COLLECTING, PRESERVING AND RESEARCH

The question of whether a context of injustice exists for human remains cannot be answered without determining their provenance. Unfortunately, collections are often very poorly documented and for that reason many questions remain open. In my view, this is the biggest problem. Any decision as to whether human remains may be researched or exhibited must be based on the question of whether they may be traced to a context of injustice. Of course, this also applies to decisions on returns. If the human remains cannot, or cannot irrefutably, be assigned to a people of origin, they ought to remain in the museum or collection inventory but ought not to be used for research or exhibition purposes. The question of provenance thus pervades all sections of the recommendations.

From a legal perspective, human remains held in museums and collections in Germany are generally regarded as things, in respect of which ownership may be acquired or transferred. Another general rule is that nothing can be said against collecting human remains or preserving them in a collection insofar as it matches the collection concept of the particular establishment, and as the human remains are (from a modern point of view) acquired legally, and are not attributable to a context of injustice.

There may be clashes between extremely different cultures, science-based world views and value systems as far as human remains are concerned. It is necessary to state, as a matter of principle, that these can never be negotiated or offset against one another, and therefore no view can claim (or be given) precedence *per se*. As a general rule, research on human remains should be permitted only when the circumstances of the production or acquisition of those remains have been examined and found to present no cause for concern. This applies equally to human remains of European origin and those of non-European origin.

Without question, research on human remains provides to the academic world and the general public significant knowledge about anthropology, palaeopathology, the history of science and cultural and social issues. The scientific and historical value of research on human remains should be considered in advance. The benefits of the research ought to be assessed on the basis of strict and comprehensible criteria. It is always necessary to anticipate and evaluate with a critical eye which new findings such research will provide, and where appropriate, whether those findings justify invasive access. As a general rule, preference should be given to non-invasive methods. It is ultimately the responsibility of the museums and collections in which the human remains designated for research are housed, to weigh and evaluate these individual factors.

EXHIBITING

For a very long time, the presentation of human remains in museums and collections has enjoyed the broadest cultural and social acceptance possible in Europe – both by the general public and in professional circles. Nevertheless, it can never be ruled out that the interests and concerns of third parties will not be affected by the presentation of human remains, in particular where a direct link to those remains exists. There should always be an awareness of other cultural views and such matters should be handled with sensitivity.

A museum or collection ought furthermore to consider such sensitivity a moral obligation and to help raise awareness of this issue. In the case of public exhibition, human remains should always be treated with respect; and the public ought to be made aware in an appropriate manner of the special status of the exhibits, in particular where the human remains are identifiable as such (e.g. skulls, mummies, skeletons). This can be achieved by means of an accompanying text or by the arrangement of the room (positioning, lighting, and colour). Human remains, which are often difficult to identify for observers (e.g. hair or fingernails and toenails incorporated into ritual or other objects), should also be presented in a sensitive manner.

There are no restrictions regarding the age of human remains that has any bearing on the presentation of those remains or the study of them. The people in charge of the museum or the collection should always be aware that the interests of third parties, in the narrow sense of relatives of the deceased or, potentially, members of his or her people of origin, may be affected.

The content, context and aim of any presentation of human remains should always be scrutinised with a critical eye. Some peoples of origin consider the public display of the deceased or their body parts to be disrespectful. An open dialogue with the people of origin should thus be conducted in advance. In fact, the views of the people of origin regarding the unrestricted viewing of human remains may have to be incorporated into the assessment.

In cases of loans, the museum or collection is to check whether the exhibition concept envisaged is compatible with its own guidelines pertaining to exhibitions, conservation and ethical considerations. The content, context and aim of the presentation must observe the criteria laid down previously. Preserving the dignity of the human remains is always paramount.

The task of a museum or collection in exhibiting remains is not to satisfy the curiosity of the observer. However, in general, a museum or collection has little influence as to why people choose to visit an exhibition, the individual visitor's attitude when faced with a given exhibit, and the effect that exhibit has on its visitors. Accordingly, it cannot be ruled out that the human remains displayed may have an emotional impact, and account should be taken of this factor when

designing the exhibition. A serious approach should always be a key consideration when displaying human remains. With regard to the concept of the exhibition, consideration must be given, where appropriate, as to whether its scientific content could also be exhibited without the presentation of the human remains. The information content should also be properly examined and evaluated. It is always a curatorial decision, and that decision should satisfy ethical considerations and be comprehensible.

RETURN

Claims for the return of human remains pose particular challenges for museums and collections. On the one hand, the museum or collection is required to retain its collections and must therefore examine such claims with care. On the other hand, the interests of the claimants have high emotional and sometimes spiritual significance, which can have a lasting effect on the related talks. Therefore, negotiations on return should always be guided by mutual respect and a level playing field, transparency, the professional and timely examination of the claim as well as a good-faith attempt to find a solution. Museums and collections are expected, insofar as it is possible, to evaluate the differences between their own ethical and political concerns and world views and value systems and those of the claimants – whether individuals, peoples of origin or states.

In this regard, it must be kept in mind that public bodies are, in principle, bound by applicable laws. Property and assets may be given away only when there are legal grounds for doing so. The return of human remains on the basis of ethical considerations alone is thus considered only in specific, exceptional cases. Accordingly, for example, not every colonial context can automatically form the grounds for return. The return of human remains on the basis of ethical principles is particularly conceivable when those remains have been acquired in contexts of injustice, i.e. in circumstances which constitute a particularly serious breach of the concept of justice or represent unspeakable acts against humanity.

CONCLUSIONS

In conclusion, the care of human remains in museums and collections not only requires a high standard of sensitivity but also raises questions so complex that simple answers cannot be found. Every establishment that holds human remains in its collection will have to develop its own guidelines for handling such remains in the future. For that reason, the authors view these recommendations not as the end of the debate, but rather as its beginning.

Since their publication, I have been asked several times to present and discuss the recommendations not only at museum conferences both in Germany and abroad, but in meetings in the German Foreign Office with cultural representatives and persons involved in claims of return and to journalists as well. This shows that there is great interest among the museum community and growing sensitivity on the part of the government and the media with regard to the treatment of human remains.