

Care of Human Remains in Museums and Collections



A PRACTICAL GUIDE TO HIGHLY SENSITIVE COLLECTIONS	6
ADDRESSEES AND TERMINOLOGY	11
PRACTICAL GUIDANCE	23
 Collecting	26
 Preserving	29
 Researching	35
 Exhibiting and Educating	42
 Repatriation	45

BACKGROUND INFORMATION	59
The Origins and Significance of Collections of Human Remains in Europe	60
<i>Wiebke Ahrndt, Thomas Schnalke und Anne Wesche</i>	
Archaeological Human Remains in Museum Holdings	68
<i>Bernhard Heeb</i>	
Ways of Analysing Human Remains and the Benefits for Scientific Research	75
<i>Sarah Fründt, Stephan Schiffels, Andreas Winkelmann</i>	
Social and Cultural Anthropological Approaches to Human Remains in Ethnological Museums and Collections	88
<i>Hilke Thode-Arora</i>	
Legal Provisions for Dealing with Human Remains in Museums and Collections	96
<i>Carola Thielecke und Michael Geißdorf</i>	
Ethical Principles for Collections Containing Human Remains	110
<i>Christian Lenk</i>	
The Significance of Ancestral Human Remains to Australian Aboriginal and Torres Strait Islander People	120
<i>Michael Pickering</i>	
The Responsibility to Restore the Ancestral Hawaiian Foundation Through Repatriation and Reburial	124
<i>Edward Halealoha Ayau</i>	
A Namibian Experience: The Contentious Politics of Repatriation of Human Remains and Sacred Objects	129
<i>Alma Nankela und Jeremy Silvester</i>	
SOURCES OF THE GUIDELINES AND FURTHER READING	138
PARTICIPANTS	142

INTERNATIONAL DIALOGUE AND NUANCED PERSPECTIVES ON THE CARE OF HUMAN REMAINS IN MUSEUMS AND COLLECTIONS

The German Museums Association published its *Recommendations for the Care of Human Remains in Museums and Collections* in 2013 against the background of growing awareness of the issue and increasing numbers of repatriation claims. In compiling this document, we were able to refer to two other publications: the British *Guidance for the Care of Human Remains in Museums* (DCMS 2005) and the *Empfehlungen zum Umgang mit Präparaten aus menschlichem Gewebe in Sammlungen, Museen und öffentlichen Räumen* drafted by the Working Group on Human Tissue in Collections (also known as the *Stuttgarter Empfehlungen*). The 2013 *Recommendations* were the first practical guide to be made available for the care of these sensitive collection items in all aspects of museum work.

Reviews of the publication have been published both in Germany and abroad since its release, while dialogue with experts and representatives of communities of origin continues to increase our knowledge of the care of human remains. The first edition of the *Guidelines for the Care of Collections from Colonial Contexts* was published by the German Museums Association in 2018, while in 2019 the Federal Government Commissioner for Culture and the Media, the Federal Foreign Office Minister of State for International Cultural Policy, the Cultural Affairs Ministers of the Länder and the municipal umbrella organisations released their *Framework Principles for Dealing with Collections from Colonial Contexts*, in which human remains were explicitly mentioned. As new insights had had time to mature and new questions had arisen, the time had come to provide museums and collections with a revised set of guidelines for the care of human remains.

While current debates in the public and political sphere focus primarily on human remains from colonial contexts, the present *Guidelines* offer recommendations for the care of all human remains held by collections. They take into account the heterogeneity of the remains themselves as well as the varied contexts in which they were acquired. The *Guidelines* particularly seek to create an awareness of the ethical dimension of the care of human remains – a dimension which affects every aspect of museum and collection work.

In recent years, many institutions have gained direct experience in the care of human remains, specifically with respect to the fundamental importance of thorough provenance research, digitisation of holdings and transnational cooperation and repatriation. A focus on these aspects is prescribed by the German federal government, the federal states and the municipalities, especially in the case of human remains from colonial contexts.

It remains the responsibility of funding bodies and political decision-makers to ensure that museums and collections have sufficient funds and staff to meet these demands.

In the view of the German Museums Association, this also includes financial support for clarifying provenance by drawing upon biological-anthropological expertise as well as being able to carry out repatriations in an appropriate way.

While everyday museum work involves a whole range of questions concerning these sensitive collection items, the political and public debate generally focuses only on the repatriation of human remains. Political decision-makers, the media and interest groups often call for the unconditional return of human remains from colonial contexts. However, when considering repatriation, the great heterogeneity of human remains in collection holdings must be taken into account along with the fact that decisions about returns cannot be made unilaterally in Germany and that not all communities of origin desire repatriation. Instead of postulating an unconditional repatriation mandate, the German Museums Association recommends being fundamentally open to the possibility of repatriation as well as engaging in transparent and proactive procedures and carrying out thorough assessments on a case-by-case basis. For this purpose, it would be helpful if an overview of all collections from colonial contexts in Germany were available for consultation; such an overview would form an important basis for the appropriate treatment of these collections while also enabling individual institutions to interlink and coordinate their policies and, above all, to improve transparency in communicating with the countries of origin.

I should like to thank those whose reviews of the first edition contributed significantly to the ongoing discussion of the issue and thereby made the publication of this revised version possible. My special thanks also go to Dr Michael Pickering (Australia), Edward Halealoha Ayau (Hawai'i) and to Dr Alma Nankela and Dr Jeremy Silvester (Namibia), whose presentation of their perspectives, experience and procedures have significantly enriched our understanding of the significance of human remains and their repatriation for communities of origin.

I should also like to thank the Working Group which revised these *Guidelines* and articulated new perspectives.

The revision of these *Guidelines* was sponsored by the Federal Government Commissioner for Culture and the Media, to whom I also extend my warm thanks.

Prof. Dr Eckart Köhne

President of the German Museums Association

A PRACTICAL GUIDE TO HIGHLY SENSITIVE COLLECTIONS

The holdings of many German museums and collections include human remains. Alongside anthropological collections and pathological anatomy specimens, ethnological museums and collections are likely to contain human remains that have been treated in various ways, such as shrunken heads, tattooed heads, moulded skulls, scalp locks, mummies or bone flutes as well as (ritual) objects incorporating human tissue such as hair, finger- or toenails and bones or pieces thereof. Additionally, whole and partial skeletons as well as bog bodies are frequently found in archaeological museums and collections. Other collections too may occasionally include human remains.

These *Guidelines* use a nuanced concept of human remains which, alongside unmodified remains, also includes human tissue (e.g., hair, teeth, nails) that has been treated or incorporated into objects as part of cultural practice.¹

The challenge of heterogeneity

As human remains originate from all over the world and date from every era of human history, museums and collections are confronted with a variety of different cultural concepts. Requests for repatriation raise numerous complex questions that often do not have simple answers. Additionally, the remains themselves are extremely heterogeneous, as can be seen from the brief list given above.

The present recommendations are applicable to all holdings of German museums and collections that meet the definition of human remains for the purpose of these *Guidelines*. Because of the heterogeneous nature of the remains and the sensitivity with which they must be treated, museums and collections often face difficult decisions in their day-to-day work. These *Guidelines* offer support by providing impulses for engaging with relevant questions and by highlighting fundamental aspects.

Sensitivity and responsibility

A special degree of sensitivity is required in the care of human remains in all aspects of museum and collection work. Questions of ethics and human dignity are ubiquitous, and weighing up the interests of the parties involved is often difficult. The deceased and their descendants are entitled to respect. This must be reconciled with the concerns of research, for which the human remains are highly significant.

1 See pp. 12f.

The purpose of the German Museum Association's *Guidelines* is to make both the people in charge of collections and their funding bodies more aware of the ethical and moral aspects of handling human remains and to expand their knowledge of these issues. The special significance of these sensitive items requires a high level of responsibility and respect for the remains themselves as well as for descendants and for the communities from which the human remains originated.

A nuanced analysis of injustice

The concept of a “context of injustice” was already a core issue in the first edition of these *Guidelines*. One issue was the circumstances under which human remains became “available” and found their way into European collections and research institutions in such great numbers at a time when body donation, for example, did not yet exist. Another was how the use of violence facilitated this “availability” in the course of historical injustice.

To address these issues, it is important to examine the context in which the people whose remains are today held by museum and university collections met their deaths. The context in which the remains were collected or appropriated is another important factor. Both contexts could have been shaped by violence to a significant degree and/or have violated the wishes of the deceased and their surviving dependants as well as the social norms, customs, agreements or even laws of the community concerned. Examples of such circumstances include murder; death in the course of political, religious or ethnic persecution; grave robbery; extortion; and coercion to surrender human remains.

To define such contexts of injustice more closely, the Working Group of the German Museums Association developed several highly specific case groups and limitations in 2013. These were subsequently discussed in detail, accepted by some and criticised by others.² As a concept, the “context of injustice” provided important impulses for ethically aware museum practice, and it has since then also come into use in discussions about collections from colonial contexts.³ At the same time, the criticisms that were put forward made it clear that the concept needed a broader definition as well as more detailed elucidation and classification. The present revised edition of the *Guidelines* supplies both of these things. The question of whether there is a context of injustice plays a crucial role in all the chapters of the catalogue of questions because it is a crucial dimension of all aspects of care of human remains.

2 See the articles in Förster and Fründt 2017.

3 German Museums Association 2021, pp. 82f.

A practical aid

The introductory remarks begin by defining the addressees and fundamental concepts. Subsequently, the practical guidance answers relevant questions concerning human remains in the context of the museums' main tasks – collecting, preserving, researching, exhibiting and educating as well as repatriation. However, we should like to note that it is impossible to make universal statements about when it is appropriate to return human remains, precisely because the individual cases are so heterogeneous. Collections are urged to assess each individual case transparently within its own context.

Diverse approaches

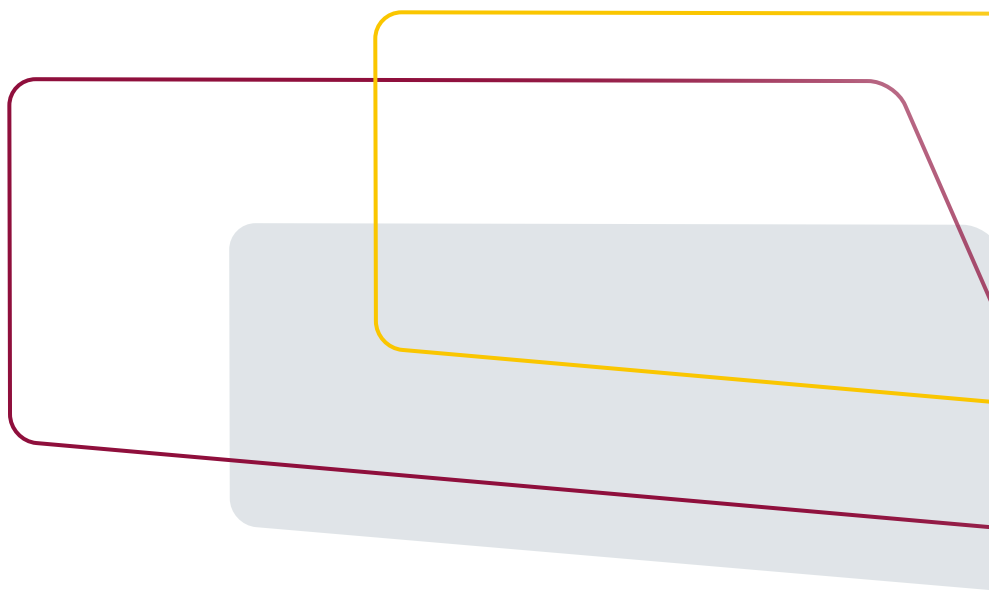
The study of human remains is the province of a number of academic disciplines, all of which are relevant for everyday work with these collection items. However, not all of them feature equally in the training of museum and collection workers. For this reason, the *Guidelines* offer background information from various specialist disciplines. The contributions by archaeologists, biological anthropologists, ethnologists and legal scholars provide an overview of relevant questions concerning human remains in each field. The legal chapter provides a detailed discussion of the legal aspects of repatriation issues. These four chapters are bookended by an overview of the origin and significance of collections of human remains in Europe and a contribution about ethical principles.

International perspectives

A fundamental role is also played by the perspectives of the countries and communities of origin, which highlight the special significance of these sensitive collections. For this reason, the *Guidelines* include contributions by international experts from Australia, Hawai'i and Namibia, which explain the significance of the deceased in various communities of origin. Additionally, they illustrate efforts and experiences with repatriations of human remains as well as the procedures they have followed.

Working Group of the German Museums Association

The *Guidelines* were revised by a newly formed interdisciplinary Working Group of the German Museums Association consisting of ethnologists, archaeologists, anthropologists, medical historians, cultural experts, conservators, legal experts and ethicists. The members of the Working Group are available for consultation about specialist questions and can provide advice for dealing with conflicts. Their names and contact details can be found at the end of this publication.





ADDRESSEES AND TERMINOLOGY

WHO ARE THE GUIDELINES ADDRESSED TO?

These *Guidelines* are intended primarily for museums and universities in Germany that hold collections of human remains, in particular ethnological museums and collections, natural history museums, history museums, archaeological museums, folklore museums, museums of cultural history, local history museums, and pathological anatomy, forensic and biological-anthropological museums and collections. In the following we refer to these as “museums and collections”.

The *Guidelines* are *not* intended for

- ▶ sacred spaces and burial sites such as churches, chapels and crypts,
- ▶ medical tissue banks,
- ▶ medical autopsy institutions.

Some German federal states have legal provisions regulating the activity of these institutions.

HOW DO THE GUIDELINES DEFINE HUMAN REMAINS?

For the purpose of these *Guidelines* human remains are defined as all physical remains attributable to the biological species *Homo sapiens*.

They include

*all untreated, treated and preserved forms of human bodies or body parts. These include in particular bones, mummies, bog bodies, soft tissue, organs, tissue sections, embryos, foetuses, skin, hair, fingernails, toenails and teeth (in the last five cases also those originating from living people) as well as cremated remains.*⁴

4 In archaeology, cremated remains are narrowly defined as fragmented, anorganic remains (bones, teeth) of a cremated corpse, in some cases mixed with ash and earth.

They also include

human remains as defined above that have been deliberately incorporated into (ritual) objects, in particular hair, toe- and fingernails, and bones or parts thereof.⁵

They do not include

moulds of human bodies or body parts, death masks, recordings of human voices, anthropological photographs, anthropometric data sheets, film recordings, (ritual) objects formerly associated with human remains such as grave goods.

Although these *Guidelines* exclude the aforementioned objects, one should nonetheless be aware that these are culturally sensitive collections that may be just as important to communities of origin or descendants as human remains themselves.⁶

In the case of moulds of bodies or body parts, particles of skin or hair may remain in the moulding material. This means that moulds might contain genetic traces. In addition, a picture or voice (whether of a living or dead person) may be regarded as inseparable from that person and thus be of special significance to descendants or to the community of origin.

5 Especially when incorporated into (ritual) objects human remains are not always easily identifiable as such. As a rule, no information is recorded about which individual these remains came from. Nevertheless, this category of human remains may be of equal significance to descendants and to the community of origin as other categories and have a high status in their culture of remembrance.

6 Thus, for example, the Native American Grave Protection Act (NAGPRA) pays heed to the special significance of grave goods of Native Americans (USA) for the community of origin just as it does with respect to human remains, ritual objects and cultural heritage objects.

The creation of anthropological/anthropometric recordings, moulds and measurements may run entirely counter to the values held by individuals or communities both in the past and today. In colonial contexts⁷ these recordings were in some cases made using force or violence. In the case of moulds, some portrayed individuals were compelled to endure humiliating practices, such as being forced to expose their head or their body. What is more, these data and moulds were also used to underpin Europeans' eclectic ideas of their own superiority, which culminated in the racial theories of the nineteenth and twentieth centuries.⁸ The degradation of people to the status of mere "objects", in combination with the use of designations such as "primitive", "savage" or "uncivilised", may today still be a component of collective memory in communities of origin and form the basis for reservation or mistrust towards museums and collections.

The guidelines on *Care of Collections from Colonial Contexts* provide more information on this.⁹

WHAT IS THE GEOGRAPHICAL SCOPE AND TIMEFRAME OF THE GUIDELINES?

These Guidelines cover human remains originating from anywhere in the world and from different chronological horizons. The Guidelines do not define any geographical or time limits. They apply fundamentally to all human remains in museums and collections, irrespective of origin or age.

Those responsible for museums and collections should always be aware that there may be individuals or communities who perceive themselves as the descendants of the deceased. In some cases, genealogical assignment may still be possible.¹⁰ This means that third-party interests are always involved, requiring a respectful and sensitive response.

Memories of a deceased person may be preserved by a community for differing lengths of time and may form a fixed component of a shared identity over many generations.

7 The term colonial contexts is understood as circumstances and processes that have their roots either in formal colonial rule or in colonial structures going beyond formal colonial rule. They are characterised by unequal power relationships and an assumption by the rulers that they are culturally superior. In such periods, structures based on major inequalities in political power both between and within states or other political entities may have given rise to networks and practices that supported the collecting and acquisition practices of European museums (German Museums Association 2021).

8 See, for example, Geulen 2016.

9 German Museums Association 2021.

10 Genealogical assignment via DNA analyses can as a rule only be conducted on individuals who died less than 125 years ago. Ancestral traditions, family trees or special family circumstances (such as clusters of hereditary diseases) may in some cases allow genealogy to be traced back further than this.

In such communities, the traditional rights and obligations of guardians as well as shared ideas about where the mortal remains of ancestors should be kept may be part of the mourning tradition and of attitudes about how to treat human remains.

There should also be an awareness that memories of injustices committed, especially group persecution and genocide, remain alive within a community or country of origin for an indeterminate period of time or may re-enter awareness and hence public debate. This also has an influence on discussions about the care of human remains in museums and collections.

WHAT IS UNDERSTOOD BY THE TERM „COMMUNITY OF ORIGIN“?

The term “community of origin” refers to the community to which the deceased previously belonged or to which they – and usually their family as well – perceived themselves as belonging. Communities of origin are often groups at a sub-state level, such as ethnic or Indigenous communities.¹¹ Today, as in the past, such social groups may be heterogeneous; a sense of belonging to the group can be derived from shared knowledge and values as well as shared practices and life circumstances, but also from shared interests – rather than just from a shared language and ethnic/cultural origin. This also applies to those who see themselves as the descendants of a community of origin in the sense described above.

Nowadays, scholars regard ethnic affiliation and culture as being situatively rather than deterministically constructed.¹² Both are subject to situative and often strategic negotiation. Who is considered to belong to an ethnic unit¹³ and who is not, which cultural elements or clusters are considered as “own” and which as “other” are issues that are subject to a continuous process of negotiation as well as the actors’ classification of self and other.

11 The term “Indigenous” is not uncontroversial, but these days has positive connotations: thus, it is used in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) as it is by actors positioning themselves as representatives of Indigenous people in opposition to the surrounding majority societies. For this reason, we will use it here (for more detail on this see Fründt and Förster 2021).

12 First pinpointed by the work of Shirokogorov (1920) and Barth (1969).

13 Ethnicity/ethnic unit: a category of persons who – on the basis of ideology of a shared descent and culture – distinguish themselves from other pluralities of persons and/or who are regarded by others as different. Various cultural characteristics may serve as markers of these differences (cf. Thode-Arora 1999). Contemporary scholars’ view of this issue differs from the customary one held in the nineteenth century and until the 1960s in that it sees ethnic affiliation not as deterministically but as situatively constructed. As such, an ethnic unit differs from other communities, such as a sports club or a church community, through its emphasis on shared descent.

Assignment at the level of population genetics does not necessarily say anything about whether a person belongs to a particular community of origin. Rather, this requires dedicated historical and/or social/cultural anthropological research, ideally involving the self-classification of the person in question (although this happens extremely rarely in cases of deceased persons).

Communities of origin may have transferred the representation of their interests in whole or in part to the political organs and institutions of the state in which they are now integrated, but often this is not the case. Communities of origin should therefore not be regarded as identical to the superordinate state offices of the country of origin representing them and may sometimes be in conflict with these. In addition, a community of origin may itself be institutionally organised and have been granted the corresponding powers by the state in question (e.g., Native Americans in the United States, First Nations in Canada, Sami in the Nordic countries). Different interpretations of value systems, interpretational prerogatives and powers between the different actors and interest groups of a community of origin (such as the descendants and heirs, local artists and historians, staff of cultural institutions and political representatives) also harbour further potential for conflict.

The ethnicities or ethnic groups usually listed in the inventories of museums and collections primarily reflect European categorisations that were to some extent created by colonial practices. Ethnic categories of this kind often fail to take proper account of the complex and changing nature of historical and contemporary social identities between the conflicting attributions by the groups themselves and by others. This requires the same kind of cautious and critical approach as that applied to all historical sources – even if they are often the only existing reference points for identification.

WHAT ARE CONTEXTS OF INJUSTICE AND WHAT CONSEQUENCES DO THEY HAVE FOR MUSEUMS AND COLLECTIONS?

A context of injustice as an ethical-moral category

Analogous to the evaluation of any historical event, one of the key difficulties here is that while many of the historical circumstances under which human remains were acquired are today considered “no longer ethically acceptable”,¹⁴ it is nonetheless not easy to infer a legally effective claim or a legal obligation to release them, return them or bury them. Nevertheless, there are certain historical circumstances that warrant consequences for current museum and collection work, based on ethical-moral considerations.¹⁵ The term “context of injustice” in the sense used by these *Guidelines* is intended to sensitise people to the use of violence, abuse of power and violations of human rights that were committed when collections of human remains were acquired and assembled.

Injustice in different historical contexts

The term injustice is discussed with reference to various historical contexts in Germany, above all in connection with the Nazi period and the East German SED regime, but also, more recently, with respect to the period of colonial rule. These debates have culminated in calls to reappraise the history of public (and private) collections that were amassed or broken up during this time. Here special reference should be made to the Washington Principles and the *Stuttgarter Empfehlungen*.¹⁶

It is also possible that human remains were acquired by museums and collections by unjust means in historical periods or epochs other than the three mentioned above. Given the sheer range of different historical contexts in which human remains originated, were found or were appropriated, an evaluation that is as comprehensive as possible would seem in order.¹⁷

14 This is, for example, how it is formulated in the *Framework Principles for Dealing with Collections from Colonial Contexts* from 2019 (p. 2).

15 See “Ethical Principles”, pp. 110f.

16 Washington Principles on Nazi-Confiscated Art, 1998, <https://www.kulturgutverluste.de/Webs/EN/Foundation/Basic-principles/Washington-Principles/Index.html>; Arbeitskreis Menschliche Präparate in Sammlungen, 2003.

17 This may, for example, include cases where embryo or foetus specimens are prepared without the consent of the parents or where organs or body parts of deceased persons, such as prisoners or homeless people, are removed during an autopsy and conserved without the premortal consent of the person concerned.

It should include not only state-directed but also individual acts of violence against persons as well as the “posthumous” use of violence, such as the theft of corpses and bones from graves.

Injustice and human remains from colonial contexts

The origins of many European museums and collections¹⁸ together with the debate about the decolonialisation of European institutions makes the issue of colonial-era contexts of injustice especially poignant. Even if colonialism and colonisation themselves have to be seen as acts of historical injustice, this does not mean that every transaction involving objects and/or human remains that took place in a colonial context should be regarded as unjust per se.¹⁹

At least four different types of acquisition of human remains in colonial contexts can be distinguished:

- ▶ *Acquisitions that were carried out without the consent of the owners/guardians and/or descendants, such as grave robbery, theft and looting*
- ▶ *Acquisitions in which the donors were put under pressure or compulsion or where they acted out of desperation*
- ▶ *Acquisitions in which consent was given but not by the person entitled to give or refuse consent*
- ▶ *Acquisitions made by mutual consent*

Only in the last case can the acquisitions be potentially regarded as legitimate.

However, the question of consent is not always easy to clarify, and an evaluation is especially important if the acquisition took place in a colonial situation.

18 See “The Origins and Significance of Collections of Human Remains in Europe”, pp. 60f.

19 On the definition of colonial contexts see footnote 7.

Cases in which the question of consent must be examined more closely

*The human remains originate from an individual who has **migrated** or was **abducted** or **taken prisoner**.*

*Human remains that were **customarily further treated** in the community or country of origin – for example, by being integrated into (ritual) objects.*

*Human remains (such as hair) that were **separated from the body during the person's lifetime** and could therefore also be voluntarily passed on by the owner.*

If the human remains originate from an individual who has migrated or was abducted or taken prisoner, relatives or descendants would need to be sought outside the community in which the person lived, died and was buried and from which their mortal remains were given away or possibly even traded.

Examples include head-hunting and trophy skulls as well as scalps from both North and South America – also *toi moko* (mummified, tattooed heads) from New Zealand, which in some cases were produced expressly for trade with Europeans. Here it is important to focus on the broader socio-historical context, i.e., on “victims” and “perpetrators” or rival communities. In New Zealand, returning *toi moko* is used as a way of trying to atone for “inner-community” injustice.

Examples of human remains that were customarily further treated in the community or country of origin – for instance, by being integrated into (ritual) objects – are the skulls of deceased ancestors in Papua New Guinea in the nineteenth and early twentieth centuries. These skulls were often over-modelled and preserved as ancestor skulls.²⁰ In Tibet, flutes were made out of human bones and subsequently used in rituals. Neither over-modelled ancestor skulls nor bone flutes of the kind frequently found in ethnological museums and collections stem from a context of violence or injustice. In such cases the acquisition contexts should nonetheless be examined by the museum or collection.

Examples of human remains that were separated from the body during the person’s lifetime and could therefore also be voluntarily passed on by the owner are the Biedermeier-style decorative pieces made of plaited hair which are familiar from the European context. In Polynesia too (e.g., on the island of Niue), hair was incorporated into artfully woven fans as a memento of a beloved person and given as a gift to respected persons, including Europeans.

Even if human remains of that kind are deemed neither to be of colonial origin nor to have been unlawfully acquired, a critical examination of the significance, purpose and appropriateness of the preservation and display of these kinds of human remains would seem fitting,²¹ for example in order to avoid labelling certain cultural practices as exotic or scandalous.

20 One should be aware that not all over-modelled skulls from Papua New Guinea are ancestor skulls, since some skulls from head-hunting trophies were also over-modelled. These cases need to be examined individually in a cultural and historical context.

21 Cf. the Tamaki Makau-rau Accord on the Display of Human Remains and Sacred Objects of the World Archaeological Congress 2005, accessible at: <https://worldarch.org/code-of-ethics/>

We should bear in mind that colonial injustice and its present repercussions as well as the options for and limitations of “redress” are often discussed differently in communities and countries of origin than they are in Germany. Debates about how to deal with human remains and about their repatriation are often closely connected with questions of prestige, political inclusion and access to land and ancestral graves. For this reason, they often reflect multiple perspectives and can on occasion be controversial. That said, dialogue with external actors in particular should be regarded as an opportunity to make museums and collections the focus of (self-) critical transcultural dialogue. Reaching an understanding about how to deal with human remains from colonial contexts is central to the process of decolonisation in research and collecting institutions.²²

Conclusion

The term “context of injustice” is relevant to all aspects of the work of museums and collections, including the curation of exhibitions; it is particularly relevant for the question of whether human remains should continue to be preserved in museums and collections or returned. Any indication of a possible context of injustice should therefore certainly be closely scrutinised. The circumstances under which museums and collections acquired their holdings should be documented, discussed and evaluated in the light of today’s ethical standards.

The Working Group regards establishing a historical context of injustice as a clear criterion that warrants proactively offering to return human remains to descendants of the deceased where it is possible to find them or else to those potentially authorised to decide what to do with them.²³ At the same time, a return may be considered even where no context of injustice has been ascertained, for instance as an acknowledgement of the fact that the human remains or the objects that contain them are of special significance for those who wish to have them returned.²⁴

22 Cf. the contributions from Australia, Hawai’i and Namibia, pp. 120f.

23 Those authorised to care for the dead (to use terms from the current context) need not be descendants in the biological or genetic sense of the word but can also be socially related or culturally affiliated individuals and groups (cf. Pickering, in Förster and Fründt 2017, p. 27).

24 See also “Ethical Principles”, pp. 110f.; “Legal Principles”, pp. 96f.; „Practical Guidance: Repatriation“, pp. 45f. as well as the relevant chapters from the guidelines *Care of Collections from Colonial Contexts* (German Museums Association 2021).



Practical Guidance

RECOMMENDATIONS FOR CARE OF HUMAN REMAINS

GENERAL RECOMMENDATIONS

Owing to the huge heterogeneity of human remains and the complexity of the questions associated with them, it is almost impossible to provide answers that are valid in every case. In particular, evaluating (ritual) objects into which human remains have been integrated can be difficult. Whenever human remains are mentioned in the following recommendations, these kinds of objects are always included unless otherwise noted.²⁵

The *ICOM Code of Ethics for Museums*, published by the International Council of Museums, forms the basis for working with human remains and (ritual) objects into which they have been integrated.²⁶

Wherever possible, all tasks should be carried out by appropriately trained professionals²⁷ who should show respect for the human remains, their history and possible descendants and/or the community of origin. It is generally recommended that those responsible should follow ethical guidelines when caring for human remains. Those responsible for museums or collections must define their own standards that meet preservation and ethical criteria for handling human remains, and they should communicate these standards transparently. The *Guidelines* are intended to support this process.

Museums and collections have a duty of care towards their staff and visitors. Their approach to human remains is subject to the comprehensive health and safety regulations that apply to museums and collections generally. One further consideration is that staff who work directly on and with human remains may suffer emotional stress for cultural, religious or personal reasons. In such cases, the museum or collection should provide support to ensure the wellbeing of their staff (e.g., naming a contact person they can approach, discussing the matter with other colleagues in the field or sharing tasks between more than one member of staff).²⁸

How individuals and groups deal with death and what the deceased means to them is a highly personal matter and is based on their own ethical beliefs and worldviews. When it comes to storing, studying and displaying human remains, both culture- and science-based worldviews and value systems may vary widely. The bottom line is that in order to avoid a particular viewpoint being able to claim precedence or be given priority such views and value systems should never be directly compared.

25 See the definition of “human remains”, p. 12f.

26 ICOM 2017; supplemented by UNESCO/ICOM 2004.

27 See also German Museums Association 2006.

28 See Chapter 3.5 on the duty of care, “Fürsorgepflicht”, Fuchs et al. 2020, pp. 14–16.

One factor to be considered is that within communities of origin²⁹ there can be differing or even conflicting interpretations and varying degrees of specialist knowledge about human remains as well as a range of societal attitudes (e.g., traditionalists versus modernisers). The debates taking place in communities may also change over time.³⁰

Legally speaking, authorisation does not need to be given by representatives of the community of origin or descendants in order to collect, preserve, research or exhibit human remains (the exception being specimens which are yet to be prepared, e.g., in pathological anatomy collections³¹). Handling human remains does, however, warrant an ethical approach. We should emphasise here that the overwhelming majority of historical collections do not have consent from the deceased as prescribed by research ethics today. This implies an ethical obligation to work together with surviving relatives or representatives of the communities of origin as much as possible. It is thus advisable to make collections of human remains public to ensure that descendants, representatives of the communities of origin and other interested groups can access them, and to initiate a dialogue about a joint approach to addressing how human remains were handled in the past and how they should be handled in the future.

Generally speaking, a transparent communication strategy is to be recommended when it comes to human remains held by museums or collections. There should be a prompt, considerate and respectful response to reactions, enquiries and criticism in connection with human remains in collections.

29 See the explanation of the term “community of origin”, pp. 15f.

30 Examples of non-European perspectives are provided in the contributions from Australia, Hawai‘i and Namibia, pp. 120f.

31 Evidence must be provided that the deceased person has consented to preparation, presentation and research. In some German states, relatives can also give the necessary consent if the deceased has not expressed an opinion during their lifetime.

COLLECTING

Collecting human remains for research and display purposes originated as a practice in Western Europe.³² Caring for human remains in this manner is by and large socially accepted as long as it adheres to ethical standards that observe human dignity, respect, appropriateness and the voluntary principle. Nonetheless, human remains must never be reduced to their relevance for science. Moreover, the context in which they were acquired must be investigated and evaluated on a case-by-case basis.

Those responsible for museums and collections should be aware that human remains are always sensitive items. Museums and collections are currently being subjected to societal and political criticism for holding human remains, especially those acquired from colonial contexts, during the Nazi era or under the East German SED regime.

In legal terms, human remains stored in museums and collections in Germany are generally regarded as property that can be acquired or transferred.³³ When caring for human remains, museums and collections should give equal consideration to ethical aspects alongside legal provisions.



Which criteria should be applied for new acquisitions?

Human remains can be taken over or acquired from other museums and collections or donors if,³⁴

- ▶ collecting human remains is part of the collection's policy,
- ▶ the provenance has been determined as carefully as possible,
- ▶ there are no indications of a context of injustice³⁵ and the donor has given credible assurance that they are not aware of any such indications,
- ▶ where relevant, evidence is provided confirming that the human remains were legally exported from another country,
- ▶ its relevance for the museum or collection can be justified.

32 See "The Origins and Significance of Collections of Human Remains in Europe", pp. 60f.

33 The legal situation is covered in detail in the section "Legal Provisions", pp. 96f.

34 Cf. point 2.5, p. 10, ICOM, *Code of Ethics for Museums* 2017: "Collections of human remains [...] should be acquired only if they can be housed securely and cared for respectfully. This must be accomplished in a manner consistent with professional standards and the interests and beliefs of the community, ethnic or religious groups from which the object originated, where these are known."

35 See "Context of Injustice", pp. 17f.

In the case of specimens which are to be prepared for the first time in anatomical pathology collections, the deceased or their relatives must have consented to the preparation, collection and, if relevant, public display.



What needs to be considered if the provenance is incomplete or undetermined?

In cases where the provenance of human remains in museums and collections is incomplete or undetermined, rectifying this situation promptly should be a high priority. A knowledge of the origins, the former owners and the conditions under which human remains were acquired helps ensure that they are treated in a responsible and appropriate manner.

How a museum or collection should proceed in cases of incomplete or dubious provenance is at the discretion of the institution in question. Accessioning human remains that definitely or almost certainly came from a context of injustice (e.g., remains from grave robberies, executions and genocides – particularly from colonial contexts or from the Nazi era)³⁶ should be rejected for ethical reasons. Such human remains should only be accessioned in exceptional cases, namely, if the sole motivation is subsequently to repatriate the remains or actively seek out potential claimants, and if this provenance research does not otherwise hinder the museum or collection in its ability to carry out its other work.



Can human remains be transferred from the collection of one institution to another by a proactive deaccession process?

Generally speaking, museums and collections should retain their holdings. However, each institution can refer to its own guidelines and collecting policy in coming to a decision about whether human remains should continue to be held in the collection or not. The criteria for making the decision and the procedure followed should always be documented.

Reasons for deaccessioning could be:

- ▶ The human remains are not/no longer consistent with the collecting policy.
- ▶ It is impossible to guarantee in the long term that the remains can be stored in a manner that is ethically appropriate and conservationally sound.



A detailed overview of the general process of deaccessioning collections is given in the guidelines *Nachhaltiges Sammeln: Ein Leitfaden zum Sammeln und Abgeben von Museumsgut* published by the German Museums Association (2011).

From a legal perspective, in light of the fact that museums and collections have different funding bodies, the ownership status of an item should be examined before it is deaccessioned. In all cases, a deaccession process has to be activated.

The institution which is prepared to accession the transferred human remains should not be solely responsible for the quality of the future home of the human remains. When a deaccession occurs, the deaccessioning institution should carefully check and evaluate the general conditions in the new institution. At the same time, a legally binding statement should be issued guaranteeing that either these conditions will be maintained or that appropriate storage will be provided. This statement should also contain a commitment by the new institution that the remains will be unconditionally returned if a context of injustice³⁷ subsequently becomes apparent that was hitherto unknown.³⁸



What should be the procedure if the human remains are clearly associated with a context of injustice, but repatriation to direct descendants or the community of origin is not (currently) possible?

Human remains that cannot currently be repatriated should continue to be stored appropriately in the museum or collection; in some cases a deaccession to another institution could be considered (see above). Should the museum or collection be in contact with people who could potentially give authorisation, but the political situation or other conditions within the country of origin are not favourable for repatriation, any further steps should be discussed with these parties. If reliable information about descendants or the community of origin is not currently available, further research should be conducted that is commensurate with the museum or collection's available resources.

In certain cases, a burial could be considered.³⁹

37 See the explanation of "Context of Injustice", pp. 17f.

38 For remarks about autonomous repatriation to direct descendants, or a community or country of origin, see "Repatriation", pp. 45f.

39 For more detail about this, see Arbeitskreis Menschliche Präparate 2003.

PRESERVING

For the purposes of the *Guidelines*, preservation essentially covers prevention (preventive conservation), conservation, restoration, and documentation (condition reports, further documentation).⁴⁰

With respect to documentation as a component of condition reporting, there is some overlap with the field of research. This overlap also applies to the inventory process and to tasks such as digitisation and restoration.⁴¹ The *Guidelines* categorise these aspects under the heading “preserving”⁴² because all these processes begin with preservation.

The publication *Menschliche Überreste im Depot. Empfehlungen für Betreuung und Nutzung*⁴³ offers information on aspects such as storage conditions and the conservation of human remains as well as the ethical considerations pertaining to these aspects. The most important questions are answered briefly below:



How should access to collections be regulated?

Above and beyond security issues, every museum or collection holding human remains should establish special guidelines for access to them that take their specific properties and requirements into account. These should exist in written form, be authorised by the management of the museum or collection and state who should be given access to the human remains and for what purposes.

As far as possible, the guidelines should also take into account any restrictions arising from the significance and status of particular human remains for descendants and/or for the community of origin. Access to human remains may be the subject of conflicting views, requiring the museum or collection to take a clear position on the matter.

40 Preventive conservation serves to ensure the long-term preservation and maintenance of collection holdings; does not interfere with the actual substance; identifies, averts or reduces damaging influences/factors. Conservation constitutes an intervention, albeit only to the extent required to guarantee preservation without changing the existing appearance or function. Restoration denotes measures that go beyond conservation; interventions in the original substance undertaken to restore the holding's effect to an appropriate extent and to render its form and function visible; substantial matter is either removed (e.g., aged varnish) or added (e.g., fillings or reconstructions); see Funk 2016.

41 For example, when conducting material analyses.

42 In contrast, the recommendations *Standards für Museen* (German Museums Association 2006) categorise documentation under the field of research.

43 Fuchs et al. 2020.





Which conservation standards must be met for an appropriate short- and/or long-term preservation of human remains?

To ensure appropriate storage conditions and long-term preservation of human remains, preventive conservation measures should be the first method of choice. Depending on the type and state of the human remains in question, other professionals (e.g., anatomists, anthropologists, archaeologists, chemists, ethnologists, historians, medical professionals and preparers of specimens) or indeed descendants and representatives of communities of origin should be consulted in drawing up policies for the care and preservation of human remains.

A detailed condition report⁴⁴ should provide the basis for creating appropriate preservation conditions that include preventive conservation standards regarding climate, light and illumination, harmful substances and material emissions, pests and microorganisms as well as measuring technology and monitoring. Generally stable climatic conditions with a maximum temperature of 18–20 °C, relative humidity of between 45 and 65 per cent and light conditions of < 200 Lux are recommended for human remains.⁴⁵

All materials that come into direct contact with human remains (such as packaging or labels) should be acid-free and should not contain any other harmful substances. They should also be resistant to aging, since human DNA and proteins, for example, can be destroyed by acid hydrolysis, which degrades wood and paper.

While detailed photo documentation can be helpful for assessing the condition of human remains and supporting subsequent monitoring, its use should be carefully considered on a case-by-case basis.⁴⁶



Which ethical aspects are important for the appropriate preservation of human remains?

When considering ethical aspects (e.g., taking into account the wishes of representatives of communities of origin) regarding the storage of human remains and (ritual) objects into which human remains have been deliberately incorporated, it may be appropriate to keep them in separate rooms.⁴⁷

44 See Chapter 4.7 “Zustandserfassung”, pp. 20ff., in Fuchs et al. 2020.

45 See Chapter 6.5 “Tabellarische Zusammenfassung Klima und Licht”, in Fuchs et al. 2020, p. 28.

46 See “Digitisation”, p. 33.

47 In the United States the National Park Service (NPS) has issued a *Museum Handbook* that devotes a section to the appropriation preservation of human remains and objects in the purview of NAGPRA. See NPS Museum Handbook, Part I: Museum Collections, Chapter 7, 2000, pp. 32f.

In practice, museums or collections may not have the facilities for keeping human remains separate from other holdings. Therefore, as a minimum, separate areas should be created for keeping human remains and (ritual) objects that mainly comprise human remains.

Clear identification of the rooms or areas of the collection containing human remains will protect visitors from involuntary encounters.

Particularly in the case of human remains of non-European origin, care should be taken to implement a respectful storage policy, since communities of origin may assign a different value to human remains and treat them in different ways compared to European societies. Restrictions on access and care ensuing from the significance of the human remains for their community of origin should, where known, be taken into account when working with and on the collections.

If these restrictions run counter to Western access regulations, the responsible staff in museums and collections should have a policy in place.

Interdisciplinary cooperation with representatives of the communities of origin and professional colleagues is recommended for the development of a preservation policy.

Natural history museums and collections, whose storage systems follow the zoological classification system, should likewise consider how to take account of the perspectives of non-European societies in the preservation of human remains. The responsible staff in museums and collections should be aware that practices such as the categorisation and labelling of collection holdings have their origins in Western museums and collections. Even today, they often reflect only Western European knowledge systems and classification principles. Here, new approaches can be developed in collaboration with representatives of communities of origin.



Which criteria should a basic inventory system comply with?

Fundamental information about documentation can be found in the *Leitfaden für die Dokumentation von Museumsobjekten* (2011) published by the German Museums Association.



In addition to the recommendations made there, a basic system for inventorying human remains should also include the following points:

- ▶ The inventory number should be attached in an invisible place (and should be removable).
- ▶ Individual parts of a skeleton should be clearly labelled using a standard labelling system.
- ▶ Research should be carried out into the acquisition context, other possible sources of information (names of persons or companies etc.), and the additional information archived.
- ▶ Condition reports (including all recognisable signs of prior [conservation] treatments) should be compiled; in individual cases photo documentation as part of the condition report should be considered.⁴⁸
- ▶ All findings should be documented in the collection management system (database).



Which criteria should comprehensive documentation satisfy?

Comprehensive documentation should include all findings, documents, sources, reports etc. pertaining to the human remains in question. Multilingual⁴⁹ labelling and wherever possible the inclusion of the name used by the community of origin (e.g., in the title of entry) is useful for (future) communication. Whereas descriptive documentation of human remains and research into other sources referring to this are unobjectionable, taking photographs should be discussed on a case-by-case basis according to ethical criteria. If any access and handling restrictions are known, these should also be noted.

The interpretive authority of the communities of origin should be respected as much as possible in the representation (e.g., photographs, scientific drawings) and description of human remains. Where ideas on these matters diverge, the museum or collection should have its own policy.

If no information is available at the relevant time or if no statements can be made on the matter, this must also be documented. All documentation and descriptions should use appropriate language when referring to human remains. This also applies to museums' and collections' own regulations for use. Objectifying or dehumanising human remains should be avoided.⁵⁰

48 See Chapter 4.7 "Zustandserfassung", in Fuchs et al. 2020, pp. 20ff.

49 German and English or German and French, with Spanish and Portuguese where appropriate; multilingual labelling is also sensible for geographical references.

50 See Chapter. 2.3.1 "Sprachgebrauch", in Fuchs et al. 2020, p. 9.

It may be sensible to take a critical look at old terminology in existing documentation and to come up with new terms where appropriate. The historical terms should, however, be preserved in the documentation and continue to be part of it, because in some cases these will be deeply rooted in the literature or in the museum or collection's own documentation and may therefore be important for classification.



What should digitisation take into account?

It is advisable to develop transparent standards for producing digital records of human remains. The sensitive status of these holdings should be noted in the database. Digital records should also comply with the general stipulations of the data protection regulations and personal image rights.⁵¹

The transfer of human remains into storable digital reproductions (e.g., by means not only of X-rays, MRT and 3D/4D scans but also photographs and drawings) should always be considered in a critical light, since imaging techniques for human remains do not always meet with unreserved acceptance. The knowledge gains should be weighed up against ethical criteria.



How should information about human remains in museums and collections be made accessible to the public?

In principle, museums and collections should adhere to the convention of transparency and not try to keep the history of their collections secret. Therefore, the existence of human remains in the collection (or the previous existence of human remains that have already been returned) should be transparently communicated. Open access to inventory lists or a collection database should be allowed where possible, since this will support the accessibility of the collections as well as dialogue with communities of origin and with colleagues.

Here a number of points should be observed:

- ▶ Museums and collections should carry out a critical assessment of whether freely accessible images, photographs or drawings of human remains might be discriminatory or might violate the rights of the individual or data protection standards and also whether the content could be used in a questionable manner. They should set out their own policy on this matter.

51 On this see "Leitfaden Universitätssammlungen und Urheberrecht" by the Koordinierungsstelle wissenschaftliche Universitätssammlungen (2015), https://wissenschaftliche-sammlungen.de/files/2815/7555/9408/HR_Leitfaden-Universitaetssammlungen-und-Urheberrecht_201912.pdf



- Historical inventory lists and archive material may contain terms that are considered unacceptable today, as well as false information. Online access platforms should highlight these issues and also point out the possible existence of images and/or descriptions of deceased persons.⁵²



Which criteria should active conservation and restoration satisfy?

The condition is the key aspect in deciding whether active conservation measures should be carried out.⁵³ Such measures are not routine with human remains and should therefore be carefully considered and discussed in advance.

In some acute cases, where there is a risk of losing the human remains in question, e.g., due to mechanical instability, it may be necessary to take active (stabilising) conservation measures (for an explanation of this term see FN 24) without the prior involvement of representatives of the community of origin. In addition, conservation measures should be appropriate to the human remains in question and involve the various stakeholders – descendants, representatives of the community of origin, and experts from various disciplines.



How should loans be regulated?

Like other collection holdings, human remains can be loaned for scientific or exhibition-related purposes to other institutions with the appropriate legal protection (via a loan contract) and providing that general standards are adhered to. The institution making the loan will check not only the general provisions but also whether the envisaged exhibition or research concept is compatible with ethical aspects and policy of the museum or collection on various methods of analysis (e.g., DNA or isotope analysis). The content, context and goal of the presentation or research, as well as the publication of the results must adhere to the established criteria and should not allow for discriminatory or stereotypical views. These agreements should be part of the loan contract.

Both the lending institution and the borrower are advised to ensure that the human remains on loan (with the exception of those loaned for provenance research purposes) do not originate from a context of injustice.

52 Some Australian cinema and television films as well as public libraries and archives carry disclaimers in their opening credits or on their website and in their brochures pointing out that the film or the collections and archive materials include visual and sound recordings of people who have since died. They do this because Torres Strait Islanders and certain Australian aboriginal groups find the mention or display of deceased persons offensive or taboo (e.g., the ATSILIRN Protocols for Aboriginal and Torres Strait Islander Collections).

53 See Chapter 7 "Orientierungen für eine aktive Konservierung und Restaurierung", in Fuchs et al. 2020, pp. 33ff.; Wills et al. 2014, pp. 49–73; Cassmann and Odegaard 2007, pp. 77–96.

RESEARCHING

Germany's Basic Law grants the freedom to conduct research. In the case of human remains, however, researchers must observe the principles of scientific ethics and their responsibility to communities of origin and/or descendants. Ideally, research will be conducted as a collaborative undertaking with the community of origin. The museum or collection should be aware that research may lead to contradictory results and conflicts. Projects and their potential findings should therefore be discussed and documented in advance with authorised representatives of the community of origin.



Which research approaches may be relevant?

Quite apart from the sheer diversity of collections, research concerning human remains also differs widely. Roughly speaking, the spectrum ranges from projects seeking generally applicable findings – for example, research into historical archaeology or anthropological research into questions about human evolution – to research into individual cases, such as provenance or conservation research⁵⁴ in museums and collections or the forensic investigation of individual finds.

Thus, research into human remains offers both scientists and the public the opportunity to gain new knowledge in the fields of anthropology, archaeology, forensic science, medicine, palaeopathology, conservation, the history of science and cultural and social issues.



Which methods can be used to examine human remains?

The methods used to examine human remains depend on the research aim and the line of enquiry. Research methods from either the humanities or the sciences can be used, or a combination of the two.

The background section on “Ways of Analysing Human Remains” (pp. 75f.) offers a detailed account of scientific methods for analysing human hard tissue (bones, teeth).

54 Conservation research uses various methods and also overlaps with other kinds of research. It includes research on materiality and on changes in human remains. As such, it serves the preservation of human remains and also answers questions about conservation – for example, which methods of conservation were used historically or what kind of restoration was done.



In the following, the main research methods are briefly outlined:

Source analysis

Research into and analysis of various sources and a critical evaluation thereof are fundamental to historical provenance research.⁵⁵ Starting with the museum or collection's own sources (e.g., entry and inventory books, accompanying documentation, catalogues and correspondence) it is advisable systematically to expand research to include other archives and databases (both national and international). In addition, the knowledge and expertise of people from countries or communities of origin are not only an important resource but also provide a fundamental perspective on human remains as well as a starting point for transnational collaboration in provenance research.

Contextual analysis

Contextual analysis looks at the different cultural, regional, linguistic and historical backgrounds. For certain stages of provenance – for instance, those preceding the acquisition of human remains by Europeans – social/cultural anthropological methods and oral history can be important. Contextual research can provide insights into such questions as whether at a given place and a given time it was a customary cultural practice to integrate human remains into (ritual) objects, or whether animal bones were generally used for this purpose and it is therefore unlikely that the object contains human remains.⁵⁶

Imaging techniques

Imaging techniques that do not involve touching the human remains or objects, such as X-rays, MRT or 3/4D scans, are non-invasive, non-destructive methods and therefore should be given preference over invasive methods in order to preserve the integrity of the human remains and as a sign of respect for the concerns of various communities of origin, although even these methods do not always encounter unreserved acceptance.⁵⁷ For this reason the knowledge to be gained from using imaging methods should always be critically assessed.⁵⁸

55 For more details on this see Thode-Arora and Fine, in German Museums Association 2021, pp. 153–158 and the Chapter “Research” in German Museums Association 2021, pp. 64–68.

56 Social and cultural anthropological approaches are discussed in more detail in the section beginning on p. 88.

57 Torres Strait Islanders and certain Australian aboriginal groups may regard the mention or the depiction of the deceased as offensive or even taboo (see, for example, the ATSIILRN Protocols for Aboriginal and Torres Strait Islander Collections; NITV, “Indigenous cultural protocols: what the media needs to do when depicting deceased persons”).

58 Cf. Chapter 3.2 “Regelung invasiver und nichtinvasiver Untersuchungen”, in Fuchs et al. 2020, p. 11; Cassmann and Odegaard 2007, pp. 49–76.

Invasive techniques

Invasive techniques, which are thus in some cases destructive, such as microscope analysis (if ground specimens of bones or teeth have to be prepared for this purpose), DNA analysis or isotope measurements can provide answers to questions of provenance, materiality or other lines of enquiry.⁵⁹ Before deciding to use any of these techniques, researchers should always ask themselves whether the knowledge gained justifies the extraction of samples or specimens. The techniques will not always be accepted without reservations, since they mean disturbing the peace of the dead and/or the relationship between ancestors and descendants.

Analytical methods for investigating human remains

Source analysis

Museum or collection's own sources, national and international archives and databases, knowledge and expertise of people from countries or communities of origin; provides fundamental perspectives

Contextual analysis

Ethnological methods and oral history; provides insights into specific cultural, regional, linguistic and historical circumstances

Imaging techniques

Non-invasive methods such as X-rays, MRT or 3/4D scan; preserve the integrity of the human remains

Invasive techniques

Microscope analysis, DNA analysis or isotope measurements; necessity of the intervention and gain in knowledge must be weighed up

59 See "Ways of Analysing Human Remains", pp. 75f.





What is the significance of provenance research?

Essentially, provenance research should not only be conducted once a request for repatriation has been received. Ideally, it should be carried out proactively as a regular part of the museum or collection's professional work and should be a priority in any scientific or conservational treatment of human remains. Rather than being a conclusive clarification method, provenance research is a process, which in many cases, especially where there are gaps in the documentation or in any information that has been passed on, can only yield preliminary results. Its goal is to obtain as complete information as possible about the source, origin and context of acquisition.

The publication *Interdisziplinäre Provenienzforschung zu menschlichen Überresten aus kolonialen Kontexten*⁶⁰ provides a comprehensive guide to provenance research. The methods described there focus on untreated human remains from colonial contexts, but they are also useful for other contexts. This practical guide includes information such as detailed explanations of historical provenance research and transnational cooperation projects, and addresses the question of how results from historical and biological-anthropological research can be combined and integrated.

Fundamentally, provenance research should give preference to methods from the humanities and to non-invasive scientific methods (see imaging methods, above). But there may be cases where invasive methods such as genetic or isotope research can help to narrow down possible communities of origin or to clarify whether (ritual) objects contain human remains.



Which aspects should be considered before commencing research?

Research into human remains adheres to the general ethical standards for science. In some communities of origin, however, research on human remains is not part of their worldview or values system. Therefore, before starting any project researchers should be familiar with the original context, the people who actually collected the remains, the practices and circumstances of collecting the human remains and the oral history connected with them relevant to the research project – or else they should first clarify these via historical provenance research. This applies to all human remains whatever their origin.

⁶⁰ Winkelman, Stoecker, Fründt and Förster, in press.

Particularly in the case of human remains of non-European origin, researchers should be au fait with the current cultural, social and political situation in the community of origin as well as with the relationship of the community to the state officially representing them, in order, where appropriate, to jointly define special framework conditions for possible research work and to reach these by mutual agreement.

Researchers should take care not to have preconceived opinions about the questions and goals underlying their research and to present the research findings in a neutral and unprejudiced way so as to avoid providing a basis for discriminatory interpretations. The potential gain in knowledge to be yielded by the planned investigation should also be evaluated according to strict and transparent criteria that respect the worldviews and value systems of those involved and include ethical considerations. Responsibility for this lies essentially with the museum or collection holding the human remains that are to form the subject of the research. Ideally, researchers will be able to plan and conduct their projects in cooperation with representatives of the community of origin. The decision-making processes should be documented in a transparent way.

Research on human remains beyond the field of provenance research should only be undertaken if:

- ▶ there is an overriding scientific interest in doing so,
- ▶ the provenance has been clarified and
- ▶ the historical context in which the human remains were acquired is unproblematic or authorised representatives of the community of origin have given their consent.



Is the age of human remains significant for research?

Human remains from all epochs can yield new answers to a variety of research questions. Depending on the line of enquiry, the age of the human remains is critical for locating them on a timescale. It should be borne in mind, however, that communities or countries from which the human remains originate may be averse to research being conducted on them irrespective of their age.





Are there circumstances that categorically rule out research?

Once it has been ascertained beyond doubt that human remains preserved in a museum or collection originate from a context of injustice,⁶¹ any further research on or involving these human remains should be undertaken only with the unequivocal consent of the descendants or authorised representatives of the community of origin. If a context of injustice is suspected, intensive research should first be conducted to clarify the provenance before any other research can be pursued.

Particularly with respect to human remains from graves, researchers should bear in mind that graves have been opened and human remains removed throughout history and in some cases the removed human remains have been traded – a practice that was not considered unjust at the time that it occurred. In some cases, values have changed in the respective community or country of origin, and consequently events that took place in the distant past are seen in a different light today. In such cases it is advisable to enter into a dialogue with those concerned.

In the case of human remains still in the possession of the museum or collection but which have already been deaccessioned, any further research should be conducted solely in consultation with the new owners. The same applies to human remains about which repatriation negotiations are still in progress. Research without consultation should similarly not be conducted into human remains where future repatriation (either as a result of a proactive offer on the part of the museum or collection, or following a request from the community or country of origin) seems highly likely according to the current state of information. (The only exception to this is provenance research.)



How should researchers proceed if the community of origin cannot be ascertained with any certainty?

If the currently available methods do not succeed in attributing human remains with any certainty to a particular community of origin,⁶² those remains should remain in the inventory but be removed from the holdings available for research. After all, the lack of reliable attribution means that it is neither possible to conduct meaningful provenance research nor can a context of injustice be ruled out.

61 See "Context of Injustice", pp. 17f.

62 For an explanation of the term "community of origin", see p. 15.

Insofar as a definitive provenance analysis is not possible, the museum or collection should make efforts to preserve the human remains in a suitable manner, in order to be able to potentially clarify provenance using analysis and research methods that may become available in the future.



What needs to be taken into account when publishing findings?

Museums and collections are encouraged to share research findings about human remains with third parties in order to promote dialogue with other institutions. The accessibility of the findings for the community of origin should be taken into account when considering a publication policy.

Museums and collections should at the same time be aware that the publication of findings about human remains may in some cases be a source of tension with the Indigenous parties involved, especially when there are conflicting interpretations between them.

The visual portrayal of human remains in publications should always be critically evaluated. Some communities of origin reject images or descriptions of deceased persons. If there is any doubt, it is better to refrain from publishing an image. It may be advisable to warn readers at the beginning of a publication that it contains descriptions or depictions of deceased persons. Museums and collections should be aware of their data and personal protection obligations and take these into account where applicable.

The question of who has copyright of the joint findings of provenance research and of publications undertaken together with representatives of the community of origin should be borne in mind.



EXHIBITING AND EDUCATING

People's reasons for visiting exhibitions, their pre-existing attitude about the presentation and what they take away from it is something museums and public collections can influence very little. For this reason, it is impossible to rule out that human remains (especially those that are recognisable as such) may trigger some level of emotional response, and this should be taken into account as a matter of principle when planning exhibitions.

? Should human remains be put on display?

The presentation of human remains in European museums and collections has enjoyed widespread cultural and societal acceptance for a very long time, both among the public and in scientific and academic communities.⁶³ Yet there is a possibility that displaying human remains may touch on the feelings and sensibilities of third parties, especially when a direct relationship to them cannot be ruled out.

The human remains housed in museums and collections vary enormously as do their origins and acquisition contexts, meaning that each case must be considered individually. Human remains should be exhibited only if unequivocal proof exists that they do not stem from a context of injustice.

? What curatorial aspects should be considered in a display?

The principle of combining sound science with appropriate aesthetics and a presentation that is acceptable from a conservation point of view applies just as much to the presentation of human remains as it does to any other type of exhibit.

The content, context and objectives of the presentation of human remains in exhibitions and collections should always be critically examined. The aims and benefits should be assessed on the basis of in-house guidelines and the exhibition concept. The decision to exhibit is always a curatorial one and it should be ethically sustainable and transparent. The views of communities of origin must also be respected. The exhibition curators may need to weigh up whether the scientific content could be communicated just as effectively without displaying the human remains.

63 See also "The Origins and Significance of Collections of Human Remains", pp. 60f.

Some communities of origin do not approve of publicly displaying mortal remains, parts thereof or indeed certain (ritual) objects. This fact must be taken into consideration at the conception stage of the exhibition and if necessary, an open dialogue on the issue conducted. With regard to the unrestricted viewing of human remains, the beliefs of the representatives of the community of origin must be respected – in certain communities, for example, access to and viewing human remains is restricted to particular groups (such as clan members or initiated males) or to specific situations (such as certain feasts of the dead or other rituals). Potentially conflicting ethical positions regarding the treatment of human remains and social attitudes to accessibility must be discussed and decisions made on a case-by-case basis.⁶⁴

For recently prepared specimens (e.g., in anatomical pathology collections) the consent of the deceased or of their relatives should have been obtained if these are to be displayed. Particularly in the case of historical specimens, the consent of the deceased person or their relatives regarding their public display or research on them is usually not available and may also conflict with the fundamental ethical understanding of the community of origin regarding the handling of the dead or the ancestors. Here, too, the museum or collection must make a decision that is ethically sustainable and transparent.



Which aspects pertaining to conservation need to be considered in exhibiting human remains?

Conservation is an important concern when considering how and whether to put human remains on display. Ensuring both a flawless presentation from a conservation point of view as well as safe transport to protect the human remains is an essential part of the exhibition process. Here the conservation status must be factored into the decision-making. A further criterion should be the overall appearance of the human remains. Aesthetic considerations can contribute to a dignified presentation. Conservation measures can also be used to create a particular “impression” of the human remains (e.g., that they are well cared for). Such matters should be discussed prior to the exhibition to determine what measures are appropriate.



How important is the age of the human remains for exhibitions and museum communication?

For the presentation of human remains and their use in teaching, temporal limitations with regard to their age are irrelevant.

Is it acceptable to use human remains for teaching purposes?

Many universities have assembled collections of human remains for teaching purposes and they are still used as such today.

Human remains that do not stem from a context of injustice should be accessible to students for educational purposes within specified parameters. This enables students to gain not only specialist experience and knowledge but also to understand and discuss ethical issues relating to research on human remains. Access guidelines should be defined to ensure they are handled with dignity.

How can visitors be sensitised to the special status of human remains?

Dignified and respectful educational and outreach work is an integral part of curating exhibitions in which human remains are displayed. Their presentation in exhibition and educational formats should avoid discrimination and clichés at all costs and actively counteract all such possibilities for interpretation. The guiding question here should be: How to sensitise visitors/the public to this particular collection item?

Every display of human remains should show respect towards the dead.

The special status of the human remains must be indicated in an appropriate manner, particularly if the human remains in the exhibition are recognisable as such (e.g., skulls, skeletons, mummies). This can take the form of text panels or the design of the space (positioning, lighting, colour). Human remains that may be difficult for the visitor to recognise as such (e.g., hair, finger- and toenails integrated in (ritual) objects) should also be presented sensitively and their meaning explained accordingly.

The museum education team should be sensitised to and trained in issues relating to exhibiting human remains. The staff members responsible should also be prepared for press inquiries about the human remains on display or in the collection.

REPATRIATION

The following section looks at the practical issues to be considered in individual cases relating to the repatriation of human remains. These individual cases may arise if persons, organisations or state bodies approach museums or collections with specific repatriation claims. Specific individual cases may also arise if museums or collections conclude that certain human remains in their care should no longer be kept in the collection and then have to decide what steps to take next.

The majority of requests for the repatriation of human remains involve a colonial context. To date, only in isolated cases have repatriation requests been made relating to human remains acquired by museums and collections in other, non-colonial (historical) contexts (e.g., requests sent to medical history collections concerning specimens prepared under the Nazi regime or in the GDR).⁶⁵

Claims for the repatriation of human remains present museums and collections with particular challenges. On the one hand, of course, collections must be preserved where possible, meaning that such claims require careful verification. On the other hand, the claimants' concerns are often highly emotional and sometimes include a spiritual aspect. This can have a great influence on the negotiations.

If the museum or collection concludes from its own research that a repatriation is due, it should not wait for a claim to be made but should proactively seek to initiate a dialogue with potentially eligible recipients, thereby signalling its willingness to repatriate the human remains.

There can be no uniform approaches or standards that apply to all cases – the potential parties and determining factors involved are simply too diverse.

Particularly in cases of repatriations involving a colonial context, foreign policy issues will always arise. The following section will therefore address general aspects that must be considered in all cases while also seeking to address a range of possible constellations.

65 See "Context of Injustice", pp. 17f.





What basic principles should be observed when handling cases of repatriation?

Since questions of how to deal with human remains touch on the core values of a community, particular sensitivity is required on the part of those responsible for a museum or collection when dealing with repatriation requests. This also applies when a museum or collection decides to approach potential recipients with an offer to repatriate human remains. It should be borne in mind that potential recipients may find themselves in a difficult situation due to religious and/or domestic political considerations, which will require time for internal clarification. Putting negotiation partners under any form of pressure must be avoided at all costs.

To ensure that proceedings move swiftly, decision-making responsibilities should be clarified as quickly as possible, and in cases where these do not lie with the museum or collection, the appropriate authorities should be involved.

The dialogue regarding the repatriation of human remains – whether with claimants who have themselves approached the museum or collection, or with negotiation partners whom the collection has identified – should therefore be characterised by the following points.

Mutual respect and communication on an equal footing

Professional and prompt verification of the claim



Transparency

An open approach to finding solutions

Mutual respect and communication on an equal footing

Museums and collections should indicate that they are open to discussion, that they take the matter seriously and that they will handle it with the necessary care. Different views on cultural, religious and scientific treatment of human remains must be taken into consideration and openly broached.

Transparency

If communication is not in written form, it should be carefully documented – for example, by taking minutes or making notes during telephone calls. These should be made available to both parties.

To ensure that the repatriation negotiations take place in an atmosphere of trust, it is critical to ensure as much transparency as possible to avoid misunderstandings on both sides. This applies initially of course to the relevant human remains in the respective collection and the documentation thereof. Access to these should be as broad as possible to prevent an impression arising that information is being withheld.

Furthermore, maximum transparency is also recommended with respect to procedural questions, and this should apply to both parties. Both parties should openly disclose all facts and circumstances that may be relevant to the repatriation. It is particularly important to clarify exactly which human remains are under discussion.

Checklist for ensuring that the repatriation procedure is transparent

- ✓ Early clarification of the relevant contact persons in the museum/ collection and also from the country or community of origin.
- ✓ Clarify decision-making responsibilities: who has the final say in cases of repatriation and on what basis, and who are the authorised recipients?
- ✓ Clarify the expectations of the negotiation partners: what steps are required of both parties to determine whether they have the authority to conduct the negotiations?
- ✓ Outline the expected timeframe.



Professional and prompt verification of the claim

The complex circumstances surrounding a repatriation and the issues involved demand that each case be individually assessed. The costs of the assessment should not prevent a repatriation claim or proactive repatriation offer from being processed promptly. Where possible, the funding bodies of the museums or collections, as owners of the collection holdings, should provide not only the financial resources but also the material resources needed to ensure that cases are processed swiftly without impeding the museum or collection in its work. This research work should be carried out as swiftly and as thoroughly as possible. At the same time, museums and collections should not allow themselves to be impelled into making overhasty decisions.

In each instance, there must be a careful investigation of the facts, taking into account the following aspects:

- ▶ The age of the human remains
- ▶ The origins and acquisition of the human remains (provenance)
- ▶ The legal status of the human remains in the museum or collection
- ▶ The scientific, educational and historical relevance of the human remains for the museum or collection
- ▶ Similar, completed or on-going settlement cases⁶⁶

To determine the facts on a case-by-case basis, experts (ethnologists, lawyers, medical professionals, anthropologists, ethics specialists etc.) should be consulted in instances where the necessary expertise is lacking in the respective institution.

An open approach to finding solutions

In negotiations about the future of specific human remains in the custody of museums and collections, it is important not to assume at the outset that the negotiation partners are seeking a repatriation or that this is the only possible outcome. In many cases the negotiation partners will indeed welcome a repatriation. But it cannot be the task of the museum or collection to take a unilateral decision on the issue. Rather, an agreement should be sought that takes into account the needs and wishes of the negotiation partner(s). There may be cases in which a claim for the repatriation of human remains is not initially made, because, for instance, the issue needs to be clarified locally first, because a repatriation would conflict with religious beliefs, or because the domestic situation does not permit it. In such cases, agreeing to put the human remains in special storage, or refraining from presenting them to the public are options for an initial understanding.

66 Practical examples of repatriations of human remains can be found in the E-Reader on the website of the German Museums Association.



Who are appropriate negotiation partners for repatriations?

Sometimes just identifying the appropriate negotiation partners can present a major challenge for museums and collections. Particularly with the repatriation of human remains from colonial contexts, there may not necessarily be a consensus in the countries of origin on who has the authority to conduct the negotiations. In each instance, however, both sides should actively contribute to clarifying the question of the appropriate negotiation partner by, for example, providing the relevant documents.

Of paramount importance here is the careful clarification of the provenance of the human remains, without which the question of the appropriate negotiation partners cannot be answered. Ideally, it will still be possible to determine the affiliation of the deceased to a certain group or family or even establish their identity.

It is hard to formulate any one clear overall guideline for determining the appropriate negotiation partners. The German Contact Point for Collections from Colonial Contexts⁶⁷ can potentially offer its support, as can other specialists in museums and collections. However, it is possible to give the following general advice:

Governments of countries of origin

If the claimant is a foreign state, it is necessary to clarify whether it is necessary to involve further states, for example because the community of origin in question is spread over several states, or the deceased was born in a different state. It is also necessary to clarify whether the state is (or is also) entitled to claim the human remains. In individual cases it may also be advisable to refrain from negotiating with a country of origin, or at least not only with a country of origin, about the return of specific human remains if the community of origin does not feel represented by the country in question. In such cases, support should be sought from the Foreign Ministry, since simply circumventing the state level could cause diplomatic frictions.

Officials from the countries of origin who are not government level

Museums and collections in Germany regularly receive repatriation claims from officials in the countries of origin who work at local government rather than national government level (e.g., mayors, governors or members of parliament). Here, too, there should be no direct dialogue without including or at least consulting the government of the respective state. In most countries, responsibility for foreign policy is the preserve of the national government.

67 The website can be found at <https://www.cp3c.org/> [04.01.2021].



In such cases, therefore, if the outcome of the negotiations is to have a lasting effect, it is important first to clarify in the respective country to what extent assignments with foreign policy implications may or should be carried out by officials outside government.

Organisations or interest groups from communities of origin

The question of whether an organisation or interest group representing a community of origin is the right contact partner will primarily arise with respect to non-European human remains, but it is highly pertinent here. Particularly in this case, careful provenance research is vitally important for clarifying whether the human remains indeed stem from a member of the group in question.

Direct negotiations with representatives of an organisation or interest group from a community of origin carry with them significant legal and political risks. Some of these groups may have affiliations and decision-making structures that cannot be clearly defined. Groups may have amalgamated or split over the course of time. In some cases, however, state-recognised representatives of communities of origin exist, who in some instances may even have a government mandate to oversee the repatriation of the mortal remains of their ancestors.⁶⁸ In such cases, negotiations with the representatives are likely to be unproblematic and useful. If a museum or collection decides to negotiate with the representatives of a community of origin without a formal mandate in place, considerable care must be taken to determine who within this group is authorised to make decisions.

In any case, it is advisable to request confirmation from the embassy of the respective country of origin that, from the government's perspective, nothing speaks against negotiations with the group in question. That way the museum or collection will be able to avoid becoming involved in domestic disputes.

Individuals

In practice, cases in which repatriations of human remains are negotiated with individuals are rather rare. Individuals may only be considered as negotiation partners if they are either legally responsible and authorised to care for the remains of the person in question or are the owners of the human remains.⁶⁹ In the case of human remains that cannot be subject to legal title, kinship must be clarified.

68 For example, the Native Americans in the US, the First Nations in Canada and the Sami in the Nordic countries. Examples of state or state-authorised organisations include the Office of Hawaiian Affairs (OHA) for Native Hawaiians in the US or the Museum of New Zealand Te Papa Tongarewa for the Māori and Moriori in New Zealand.

69 For an explanation of terms see "Legal Provisions", pp. 96f.

This is because persons authorised to care for the dead are generally relatives, irrespective of whether they qualify as heirs. In such cases, it will generally be important to consult the law of the country in which the deceased last lived.

Where the human remains may be considered the object of private rights and therefore not *res extra commercium* (i.e., capable of being owned in the narrower sense), ownership and/or legal succession (inheritance, purchase, donation, etc.) must be examined.

Within the European legal context, questions of ownership and responsibility for caring for the dead are generally determined by deeds, extracts from registers held at registry offices and probate courts or alternatively, church records. Museums and collections should ask the claimant to submit these documents, since this research may exceed their capacity. If a different legal and/or cultural understanding of relatives and family exists in the claimant's home country, the claimant should demonstrate and prove this. Anything may be used as proof of the relationship between members of the community of origin and the deceased person from whom the mortal remains originate (an affidavit, scientific literature, an expert's report, photographs etc.). If the museum or collection is unable to assess the quality of such evidence, it should seek external assistance.

In addition to proving his/her kinship or status as heir, the claimant should demonstrate that other living relatives or heirs have authorised him/her to act as representative. This will prevent the museum or collection from being drawn into a conflict within a group of authorised persons.

In the case of individual foreign claimants, the museum or collection should insist in cases of doubt that the respective German embassy legalise and certify the foreign documents (Sections 13 and 14 of the Consular Law).

In the absence of any proof of kinship or ownership, talks should be held with an individual only in very exceptional cases.

Other persons or organisations to involve

Since museums and collections have a variety of funding bodies, it is essential to carefully check ownership and decision-making powers in advance. If the museum or collection is not itself the owner or is not independently authorised to make decisions, the relevant funding body or owner should be involved as early in the proceedings as possible.



An agreement must be reached with the funding body responsible for the museum or collection on whether and how to inform the competent specialist authority of the respective German federal state, if such an authority exists.

Likewise, in most cases that involve foreign claimants or repatriations with a foreign connection, the Federal Foreign Office (Cultural Department, Department for the Protection of Cultural Property and Repatriation Issues) should also be informed as early as possible in consultation with the responsible funding body. The Federal Foreign Office will subsequently inform the relevant German diplomatic mission abroad if this is deemed appropriate.

In many cases, the Federal Government Commissioner for Culture and the Media (BKM, Dept. K56 – Collection Holdings from Colonial Contexts) must also be informed so that further action can be agreed in good time.



When is repatriation indicated?

It is impossible to give a universally appropriate response to this question; the circumstances of the individual case are the decisive factor. However, the aspects listed below can be used as points of reference. We recommend reviewing the case in the order suggested, since ethical and moral considerations, for example, will be rendered redundant by an existing legal right for the remains to be returned.

Legal claims

The first step is to establish whether a legally enforceable claim for repatriation exists. If this is the case, the collection is obliged to release the human remains in question. A repatriation will be completely unproblematic from the point of view of budgetary law, since the collection is legally obliged to comply. In cases where the legal claim would fail solely due to the statute of limitations, the Working Group is of the opinion that museums and collections should not invoke it. However, given the legal situation outlined in the chapter on legal provisions,⁷⁰ valid legal claims for return are likely to be rare.

Here we recommend engaging the services of an expert (the museum or collection's own lawyer or that of the parent institution or a lawyer specialised in this field). The legal assessment should be carried out on behalf of the museum or collection and potentially entitled recipients or claimants should not be required to submit legal expert opinions themselves.

⁷⁰ See pp. 76f.

Ethical-moral considerations

If no legal claim exists, it is important to establish whether there are other possible grounds, in particular those of an ethical nature, for the repatriation of the human remains or another mutually agreeable solution. In such cases, the decision for or against the repatriation of the human remains or an alternative solution is at the discretion of the museum or collection or its funding body. It should be noted here that public institutions are obliged to comply with the applicable laws whenever they return deaccessioned holdings. In line with the provisions of budgetary law, property and assets may be given away only where there are legal grounds for doing so. A broad consensus now exists that the return of human remains may well be required for purely ethical reasons – especially now that public funding bodies of cultural institutions have positioned themselves to that effect, at least with regard to human remains from colonial contexts. In the publication *Framework Principles for Dealing with Collections from Colonial Contexts* these bodies postulated that human remains from colonial contexts must be returned. This is not legally binding at present but should be understood as a mandate for public museums and collections. The requirements of budgetary law with respect to repatriations of collection items from colonial contexts have now been satisfied at the federal level and in most federal states by budget memos.⁷¹

If no legal rights exists and the human remains in question were not acquired in a colonial context, the issue of a context of injustice may be of critical importance for deciding whether repatriation is appropriate. In the view of the Working Group the diagnosis of a historical context of injustice is a clear criterion for the need to seek out any identifiable descendants of the deceased or individuals potentially authorised to take possession of the human remains in order to enter into discussion with them and disclose to them all information about the human remains in question. It will often be advisable to indicate a readiness to return the human remains from the outset.⁷²

Ultimately, repatriation may be considered even without a context of injustice, for instance, as a statement of recognition of the fact that the human remains or the objects containing them have a particular significance for the persons calling for their repatriation.⁷³

71 See here the section on "Legal Provisions", pp. 76f.

72 See here "Contexts of Injustice", pp. 17f., and "Returning" in the guidelines *Care of Collections from Colonial Contexts*, German Museums Association 2021.

73 See here the section on "Ethical Principles", pp. 110f. and the guidelines *Care of Collections from Colonial Contexts*, German Museums Association 2021, pp. 83f.





Which organisational steps should follow a decision to repatriate human remains?

Once it has been decided that a repatriation will take place, a written agreement to that effect must be signed.

Checklist for the written agreement about a repatriation

- ✓ Repatriation costs
- ✓ How to deal with third-party claims
- ✓ The scope and form of the documentation and archive materials pertaining to the human remains that are to be handed over
- ✓ Further use of documentation and archive materials for research and publishing purposes by the collection⁷⁴
- ✓ An agreement that all legal claims between the parties are settled with the repatriation

The museum or collection cannot make a repatriation subject to specifications or conditions relating to the further whereabouts or possible use of the human remains.

Repatriations are often accompanied by a ceremony. The museum or collection should decide jointly with the recipients what this ceremony should involve and the sequence of events. Often the embassies of the countries concerned draw on existing protocol or experiences/practices from other repatriations. A repatriation ceremony can be a highly sensitive political event, particularly when it takes place at government level.

74 See also p. 57.

In order to avoid conflict, the expectations of all parties regarding the handover ceremony itself and the sequence of events should be clarified in advance.

Checklist for planning a repatriation ceremony

- ✓ Who exactly are the parties responsible for organising and enacting the handover? Are these the museum or collection on the one hand and an individual or representatives of the community of origin on the other? Or are they the Federal Republic of Germany, the federal state or a municipality on the one hand, and the state in which the community of origin lives on the other?
- ✓ In addition to the parties directly involved in the handover, will other participants be present, e.g., in addition to the state of origin, representatives of the community of origin or members of the public? How will the other participants be involved? What role will they play in the handover ceremony?
- ✓ What expectations are there regarding statements/speeches by the parties?
- ✓ Is an apology or admission of guilt expected, if applicable? And in whose name can an apology or admission of guilt even be made (what is the political dimension here)?

Repatriation ceremonies are often attended by political figures, who are assisted in their work by protocol officers. These political representatives and/or their protocol officers can also assist representatives of the museum or collection in preparing the handover.





Which conservation aspects should be considered in cases of repatriation?

Leading up to the handover, the human remains should be stored in an ethically appropriate manner that meets conservation standards.⁷⁵ If necessary, specific storage-related issues that should be considered in the lead-up to the handover may be discussed with the recipients.

The repatriation preparations should also include measures to protect the human remains due for handover and their recipients.

Generally speaking, it is important that all negotiation partners are fully informed about the current state of knowledge pertaining to the human remains.

The following points should be discussed and joint agreements reached on further steps:

- ▶ The state of the human remains: components that may pose a safety issue (e.g., biocides, preservatives) during the repatriation.
- ▶ Other conservation measures: e.g., the removal of dust contaminants and/or montage material, the whereabouts of old labelling, additional conservation measures to ensure transport safety, restoration over and above measures to secure the remains.
- ▶ Handling specifications (people involved and specific implementation), packaging (materials, methods and implementation) and presentation (space, storage location and visibility) at handover.

⁷⁵ See "Preserving", pp. 29f.



May documentation and archival material from repatriated human remains be used for further research and publications?

German public museums and collections are beholden to the transparency requirement, i.e., they are required to document and preserve all information on the collections and also make it available to third parties. Repatriations are part of a museum's collection history and should likewise be documented. All information regarding the human remains that are to be repatriated must also be made transparent in the museum or collection after the return has been made.

As a matter of principle, copies of all related documentation and archival material should be handed over at the time of repatriation. A joint agreement should be reached with the recipients regarding the further use by the museum or collection of the documentation and archival material for research purposes after the repatriation. In the case of digital repatriations, this also applies to photographic material.

The views of those persons to whom the human remains are returned should be respected as far as possible. However, care should be taken to ensure that agreements do not violate the transparency requirements.







BACKGROUND INFORMATION

THE ORIGINS AND SIGNIFICANCE OF COLLECTIONS OF HUMAN REMAINS IN EUROPE

Wiebke Ahrendt, Thomas Schnalke and Anne Wesche

In many cultures, human remains – mostly of ancestors and religious personalities, but also of vanquished enemies – are credited with a particular power, spirituality and role to play in the lives of the living. In Europe, where Christianity is the dominant religion, the public presentation of human remains has a long-established tradition. It crystallised in the cult of the relic that emerged in the Middle Ages, particularly in the Catholic and Orthodox Churches, where it continues to this day.

As well as relic collections, ossuaries – i.e., rooms containing the bones of the dead – have also existed since the eleventh century. Like the reliquaries, these were – and still are – generally open to the public. They were originally used to store bones from graveyards and crypts that were unearthed during construction work or the repurposing of gravesites. The collected human remains were then eventually used to decorate the ossuary or other sacred spaces nearby.⁷⁶

The storage and presentation of human remains in sacred spaces has never been subject to ethical debate in Europe.⁷⁷ On the contrary, these consecrated spaces are considered dignified yet publicly accessible resting places for human remains.

The secular collections of rarities and curiosities originating in fourteenth-century Europe were created with a different purpose in mind. These *Wunderkammer*, or cabinets of curiosities as they were called from the fifteenth century onwards, displayed the objects initially without creating a distinction between natural objects and artefacts, art, science and handicraft. Later, these items were increasingly used for study and educational purposes. The collections in these curiosity cabinets occasionally also contained human remains such as skeletons, bones or preserved embryos and organs that were mostly local in origin.

76 For example, the walls of the Goldene Kammer of the Basilica of St. Ursula (Cologne, Germany) are decorated all the way up to the ceiling vault with bones forming patterns and words. The Capela dos Ossos (Évora, Portugal) is lined wall-to-wall with skulls, bones and hair. Some 40,000 skeletons are stored in the ossuary of Sedlec (Czech Republic). The bones of approx. 10,000 skeletons have been used to fashion chandeliers, coats of arms, wall decorations and garlands for the church.

77 Sörries 2000.

Differentiation through scientific specialisation

With the advance of scientific specialisation, the curiosity cabinets were divided up into specific collections and much of their contents transferred to art and science museums. This shift was occasioned in part by a development from within the field of medicine. The reintroduction during the Renaissance of anatomical practices carried out directly on human corpses led to the concept of the anatomical theatre at the end of the fifteenth century. By the late sixteenth century, anatomical theatres had been firmly established in numerous universities and in larger European cities as designated research, teaching, public education and collecting locations.⁷⁸ The many findings made in these facilities were also increasingly documented and preserved as wet and dry specimens. Collections of such specimens were either housed at the anatomical theatres themselves or else in private anatomy museums within the immediate vicinity. In the nineteenth century, these collection holdings often formed the basis of more extensive university collections in which a growing number of pathologically altered human remains were used for research and especially for medical instruction.⁷⁹

The colonial expansion of European states and corporations in the late fifteenth century resulted in increased contact with non-European societies. Public enthusiasm for “primitive peoples” grew throughout the late eighteenth century. Prevailing ideas about these “primitive savages” were often fuelled by scenographic presentations. Ethnological expositions also became increasingly popular throughout Europe.⁸⁰

With the publication of Darwin’s evolutionary theories and theories on the evolution of man, the Western view of human beings and their development began to shift fundamentally. Human beings were increasingly seen as natural beings beholden to biological laws like any other species. Population differences and supposedly definable human “races” were increasingly becoming a topic of interest and research. During the 1860s, biological anthropology became a scientific discipline. This prompted the rise of huge collections of skulls and bones with which to investigate human diversity using precise descriptions and anatomical-anthropological measurements.⁸¹

78 Mücke and Schnalke 2018.

79 A late highlight of this collection culture is the Pathologisches Museum that opened on the premises of the Berlin Charité hospital in 1899. Its founder, pathologist Rudolf Virchow, kept over 23,000 wet and dry specimens on display here for the medical profession as well as the general public, cf. Virchow 1899.

80 Carl Hagenbeck, for example, began organising regular exhibits of groups of “exotics” from “foreign worlds” in Germany in 1875; cf. Thode-Arora 1989.

81 Examples in Germany include the Blumenbach Skull Collection (Göttingen, started in 1780), the Alexander Ecker Collection (Freiburg) and the Rudolf Virchow Collection (Berlin).

Collecting in colonial contexts

Although the skulls and skeletons were initially procured locally in Europe, through the growing contact with other cultures, non-European human remains actively collected on site – mostly in the respective colonies – were increasingly making their way back to researchers in European centres. The scientific theories of the time were increasingly lending credence to the notion that people outside Europe had a different mental and physical constitution, meaning that they would be unable to attain the same high (cultural) achievements as Europeans and that consequently they could not be considered equal (to other Europeans).

On the basis of this hierarchical thinking, European colonial powers, as well as missionary and colonial societies, decided it was their duty to lead and “civilise”⁸² the “savages” and “barbarians” in other parts of the world. In practice, however, this was merely a justification for domination and exploitation. For their part, many researchers used the colonial infrastructure to gain access to human remains and non-European objects, since terms of appropriation in the colonies were much less restrictive than in Europe. They benefitted from the fact that acquisitions of human remains in the colonies were subject to far less control by state authorities than in Europe and that ethical and legal violations were largely met with impunity. It was also possible to regularly ignore objections or protests from Indigenous people without fear of consequences.

By the end of the nineteenth century, collection criteria for expeditions to Oceania, Asia and Africa had been clearly defined. Scientists laid down special collection guidelines and instructions for non-scientists on how to conduct observations on such expeditions. These included clear directions on how to preserve human remains.⁸³ Where possible, attention was to be paid to “racial purity”, with the aim of collecting human remains from as many individuals as possible from societies that were as “pristine” as possible. There was also considerable interest in non-European art and cultural artefacts, with requests coming from private individuals in Europe as well as numerous museums and collections. Merchants, explorers, missionaries, colonial civil servants and captains were specifically entrusted with procuring collection items.⁸⁴ But colonial soldiers, for example, also brought objects back home with them in the hope that they might be of interest to the collections. Thus, a lively trade ensued in a range of non-European objects as well as human remains.

82 Cf. Osterhammel and Jansen 2017.

83 See, for example, Neumayer 1888; von Luschan 1899; Martin 1914.

84 For example, the Hanseatic ship owner and merchant Johan Cesar VI. Godeffroy instructed his captains to collect and purchase anthropological, zoological and botanical material on their journeys or exchange them for goods. See Scheps 2005.

Colonial contexts⁸⁵ facilitated the procurement of human remains for European institutions and specifically for collections in Germany. Collectors and traders were encouraged to procure their acquisitions free of hiccups and complications.⁸⁶ In reality, however, theft, extortion and unfair trade practices were often the order of the day if the high demand for “objects” was to be met. Diary entries and expedition reports show that Europeans frequently committed grave robbery and grave desecrations in the name of science, with museums simply turning a blind eye.⁸⁷

The high demand and the context of repressive colonial societal structures prompted members of communities of origin to offer human remains, especially skulls, skeletons and (ritual) objects into which human remains were incorporated, for sale or barter on their own initiative.⁸⁸

As well as collecting bones, hair samples and preserved body parts, measurements, physical descriptions, photographs, plaster casts and audio and film recordings of living people were made on a large scale. This often took place against the will of the individuals or irrespective of their deep-seated reservations and fears.

Moreover, the instruments of colonial war, such as internment in concentration camps, were exploited and hostilities deployed directly to gather human “material”. Such treatment of people and ancestors *was and is* a violation of cultural and societal value systems all over the world. The acquisition practices outlined above were considered immoral even by the ethical standards of the colonial powers, but were either justified as collateral for the superior cause of science or simply kept secret.⁸⁹

The realisation that it was ultimately impossible to determine “race” with any certainty using anthropometry meant that skull measuring as a practice fell out of favour, particularly after the First World War. But eugenics (or “racial hygiene”) and the study of heredity continued to be popular throughout the 1920s and 1930s, although during the Nazi era interest in heredity research shifted to traits in living people – such as hair and eye colour or blood samples. Even today, human remains are used for research into human variability. In recent decades, however, science has clearly distanced itself from classifications based on types and hierarchies.

85 Colonial contexts are characterised by unequal power relations and a sense of cultural superiority on the part of the colonial powers. More information on this can be found in the guidelines *Care of Collections from Colonial Contexts*, German Museums Association 2021.

86 See, for example, Neumayer 1888; von Luschan 1899; Martin 1914.

87 See, for example, Abel 1970, pp. 237f. Hugo Schauinsland talks in a 1930 interview about his stay on the Chatham Islands (New Zealand) around 1896/97 and under what conditions he obtained skulls and skeletons of Māori origin.

88 For example, the Shuar (also known as Jivaro) of Ecuador deliberately processed the heads of their enemies just as the Māori of New Zealand processed the heads of slaves and captives and sold them to European traders and seafarers or exchanged them for weapons (a summary on shrunken heads of the Jivaro can be found in Schlothauer 2011). From the 1820s, the production of tattooed heads by the Maori was heavily commercialised; see among others Palmer and Tano 2004.

89 Hund 2009.

Many collections of human remains and (ritual) objects containing human remains have been stored in collections, often with incomplete information as to their provenance. Discrepancies in documentation standards are a result of hugely divergent collection strategies and documentation interests on the part of those responsible at the time. Depending on the scientific interests of the day, individual information (such as biographical data) would often be considered irrelevant when priority was given to abstract typologies. And the “ethnicities”⁹⁰ constructed during the colonial period are often deeply inscribed into the collection documentation and require painstaking deconstruction today. Insufficient possibilities for primary description and determination may also have resulted in incomplete documentation. Moreover, many institutions in Germany suffered considerable war damage, resulting in partial or total loss of documentation, or even of parts of the collections.

Collections of archaeological human remains

The circumstances of collecting are somewhat different when it comes to human remains in the form of mummies, bog bodies or ancient skeletons, bones and parts of bones. The majority of these human remains are over 300 years old. They stem from archaeological excavations, rescue excavations on the back of construction projects, chance discoveries or even looting of old burial sites.⁹¹

Mummies have always exerted a particular fascination.⁹² For Europeans, the appeal of these human remains dating back thousands of years and with no Christian background was exotic more than anything else. Questions of cultural or historic context scarcely arose, even into the nineteenth century. In Europe, it was embalmed and bandaged Egyptian mummies that first became famous and highly sought after. Many of them were removed from their bandages⁹³ in the hope of finding valuable objects. After that they were sometimes used as decoration⁹⁴ or ground into a powder (*Mumia vera aegyptiaca*) that was offered as a cure for illnesses of almost every description.

In order to meet the high demand for ancient mummies that began in the eighteenth century, fakes were frequently made and sold. Mummies were classified as goods for free trade and export until 1983.⁹⁵

90 For an explanation of this term, see pp. 15f.

91 For more information see the essay “Archaeological Human Remains”, pp. 68f.

92 Wieczorek et al. 2007.

93 In the second half of the nineteenth century people held “mummy unwrapping parties”. Even the mummy of the great Pharaoh Ramses II was unbandaged in the presence of the French Egyptologist Gaston Maspero and the caliph in Egypt. The various amulets that had been placed between the bandages were then handed over to museums or kept as private souvenirs of the party.

94 Although rotting soon set in if they were not treated properly.

95 Piacentini 2013/14.

Many South American mummies also ended up in European collections by way of grave robberies and trade. This explains why the information about their age and origins is also frequently missing. The graves were prized by grave robbers and antique dealers because they often contained valuable grave goods. Even today, mummy bundles still occasionally surface on the art market, or in private collections. In addition to the damage caused to the mummy by unbandaging it, or through wilfully or unwittingly induced decay, the ornate fabrics of the burial textiles were also destroyed by cutting them into pieces. These are sold to tourists to this day.

Bog bodies are primarily found in areas of Northern Europe (in high- and lowland moors). The preserved bodies or body parts have mostly been uncovered in the course of small-scale, manual peat extraction. Some of the bodies were then immediately buried again.

Only with the emergence of archaeology and anthropology as scientific disciplines in the nineteenth century did a more sophisticated approach to historic and prehistoric human remains develop.⁹⁶ The fact that archaeological human remains date from a time so distant to people alive today means that very few ethical-moral discussions on how to appropriately handle and present them have so far taken place either in Europe or in non-European countries. By and large, the public accepts that mummies (including bog bodies) and bones should be stored and exhibited as testimony to ancient human history.⁹⁷

Representatives of communities of origin, on the other hand, can be critical even of storing, let alone displaying, human remains and associated objects – irrespective of their age – outside their communities of origin, because this constitutes a desecration of the dead and the connection to the ancestors.

Discussions about repatriation

On the initiative of countries with communities of origin, discussions have been underway since the 1990s about whether human remains located outside their country of origin should be returned and placed in the care of the respective community of origin or its descendants (for example in Australia, Namibia, New Zealand, the Nordic countries and the United States).

96 See also the essay on “Archaeological Human Remains” pp. 68f.

97 For example, the Egyptian Museum in Cairo displays the mummies of the pharaohs and the Museo del Templo Mayor in Mexico City exhibits a group of beheaded skulls, which in Aztec times were presented on a skull rack. In 2016 the Museo Nacional de Arqueología, Antropología et Historie del Perú in Lima held a special exhibition *Momias más allá de la muerte* showcasing various mummies from the Early and Late Intermediate Period, mummy bundles from the Central and Northern Andes as well as the grave of a pre-Columbian figure. In Germany, too, the special exhibition *Mummies – The Dream of Eternal Life* at the Reiss-Engelhorn-Museen Mannheim in 2007 met with a great deal of interest. The exhibition has now toured eight countries and has had more than three million visitors. The glacier mummy “Ötzi” has also been shown in numerous exhibitions since 1998.

Some countries have even stipulated that human remains from archaeological excavations be reburied after appropriate documentation and research (in Australia, Great Britain, New Zealand, the Nordic countries and the United States, for instance).

The demand to repatriate human remains that were brought into collections for scientific purposes long ago is being voiced today by numerous groups worldwide and also in Germany. The focus here is predominantly on human remains stemming from colonial contexts.⁹⁸ In communities of origin and postcolonial discourses in Europe alike, these are regarded as testament to racist ideologies of supremacy and dependencies as well as a symbol of the loss of respect and interpretational sovereignty. The collections and their funding bodies are therefore called upon both to examine the acquisition contexts of human remains in their collections and to clarify the status of the human remains in each case. In this work co-operations with communities of origin are a sustainable way to work together, build trust and potentially repatriate the remains.

Sources

- ▶ **Herbert Abel**, Vom Raritätenkabinett zum Bremer Überseemuseum: Die Geschichte einer hanseatischen Sammlung aus Übersee anlässlich ihres 75jährigen Bestehens, Bremen 1970.
- ▶ **Wolf D. Hund**, “Die Körper der Bilder der Rassen: Wissenschaftliche Leichenschändung und rassistische Entfremdung”, in: Wolf D. Hund (ed.), Rassismus als Leichenschändung, Bielefeld 2009, pp. 13–80.
- ▶ **Rudolf Martin**, Lehrbuch für Anthropologie in systematischer Darstellung. Mit besonderer Berücksichtigung der anthropologischen Methoden für Studierende, Ärzte und Forschungsreisende, Jena 1914.
- ▶ **Marion Mücke, Thomas Schnalke**, “Anatomical Theatre”, in: European History Online (EGO), Leibniz Institute of European History (IEG) (ed.), Mainz 2021-02-19, http://ieg-ego.eu/en/threads/crossroads/knowledge-spaces/marion-muecke-thomas-schnalke-anatomical-theatre?set_language=http://ieg-ego.eu/en/threads/crossroads/knowledge-spaces/marion-muecke-thomas-schnalke-anatomical-theatre [12.04.2021].
- ▶ **Georg von Neumayer**, Anleitung zu wissenschaftlichen Beobachtungen auf Reisen, Vol. 2, Berlin 1888.

98 See also *Framework Principles for Dealing with Collections from Colonial Contexts*, Federal Minister of State for Culture and the Media, Minister of State at the Federal Foreign Office for International Cultural Policy, the ministers of culture of the federal states and the central municipal associations 2019.

- ▶ **Jürgen Osterhammel, Jan C. Jansen**, *Decolonisation: A Short History*, New Jersey 2017.
- ▶ **Christian Palmer, Mervyn L. Tano**, *Mokomokai: Commercialization and Desacralization*, International Institute for Indigenous Resource Management, Denver, Colorado 2004.
- ▶ **Patrizia Piacentini**, “The Antiquities Path: from the Sale Room of the Egyptian Museum in Cairo, through Dealers, to Private and Public Collections. A Work in Progress”, in: *Egyptian and Egyptological Documents, Archives, Libraries*, Vol. 4, 2013/2014, pp. 105–130.
- ▶ **Birgit Scheps**, *Das verkaufte Museum: Die Südsee-Unternehmungen des Handelshauses Joh. Ces. Godeffroy & Sohn, Hamburg und die Sammlungen Museum Godeffroy*, *Abhandlungen des Naturwissenschaftlichen Vereins in Hamburg*, Kelttern 2005.
- ▶ **Andreas Schlothauer**, “Eine besondere Trophäenbehandlung. Die Schrumpfköpfe der Jivora-Völker”, in: *Alfried Wiczorek, Wilfried Rosendahl (eds), Schädelkult – Kopf und Schädel in der Kulturgeschichte des Menschen*, Regensburg 2011, pp. 217–223, http://andreasschlothauer.com/texte/2011_schaedelkult_3.pdf [19.06.2020].
- ▶ **Reiner Sörries**, “Der Streit um den ‘Ötzi’ und vergleichbare Konflikte beim Umgang mit berühmt gewordenen Leichen”, in: *Friedhof und Denkmal – Zeitschrift für Sepulkralkultur*, Vol. 45, Kassel 2000, pp. 54–61.
- ▶ **Hilke Thode-Arora**, *Für fünfzig Pfennig um die Welt. Die Hagenbeckschen Völkerschauen*, Frankfurt am Main 1989.
- ▶ **Rudolf Virchow**, *Die Eröffnung des Pathologischen Museums der Königlichen Friedrich-Wilhelms-Universität zu Berlin am 27. Juni 1899*, Berlin 1899.
- ▶ **Felix von Luschan**, *Anleitung für ethnographische Beobachtungen und Sammlungen in Africa und Oceanien*, Generalverwaltung der Königlichen Museen zu Berlin, Berlin 1899.
- ▶ **Alfried Wiczorek, Michael Tellenbach, Wilfried Rosendahl (eds)**, *Mummies of the World*, Munich 2007.

ARCHAEOLOGICAL HUMAN REMAINS IN MUSEUM HOLDINGS

Bernhard Heeb

These *Guidelines* focus on historical anthropological collections of human remains in museums and universities which were amassed over a period of time. While some were collected in an ethnological or anatomical pathology context, others were gathered by archaeologists from sites all over the world. In the case of Germany, however, the majority of human remains uncovered by archaeologists are held not in museums but in the storage facilities of each federal state's archaeological authority and they are of German rather than foreign origin.

Irrespective of geographical origin, the questions concerning human remains are fundamentally similar and can often be answered using the options outlined in the "Ways of Analysing Human Remains" section.⁹⁹ In a nutshell, archaeologists view human remains in the first instance as data carriers, albeit very special ones. This is because no other archaeological "finds" yield as much information about how people lived in the past as these do. Moreover, human remains provide better and more direct answers than any other finds to some very fundamental questions about matters such as diet, health, age, cause of death, origins and kinship. This means that human remains have a very special scientific significance in archaeology. On the other hand, how archaeological human remains should be dealt with is also an ethical question – and not just for collections: Are we allowed to do anything we want with them in the name of science, as long as it seems meaningful? And should archaeological remains be re-buried or are they better kept in storage facilities (for future generations of scholars)?

What are we talking about?

Human remains taken from archaeological contexts date from a number of eras, which means that they were found in very different conditions. The most common way of laying out a corpse was regular burial. The body would possibly have been cremated before burial and the burned remains buried along with grave goods in cemeteries that were in some cases huge. This practice was widespread across Europe in the Late Bronze Age (second half of the 2nd millennium BCE). Alternatively, the body might be laid to rest in an artificial burial mound, uncremated and accompanied by grave goods (e.g., in the Early Iron Age, first half of the 1st millennium BCE).

⁹⁹ See pp. 75f.

The variety of burial rites is virtually boundless, both within and beyond pre-Christian Europe. Human remains found by archaeologists have not always come from regular burials. People may also die in battle or in an accident and remain unburied at the scene of death until they are finally excavated (two instances being the battlefield in Tollense Valley in Mecklenburg around 1250 BCE and Pompeii in 79 CE). There are very few recorded occurrences of human bodies or body parts being used and deposited (as sacrifices?) in connection with religious or cult activities.

In isolated cases, the finds indicate that human remains were arranged as if they were trophies, examples of this being the severed heads (*têtes coupées*) in the Celtic sanctuary of Roquepertuse in the south of France, which date back to the second century BCE. Incorporating human remains into objects or using them as objects is practically unknown in European archaeology – in contrast to non-European ethnology – and this is therefore irrelevant for holdings of European origin or those administered by regional authorities.

In Europe generally and Germany in particular, the diversity of burial rites mentioned above declined sharply after the emergence of Christianity. That applied both to the treatment of the body (interred in a supine position) and grave goods (which virtually disappeared). In practical terms, both during and after an archaeological exhumation, no distinction is made between human remains buried in accordance with Christian rites and those buried according to pre-Christian or non-Christian rites. With respect to the associated matter of reburial, however, the age of Christian burials is significant, as well as considerations about whether an excavated necropolis has any relevance for church or other communities that still exist today.¹⁰⁰ A reburial with Christian rites can be considered in such cases, even if individuals are no longer identifiable. Generally speaking, however, this only occurs after scientific investigations and analyses have been conducted. With medieval Christian burials that have no current point of reference, for example, the remains are treated in the same way as prehistoric ones: they are taken to storage facilities and made available for future investigations.

One final word on finding and exhuming human remains: These days, the majority are found in the course of emergency excavations on building sites rather than coming from research digs. As museum collections in Germany are normally not involved in these kinds of activities, the disinterred remains are sent to the archaeological authority of the federal state in question. This means, in turn, that museum holdings were often acquired before the Second World War and thus under different circumstances.

100 Particularly in dense conurbations such as Berlin and other large cities, rescue excavations were carried out on modern burial grounds when the land was redeveloped. Old churchyards or cemeteries were often used for profane purposes soon after they had been closed, resulting in the sites being given over to parks, open spaces or housing.

Distinguishing archaeological human remains from those from non-archaeological contexts

We can try to differentiate between archaeological and non-archaeological remains in two ways: Firstly, remains that are viewed as archaeological – irrespective of their dating in the first instance – have mostly been uncovered in a recumbent position in the ground (see above). Secondly, the age of the bones and thus the genealogical separation from modern-day populations is of relevance. Generally speaking, human remains uncovered in Germany that are no more than one hundred years old (approximately three generations) are not viewed as archaeological, so are definitely candidates for reburial (see above).

As mentioned above, the anthropological collections of museums also contain remains from other parts of Europe and from around the world; moreover, these were often acquired many decades ago under very different circumstances. Whereas some of them – such as Egyptian mummies or burials from prehistoric, Roman or early medieval burial grounds – may well be unmistakably archaeological remains, others, found in different circumstances, cannot be categorically classified as archaeological, or at least it makes no sense to do so. Two non-European examples may be cited by way of illustration.¹⁰¹ In just a few months in 1907 and 1908, anthropologist Jan Czekanowski collected over a thousand human skulls in the colony of German East Africa. Some came from an execution site¹⁰² in the town of Nyanza, then the seat of the Rwandan king. These skulls were probably gifts to Czekanowski from Rwandan King Musinga. Radiocarbon data gathered from individual skulls were used to determine their age. This produced dates ranging from around 1500 to 1900 CE, which indicates that this execution site must have been in use for centuries before the skulls were acquired. According to the European interpretation, some of these skulls should be viewed as archaeological, others as historical or even contemporary. Yet all the skulls come from a single findspot and are thus part of the same cultural context.

The second example concerns skulls that were excavated on Hawai‘i in 1879 by German researcher Otto Finsch. Even at the time of the excavations, the site – a necropolis on a deserted section of beach (Waimanalo) – had not been settled for many generations, which meant that the remains could no longer be ascribed to a living community and there were absolutely no memories or traditions associated with the place. In the late 1960s, research digs by Bishop Museum and the University of Hawai‘i revealed an “early prehistoric” burial ground on an adjacent site (Bellow Beach), which can be dated to the

101 Both examples stem from current research projects into provenance conducted on the anthropological collections at the Museum für Vor- und Frühgeschichte in Berlin.

102 It was here that Rwandan kings had mutineers, petty criminals and even political rivals publicly executed. The bodies or body parts were thrown into a nearby marshy hollow.

early phase of settlement on Hawai‘i (c. 1000 CE).¹⁰³ The two findspots exhibit similar burial rites and it can be assumed that it is a continuous necropolis from the earliest period of Hawaiian settlement. The dating means that from an archaeologist’s perspective these remains are clearly archaeological, and their connection – including a genetic one – to the present-day population is tenuous. This is one of the reasons why they appear to be of considerable scientific value. On the other hand, local (Indigenous) organisations view the people from whom these remains originated as “their” ancestors and would therefore like them to be repatriated. Whether the remains were acquired in a context of injustice or not as we would define it is largely irrelevant to the arguments made by the claimants. This is because the act of removing human remains from their original setting is frequently viewed as an intrinsic act of injustice.

These examples show that outside Europe it is not always possible or meaningful to draw a clear distinction between archaeological and historical remains – and indeed, to do so reflects a European point of view.

Dealing with human remains from archaeological contexts in museum collections

Museums of natural and cultural history certainly do put human remains on public display in permanent and temporary exhibitions. These days, however, archaeological museums mostly adhere to the principle that remains can only meaningfully be shown in the context of cultural history or in relation to the site in question, because on their own they are of very little significance. This level of meaning is provided when the remains make a particular archaeological context seem more vivid, or when they are a part of that context (e.g., combat injuries on bones found at a battlefield). In specific cases, human remains are of such significance for the history of the collection or for archaeological history that they are displayed for this reason. An assessment should always be made about whether the scientific substance or the significance for an exhibition is sufficient justification for presenting a skeleton, a mummy, a skull or any other body part to the general public. Ultimately, it is always left to the individual institution to decide. On the whole, ethical and moral aspects as well as opinions (which are invariably subjective and personal) are constantly in flux and always a matter for discussion.¹⁰⁴ In this field, there can be no normative framework that can be applied by museums in all cases and at all times,¹⁰⁵ just as there can be no binding legal framework.

103 Pearson et al. 1971, pp. 204–234.

104 One of the most recent examples was a debate between two Egyptologists who disagreed about whether mummies should be displayed or not: “Pro und Contra – Darf man Mumien ausstellen?” (For and Against: Should Mummies Be Put on Show?) (www.spiegel.de, 7 April 2020).

105 See here especially Preuß 2007, Oehmichen 2018.

In addition to this, there is the issue of storing and administering archaeological human remains in museum storage facilities. There seems to be no reason why human remains with archaeological origins should be treated any differently from those with ethnological or historical origins.¹⁰⁶ Yet in day-to-day practice, archaeologists tend to take a rather casual approach to handling European human remains in terms of accessibility and research. This is primarily due to the age of such remains; since they are no longer part of an active societal and/or ritual framework there is nobody around today who is directly affected or sees themselves as such.

Dealing with human remains stored by historical monuments authorities

There is no standard policy among the sixteen German states on the best approach to human remains as archaeological finds. Most of the state authorities have merely issued internal guidelines for dealing with bones in burial contexts (e.g., the obligation to consult an anthropologist). The conditions for storage are generally subject to the usual stipulations for finds of any kind. The *Verhaltenskodex der Altertumsverbände* (Code of Conduct for Ancient Studies Associations) issued in 2007 does not, for example, distinguish between dealing with human remains and other categories of finds or materials.¹⁰⁷ The German state of Hessen is probably an exception here, with the archaeological authority explicitly referring to an article published by Dr Reinhard Dietrich.¹⁰⁸ Rather than taking a practical approach to discovering and storing finds, Dietrich focuses on the legal and moral/ethical aspects, particularly with regard to potential research and reburial, but also the matter of displaying remains.

His basic premise is: “The question of whether human remains should be collected in museums can thus be answered in the affirmative. There can be no limitation on scientific investigations into these kinds of finds.”¹⁰⁹ Bearing this in mind, he asserts that the decisive factor for dealing with remains is an adherence to contemporary standards rather than a “retrospective reverence”.

106 Basic standards for maintaining the holdings should be assumed to be self-evident rather than part of any assessment.

107 West- und Süddeutscher Verband für Altertumsforschung (West and South German Association for Ancient Studies Research) 2007.

108 Dietrich 2013. When Reinhard Dietrich wrote his article he was head of preservation of historical monuments, cultural preservation, UNESCO world heritage and legal affairs in the cultural section of Hesse's Ministry for Higher Education, Research, Science and the Arts.

109 Dietrich 2013, pp. 113f.

In order to establish these contemporary standards, and thus a concrete approach, he declares that two aspects are relevant: firstly, the “preservation status” (somewhere between “corpse” and “cremated remains” at the two extremes of the scale); and secondly, the “presence of the deceased in the consciousness of the living” (ranging from “personal relationship” to “no association”). Dietrich advocates using these factors rather than their age to determine how human remains from an archaeological context should be treated. The points for consideration listed above are applied in practice by the Hessian regional office for the preservation of monuments, but they could also be relevant for museum collections in Germany.

Conclusion

German collections, regional offices and other institutions which administer human remains with archaeological origins have no stipulations to follow that would permit a standard or binding approach to those remains. One of the reasons for this is that there is no clear definition of the point at which human remains are categorised as archaeological. Moreover, the federal structure of Germany means that there is no common position. At the same time, it does raise the question of whether binding guidelines or even laws about how to deal with archaeological human remains in museum contexts are actually necessary.¹¹⁰ The holdings might just be too diverse, not least owing to the different contexts in which they were acquired and their – in some cases – non-European origin. In addition, the fact that individual institutions are increasingly developing and establishing their own positions on this issue is increasingly leading to a lively debate and the further refinement of approaches and patterns of real-life practice.¹¹¹

Sources

- **Reinhard Dietrich**, “Nicht die Toten, sondern die Lebenden: Menschliche Überreste als Bodenfunde”, in: *Archäologische Informationen* 36, 2013, pp. 113–119, <https://journals.ub.uni-heidelberg.de/index.php/arch-inf/article/view/15325/9199> [12.02.2020].

110 By contrast, several countries have stipulated a mandatory approach. See “Ethical Principles”, pp. 110f.

111 The Stiftung Preußischer Kulturbesitz was one of the first organisations to do so in spring 2015, with its publication *Grundpositionen zum Umgang mit menschlichen Überresten in den Sammlungen der Staatlichen Museen zu Berlin*, which has been in force since then as a basis for practice. A revision and modification are planned.

- ▶ **Frank Oehmichen**, “Stimmen und Fragen der Ethik. Ein Überblick”, in: Sandra Mühlenberend, Jakob Fuchs, Vera Marušić (eds), *Unmittelbarer Umgang mit menschlichen Überresten in Museen und Universitäts-sammlungen*, Stimmen und Fallbeispiele, Dresden 2018, pp. 27–33, <https://wissenschaftliche-sammlungen.de/files/1815/4469/5645/Unmittelbarer-Umgang-mit-menschlichen-berresten-in-Museen-und-Universittssammlungen.pdf> [12.02.2020].
- ▶ **Richard J. Pearson, Patrick Vinton Kirch, Michael Pietrusewsky**, “An early Prehistoric Site at Bellow Beach, Waimanalo, Oahu, Hawaiian Island”, in: *Archaeology & Physical Anthropology in Oceania* VI, 3, 1971, pp. 204–234.
- ▶ **Dirk Preuß**, ...et in pulverem reverteris? Vom ethisch verantworteten Umgang mit menschlichen Überresten in Sammlungen sowie musealen und sakralen Räumen, Munich 2007.
- ▶ **Stiftung Preußischer Kulturbesitz**, Grundpositionen zum Umgang mit menschlichen Überresten in den Sammlungen der Staatlichen Museen zu Berlin, 2015, https://www.preussischer-kulturbesitz.de/fileadmin/user_upload_SPK/documents/mediathek/schwerpunkte/provenienz_eigentum/rp/150326-Grundhaltung_Human-Remains_dt.pdf [12.02.2020].

WAYS OF ANALYSING HUMAN REMAINS AND THE BENEFITS FOR SCIENTIFIC RESEARCH

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In the fields of medicine (including anatomy, pathology and forensic medicine), biology in general and biological anthropology in particular, as well as various disciplines concerned with archaeology and pre-history, dealing with human remains has always been a core aspect of practitioners' everyday work and of how they define themselves professionally. It would be hard to imagine these specialisms without the analysis of human bodies, whether living or dead.

To aid their research work, scientists in these disciplines have built up collections of human remains and continue to do so to this day. Over time, the purposes of collections have changed, which explains their wide diversity today.¹¹² Until the early twentieth century, research on human remains was mainly descriptive or involved measuring and comparing specimens; only during the course of the twentieth century did it become increasingly invasive. In recent decades, the lines of enquiry and the possibilities for analysis have grown enormously. New approaches have been facilitated in particular by innovative imaging techniques (CT, MRI) and biochemical analyses (isotopes, DNA). We can assume that further new approaches will emerge in the future.

Irrespective of the type of collection or scholarly discipline, the purpose of this chapter is to list and describe the main options that are available today for analysing human remains, and their limitations. We will confine ourselves to an examination of human hard tissue (bones and teeth), as these tend to be preserved for longer than soft tissue and therefore make up the majority of human remains in collections. Options for investigating soft tissue (e.g., from mummies, shrunken heads or wet anatomical specimens) tend to be more complex and more dependent on the circumstances of a particular case.

The preconditions for research

For research to be conducted on human remains in collections today, two conditions must be fulfilled: the remains must be comprehensively documented, and ethical aspects must have been considered and taken into account. In general, collections of bones of populations and individuals, whether from the distant or more recent past, are more meaningful for research if their provenance is well known and the circumstances surrounding the acquisition have been sufficiently documented.

¹¹² See the sections "The Origins and Significance of Collections", pp. 60f. and "Archaeological Human Remains", pp. 68f.

If historical contextual information is absent, anthropological analyses can compensate only to a very limited extent.¹¹³

Conducting research on human remains disturbs the “peace of the dead”, and as such requires special justification and careful ethical considerations that take into account interests and beliefs of communities of origin.¹¹⁴ Contemporary research, particularly on collections from the colonial era, should distance itself unequivocally from the “racial research” of the past with respect to human remains, in the questions it asks and in the goals it sets. It should pursue research agendas on behalf of the affected people rather than against them, as was the case with “racial research”. Generally speaking, lines of enquiry, research design and the interpretation of findings in scientific research are not intrinsically objective or neutral but rather are influenced by the historical, political and societal contexts in which such research is carried out.

Ways of analysing bones and teeth

In a living body, bones and teeth are not static entities but grow and adapt to physical use, although in different ways: while bones are subject to a constant process of regeneration during a life, adult teeth – and dental enamel in particular – do not undergo regenerative processes.

Bone tissue consists of organic and mineral substances that are in a constant process of exchange with the blood. In living bodies bone tissue also functions as an organic reservoir for various endogenous and exogenous substances. Both the shape and the composition of the bones and teeth reflect an individual’s life circumstances. At the same time, bones and teeth form the basic bio-mechanical frame for the body and are adapted to its functions. As such, they can provide evidence for certain kinds of activity and of adaptation to living conditions. Factors as diverse as genetic constitution, climate, composition of the diet, periods of deficiency, physical activity and medical care can all affect teeth and bones during life. This means that post-mortem investigations of hard tissue offer numerous possibilities for investigating living conditions. At the same time, the sheer number of factors that can influence the shape and composition of bones also means that findings in bones can be interpreted in multiple ways.

In the following we will give an overview of the *methods* of research, followed by an outline of the various *questions* that can be addressed using these methods. Here we distinguish between questions concerning single skulls or skeletons and those applied to larger assemblages or collections.

113 See Wittwer-Backofen, Kastner, Möller, Vohberger, Lutz-Bonengel, Speck 2014.

114 See also the sections “Ethical Principles”, pp. 110f. and “General Recommendations”, p. 24.

Techniques and methods

When conducting an investigation, practitioners distinguish between non-invasive – i.e., non-destructive – and invasive methods.¹¹⁵

Non-invasive methods

Non-invasive methods include those that do not require sampling or destruction of tissue. They include a broad spectrum of methods, from inspecting, describing and measuring skeletal remains (macro-scale) to examining specimens under a microscope or magnifying glass (micro-scale). They also include imaging techniques.

Macro-scale processes serve to describe and measure certain external characteristics or structures. Micro-scale processes make it possible to observe internal processes non-destructively that would otherwise remain invisible. This is done by utilising imaging techniques with a degree of magnification more powerful than the human eye. All those approaches are in general based on comparisons with reference patterns (taken from published sources or experience) and data in order to draw various conclusions.

Measurements of skeletal remains (osteometry) are carried out directly on the bones in question. Originally this involved manual tools, such as sliding callipers and spreading callipers for taking skull measurements, or osteometric boards for measuring long bones. Today, technical aids such as digital callipers and coordinate measuring machines are increasingly used, which can take three-dimensional digital measurements and readings from the surface of the object and store them digitally. Depending on the method, both linear and spatial measurements (such as angles and areas) can be recorded and in some cases mathematically combined to produce what are known as indices (ratios).¹¹⁶

Non-invasive analyses also include investigating deposits and material residues found on human remains (e.g., taking soil, paint or plant samples for later analysis).

X-rays, computed tomography and magnet resonance imaging (MRI) are fundamentally non-invasive imaging techniques.¹¹⁷ MRI is primarily used for examining soft tissue and does not play a significant role in studying bones and teeth.

¹¹⁵ Invasive investigations in particular are rejected by many communities of origin.

¹¹⁶ Measuring the volume of the skull used to be a standard procedure, but now it is seldom performed. One exception to this is evolutionary research, which studies various early human forms and traces how the human brain developed. However, digital measuring techniques and analyses of volumes tend to be used in such cases. In the past, the cranial cavity would have been filled with seeds, pulses or sand and the corresponding volume would then be determined in order to make statements about the cranial volume.

¹¹⁷ We should, however, bear in mind that some communities of origin regard an X-ray investigation as disturbing the dead or prohibit visual depictions of the deceased.

Anthropological analyses can utilise X-ray images, for example, by evaluating dentition as a way of determining a person's age, because X-rays also render the crowns and roots visible in the jawbone. However, interpreting two-dimensional images can be hampered by structures lying behind one another.

Just like traditional X-rays, computed tomography (CT) uses the absorption of X-ray signals passing through the body. In this case, however, a computer calculates sectional images from the absorption values, making it possible for even three-dimensional images to be depicted without superimposition and for soft tissue to be distinguished. CT scans can be used for conducting computer-aided analyses (e.g., looking at internal fragments after a gunshot wound or blunt force trauma) and as a basis for measurements, for later reproductions of the scanned objects (3D printing), and – in the case of skulls – for facial reconstructions.¹¹⁸ Portable 3D scanners are increasingly being used for such purposes; these create a three-dimensional digital model using light. Virtual images can also serve to reconstruct entire virtual structures from the available fragments while replacing any pieces that have gone missing. Just like photographs, their purpose may be purely documentary.

Invasive methods

Invasive methods comprise incision techniques such as osteohistology and the analysis of growth rings in dental cementum, which can be used to determine age,¹¹⁹ as well as analytical techniques at the molecular and atomic level (proteomics, genetics, isotope analysis).

Osteohistology is a microscopic investigation that can, for example, help explain pathological processes, or it can be used in an investigation of cremated remains, i.e., the tiny fragments of human bone left after cremation. This necessitates grinding or cutting the bone or tooth, thereby partially destroying the source material.

Proteomics utilises mass spectrometry to perform tasks such as decoding the peptides (protein building blocks) in dental calculus. This can answer questions about diet, for instance when peptides in the milk proteins of various kinds of dairy livestock are detected therein.¹²⁰

118 Various methods are available for this: two-dimensional images can be created from drawings or relevant software, and three-dimensional reconstructions are possible using the relevant software or as an artistic process using clay or modelling putty. Whichever technique is most appropriate, these reconstructions can only ever approximate what a face might have looked like, and they primarily serve to visualise an individual and make them recognisable.

119 For example, Wittwer-Backofen, Gampe, Vaupel 2004; Obertová, Francken 2009.

120 As, for example, in Wilkin et al. 2020.

DNA research in particular has become more important in recent years. It can be a tool for investigating both questions at the individual level (e.g., the genetic sex of a specific person) and questions about the relationships between individuals (e.g., direct kinship or more distant relationships). A DNA analysis using a modern sequencing method typically involves extracting around 50 mg of bone or tooth DNA from its cells and ultimately sequencing millions of DNA fragments. In contrast to older methods (using the PCR technique) which only decode certain DNA regions (e.g., mitochondrial DNA, which is inherited solely on the maternal side), modern high-throughput techniques can examine the entire human genome, which makes it possible to determine kinship and ancestry much more precisely than with mitochondrial DNA. Moreover, any contamination from bacteria or contemporary human DNA can be identified and, if necessary, computationally subtracted in the analyses. DNA analyses can also be conducted on dental calculus, which allows us to draw conclusions about the bacterial composition of oral flora or prove the existence of certain bacteria and viruses.

At an atomic level, the most relevant method is isotope analysis, which determines the relationship between specific rare isotopes. In the case of carbon, the ratio between the commonly isotope C12 and the rare radioactive C14 can provide information about the age of a sample. Carbon is extracted for this purpose from bones or teeth (from the collagen) and the ratio between the two carbon isotopes can be determined using mass spectrometry.

A similar process is used for measuring the ratio of the stable isotope C13, which allows us to draw conclusions about an individual's diet. A further important stable (non-radioactive) isotope is strontium, which is extracted from dental enamel and provides clues about the geographical origin of an individual. Nitrogen and oxygen also have stable isotopes, which can be helpful in answering questions about origin and diet. Typically, between 10 and 1000 mg of bone or dental enamel are needed for most isotope analyses, with the exact amount depending on the chemical element, type and preservation of the sample and the laboratory methods applied.

Lines of enquiry

About the individual skull/skeleton

The researcher must first determine whether the specimens in question are indeed human remains rather than animal or even plant-based or geological matter. In osteological collections where human and animal matter might have become mixed up, a visual anthropological evaluation is generally sufficient to distinguish between the two.

When human remains such as bones (or sections of bone), skin, teeth, hair or nails are embedded in objects, this question cannot always be clarified just by looking at them. Contextual research can be helpful in such cases,¹²¹ possibly supplemented by histological or molecular biological analyses. In this way human DNA can be distinguished from that of animals, or where necessary the cell structure of tissues can be compared.

Research on single individuals generally aims to find out more about the deceased person and reconstruct the circumstances surrounding their life and death. In most cases, the first step in anthropological research is to produce a biological profile (age, sex, height and origin). The time of death could be pertinent in answering the question of whether the individual died around the time the remains were collected or had already long been buried by that point. Depending on the timeframe and the setting of the remains, suitable methods might be an examination of the condition of the bones and their taphonomic changes, or in the case of remains that are older than a few centuries, carbon-14 dating.¹²²

Anthropologists are able to estimate **age** at the time of death because the human skeleton and teeth continually change throughout a person's lifetime, a process that begins even before birth. The younger an individual is, the more accurately and reliably age can be determined. The age of children and juveniles can be narrowed down to within one or two years, while for middle-aged people the range of accuracy is ten to fifteen years; after the age of 50 or 60, any further differentiation becomes difficult. An analysis of the growth lines in dental cementum is also possible, but this requires a section of the tooth to be prepared. Here, too, the level of precision decreases with increasing age.

An anthropological estimation of **sex** assumes that male bones are often more robust and larger than female ones, particularly at muscle insertion points. The most obvious difference is between the male and female pelvis, since the latter is adapted to giving birth. However, the morphological distinctions between the sexes are fluid and can be masked by physical activity or illness.¹²³

121 Research into whether human remains were dealt with accordingly in the named place and at the named time.

122 In very recent cases, which will not be discussed separately here, techniques used in criminal investigation have also been options (e.g., forensic entomology).

123 Moreover, a division into two biological sexes does not correspond to the wide range of socio-culturally accepted "gender" roles and does not necessarily correspond with the way a person identifies themselves.

The reliability of sex identification depends on which part of the skeleton is available and on the age of the individual, since skeletal development is not yet complete in children and juveniles.¹²⁴

Two kinds of methods are available for estimating **height**: proportional methods, which determine height on the basis of the length of certain skeletal elements, and additive methods, which add together the length of all the skeletal elements that are relevant for height and add certain figures to this sum in order to account for soft tissue and post-mortem tissue loss.

Scientifically speaking, we distinguish between two concepts in talking about **origin**. On the one hand, we can ask questions about a person's **life history**. This can be investigated to some extent using isotope analyses because isotopes enter the body from outside via food. For instance, strontium isotope ratios can indicate where a person was probably born, where they grew up and where they spent their adolescence. This is done by studying the teeth and bones that formed at various points in that person's life (for example, wisdom teeth develop much later than the first molars).¹²⁵ Precise maps giving details of local geological strontium isotope ratios can narrow down an individual's probable area of origin. Oxygen isotopes can also prove helpful in such cases. Stable carbon and nitrogen isotopes, on the other hand, provide information about diet, which can also be indirectly relevant for determining the place of origin. These investigations of course depend on the extent to which the potential regions of origin have been mapped. In addition to an individual's primary geographical location during their lifetime, the **biogeographical origin** can also be investigated. This is defined as the region that either the person themselves or their ancestors came from. Here anthropologists can either analyse physical characteristics (via visual observation or measurement) or they can perform a DNA analysis.

Skulls are generally used in the former case. A variable number of characteristics are associated with origin from a certain continent. Measurements are compared with information from databanks such as the American programmes FORDISC and 3D-ID or the Australian CRANID.

124 After puberty, sex can be determined with a reliability of almost 95 per cent by looking at the pelvis, and of 80–90 per cent by examining the skull. If neither is available, there are techniques for analysing sex using other skeletal elements. A DNA investigation whereby XX or XY karyotypes (whether X or Y chromosomes are present once or twice in the cell nucleus) are detected can significantly increase the reliability of the analysis. In contrast to the determination of origin, extremely small amounts of surviving DNA are sufficient to determine sex. If a genome-wide analysis is conducted, even samples of less than 1 per cent human DNA can generally determine the sex with an extremely high degree of certainty. In addition to the common karyotypes XX and XY, rarer karyotypes such as XXY (Klinefelter syndrome), XYY and even XO can be identified.

125 As used, for example, by Knipper et al. in 2017 in order to provide evidence of individual mobility.

The results, in the form of calculations of statistical probabilities for morphological matches, depend on the populations that have already been entered into the databanks and the authors' statistical assumptions about the predictability of biogeographical origin. As a consequence, their significance can vary considerably. A similar process is possible with teeth; here too, form, appearance and size can provide information about individual family relationships as well as affiliation to a particular population group.¹²⁶ One rare morphological indication of origin could also be artificial modifications made to the skull during a person's lifetime, which is a typical feature of some cultures (e.g., filing certain teeth or influencing the shape of the skull).

Genetic analyses are also employed for questions about ancestry and origin, for which comparisons are drawn with reference populations. A key question is whether an individual is related to more distant contemporary groups, suggesting that the individual or their ancestors migrated. With respect to genetic analyses into origin, it is important to mention mitochondrial DNA, which was often investigated primarily as part of older techniques. Mitochondrial DNA is inherited outside the cell nucleus exclusively through the maternal line, and its precise structure is divided into global haplotypes, which occur in differing frequencies in different regions. This makes it possible to narrow down the region of origin to at least a specific continent, sometimes even to a specific region within a continent. Given that mitochondrial DNA is only one of thousands of lines of origin, palaeogeneticists are increasingly investigating the entire genome, which requires greater effort and more modern methods. These analyses accordingly also produce more complex models of ancestry, modelling an individual's genetic heritage as a combination of multiple lines of origin, for instance. This is most successful with source populations that are very distantly related, such as Indigenous American and Spanish ancestry becoming mixed among some groups in Latin America after European colonisation. However, finer intra-continental models of ancestry are also becoming increasingly useful thanks to the increasing availability of published genetic data for (pre-) historic reference groups.¹²⁷

As a general rule for all methods of determining ancestry, the possibility of accurately assigning an individual to a particular group decreases as the groups representing potential sources become geographically and chronologically closer. In addition, such analyses are always dependent on the selection and composition of reference populations, and depend on the research question. It would be virtually impossible to use genetics or skull morphology to find out if an individual's ancestors are more likely to have come from western Poland or eastern France, because rather than being regarded as isolated from each other, these regions represent points along a continuum.

¹²⁶ Rathmann and Reyes-Centeno 2020.

¹²⁷ However, in many cases interpreting these models is complex and difficult, as the biogeographical origin can only be defined via reference groups, which in turn consist of mobile individuals of mixed origins.

Moreover, groups – whether they are delineated historically, archaeologically/culturally or even ethnically – are frequently not biologically homogenous entities. In general, analyses of ancestral origin entail a broad interpretation of data, which are by no means obvious without further clarification, in contrast, for example, to genetically determining sex or C14 dating. Instead, the models and the findings they yield have to be developed and evaluated in an interdisciplinary dialogue between natural science and anthropology, archaeology or history.

Certain questions about phenotypical characteristics such as pigmentation (skin, hair and eye colour), height or certain risks can also be genetically investigated. One important caveat, however, is that the models for these traits were often developed and tested in specific (mostly European) present-day reference populations, which limits their applicability for extremely old DNA or DNA from other regions.

Especially in forensic matters (e.g., identifying an unknown corpse) or when investigating the remains of historically significant figures, the information gained from bones or derived from DNA is also used to reconstruct the face.

Further information about an individual's way of life that can be discovered from their bones includes indications of illness (**pathology**), injuries (trauma) or frequent physical activity (when a skeleton is complete it is even possible to determine whether the person was right- or left-handed). While bone diseases (inflammations, tumours) and degenerative changes (e.g., arthritis) are often particularly easy to diagnose, many other illnesses do not leave specific evidence on the skeleton (one exception being syphilis). Frequently, however, the skeleton will reveal indications of general health or diet-related problems (malnutrition or metabolic disorders).

Molecular methods can also be used to verify the presence of pathogens in individuals, such as *Yersinia pestis*¹²⁸ (the causal pathogen of bubonic plague) or *Mycobacterium tuberculosis*¹²⁹ (the causal pathogen of tuberculosis). In some cases, proteomics can be used to find the remains of viruses. DNA and protein analyses of dental calculus can also serve to identify the bacterial composition of oral flora and thus draw conclusions about a person's diet.

Trauma denotes injuries caused by external physical forces. While they can indicate violence perpetrated by another person (blunt force trauma, blows, stab injuries), they can also be the result of accidents or pathological processes (e.g., fatigue fracture).

128 Bos et al. 2011.

129 Bos et al. 2014.

The investigation can differentiate between ante-mortem (already healed), peri-mortem (around the time of death) and post-mortem (after death) trauma, although it is not always possible to distinguish clearly between peri- and post-mortem trauma. Trauma analysis can also play a role in documenting abuse and violence. Determining the cause of death with certainty is only rarely possible.

Taphonomy describes natural changes to bones that occur after death. Depending on how the remains are stored, various environmental conditions can change the form, colour or structure of the tissue: atmospheric influences can lead to erosion, for example, while roots can erode surfaces, and insects can use bones as nest sites, leaving passageways or holes in their wake. These traces can be important in cases such as when the original location of the sample is to be reconstructed as an ecosystem.

In addition, human intervention can give rise to artificial changes. These include cultural practices for dealing with the deceased (primary and secondary burial), but also additional damage or changes inflicted on remains in the process of discovery or excavation or while treating an item in a collection (e.g., maceration – removing soft tissue).

About larger samples and collections

Some or all of the lines of enquiry mentioned above can also be investigated with respect to more than one individual as a way of answering specific historical, archaeological or bio-historical questions at the **group or population level**.

Classic examples involve conducting a general investigation into an excavated burial ground, analysing historical or recent mass graves or battlefields and assembling groups of items from multiple collections that belonged to a specific culture (e.g., Viking skeletons). In larger collections the analysis then starts by determining the number of individuals and arranging individual bones correctly.¹³⁰

Depending on the information being sought, the investigation will seek to establish not only the actual number of individuals but also the composition of their age and sex (palaeo-demography). For example, were only specific kinds of people buried in a cemetery or does it feature a cross-section of the population in terms of age and sex?¹³¹

It is frequently possible to distinguish between different nutritional conditions, states of health and social classes within a population, and certain professions can be identified via activity-induced skeletal markers.

130 The remains of multiple individuals could have become mixed up while being collected, transported and/or handled in the collection for years on end. The original context of the find – in the case of a mass grave, for instance – can also lead to remains becoming mixed up.

131 Regular burials mostly display an hourglass distribution, whereby the very young and the very old are most prevalent among the deceased; exceptions to this can be explained by fatalities resulting from illness or violence.

More generally, these analyses can also be useful in answering historical questions concerning matters such as the history of settlement and conflict in certain regions or cultural traditions surrounding death.

Palaeo-pathological investigations can reconstruct the course of specific illnesses and document how these are typically treated in a culture. There are a number of examples of this: indications that trepanation has occurred, the amputation of limbs, setting fractures, various kinds of artificial dentures or evidence of pathogens (e.g., the DNA of the syphilis pathogen).

Essentially, these kinds of investigations can permit a close examination of conditions in the past, relating to the environment, how people lived and the extent to which individuals or populations adapted to climatic and geographical circumstances. Isotope analyses make it possible to reconstruct information not only about their dietary habits but also about individual or collective migration routes or even trade – for example, if food was consumed that is not typical for the site. Many of these approaches play a role in researching human evolution, for example to investigate and reconstruct how humans spread around the globe or the biological process of human evolution.

With larger groups of individuals, genetic analyses can also reconstruct kinship networks and comprehensive family trees extending over multiple generations. These, in turn, can be correlated with archaeological information such as grave goods in order to draw conclusions about social mechanisms like the distribution of wealth within families as opposed to larger social collectives. Analyses of origin can similarly be conducted on a group basis, which can lead to a higher degree of accuracy and make it possible to gauge the mobility of entire groups over large geographical areas.

Forensic questions are also becoming increasingly significant in the fields of anthropology and archaeology. In particular when investigating recent mass graves, the question of manner of death becomes especially significant, in addition to identifying the deceased. Furthermore, the documentation of violent incidents has provided evidence in recent criminal cases, which may lead to convictions. For this reason, this documentation must observe legal parameters. Examples of this are investigations into mass graves following the genocides in Rwanda and the former Yugoslavia.

Similar questions also extend to the reappraisal of historical injustice (“Archaeology of Redress and Restorative Justice”¹³²): when researching the provenance of remains from colonial contexts, anthropological research can also involve documenting abuse and the use of violence.¹³³ Comparable projects from other (non-colonial) contexts include, for example, searching for graves and conducting an anthropological evaluation of the bones of Indigenous children and juveniles who died in what were known as “Indian boarding schools” in the United States;¹³⁴ investigating the bones of enslaved Africans in the Caribbean in order to reconstruct and document the conditions under which they lived and died;¹³⁵ and documenting the massacres during the race riots of the 1920s in the United States.¹³⁶

Moreover, it can be argued that investigating **large collections** has an additional value that goes beyond the scientific significance described above. Osteological collections continue to play a major role in scientific teaching and training. Large collections in particular illustrate the breadth of biological variation in the appearance of certain human characteristics, allowing scientists to examine the human skeleton exhaustively and conduct numerous comparative analyses. As an “archive of human history” these collections are also valuable documents that present the development and formation of certain characteristics over long periods of time or reveal pathological findings that are rarely seen today owing to the availability of modern medical treatment (e.g., tertiary syphilis). Well-documented collections can also aid the development and review of anthropological methods, such as those used to determine sex or age.

Finally, a case can be made for viewing collections in terms of their value to cultural history, particularly collections that epitomise certain traditions in the history of knowledge and can thus be regarded as part of the Western cultural heritage. Two examples of this are the skull collection amassed by Dr Gall (who was closely associated with the theory of phrenology), which is held in Baden, near Vienna; and the Blumenbach Skull Collection in Göttingen (one of the most significant original collections in the field of biological anthropology). It can, however, be difficult to reconcile conserving these pieces of our cultural heritage with respecting the dignity of the deceased people whose remains form part of the collection.

132 Concepts like this are currently being developed predominantly in American archaeological circles, in reaction to the question of whether archaeological and anthropological work is even possible in the face of fundamental post-colonial criticism of the history and direction that the discipline has taken. A good introduction to the discussion is provided by a webinar recorded on 7 October 2020, which can be heard at: <https://www.sapiens.org/archaeology/archaeology-of-redress/> [08.12.2020].

133 For more in-depth information on this see Winkelmann, Stoecker, Fründt and Förster, in press.

134 See, for example, <https://boardingschoolhealing.org/advocacy/carlisle-repatriation/>; <https://www.secondwavemedia.com/epicenter/features/mpl-indian-indboardingschool.aspx> [12.10.2020].

135 <https://www.sciencemag.org/news/2019/11/caribbean-excavation-offers-intimate-look-lives-enslaved-africans> [12.10.2020].

136 <https://www.tulsa2021.org/> [12.10.2020].

Sources

- ▶ **Kirsten I. Bos, Kelly M. Harkins, Alexander Herbig et al.**, “Pre-Columbian Mycobacterial Genomes Reveal Seals as a Source of New World Human Tuberculosis”, in: *Nature* 514 (7523), 2014, pp. 494–497.
- ▶ **Kirsten I. Bos, Verena J. Schuenemann, G. Brian Golding et al.**, “A Draft Genome of *Yersinia Pestis* from Victims of the Black Death”, in: *Nature* 478 (7370), 2011, pp. 506–510.
- ▶ **Corina Knipper, Alissa Mittnik, Ken Massy et al.**, “Female Exogamy and Gene Pool Diversification at the Transition from the Final Neolithic to the Early Bronze Age in Central Europe”, in: *Proceedings of the National Academy of Sciences of the United States of America* 114 (38), 2017, pp. 10083–10088.
- ▶ **Zuzanna Obertová, Michael Francken**, “Tooth Cementum Annulation Method: Accuracy and Applicability”, in: Thomas Koppe, Georg Meyer, Kurt W. Alt KW (eds): *Comparative Dental Morphology*, *Front Oral Biol.* 13, Karger: Basel 2009, pp. 184–189.
- ▶ **Hannes Rathmann, Hugo Reyes-Centeno**, “Testing the Utility of Dental Morphological Trait Combinations for Inferring Human Neutral Genetic Variation”, in: *Proceedings of the National Academy of Sciences of the United States of America* 117 (20), 2020, pp. 10769–10777.
- ▶ **Andreas Winkelmann, Holger Stoecker, Sarah Fründt, Larissa Förster**, *Interdisziplinäre Provenienzforschung zu menschlichen Überresten aus kolonialen Kontexten. Eine Arbeitshilfe des Deutschen Zentrums Kulturgutverluste, des Berliner Medizinhistorischen Museums der Charité und von ICOM Deutschland*, Berlin, in press.
- ▶ **Shevan Wilkin, Alicia Ventresca Miller, William T. T. Taylor et al.**, “Dairy Pastoralism Sustained Eastern Eurasian Steppe Populations for 5,000 Years”, in: *Nature Ecology & Evolution* 4 (3), 2020, pp. 346–355.
- ▶ **Ursula Wittwer-Backofen, Mareen Kastner, Daniel Möller, Marina Vohberger, Sabina Lutz-Bonengel, Dieter Speck**, “Ambiguous Provenance? Experience with Provenance Analysis of Human Remains from Namibia in the Alexander Ecker Collection”, in: *Anthropol. Anz.* 71 (1–2), 2014, pp. 65–86.
- ▶ **Ursula Wittwer-Backofen, Jutta Gampe, James W. Vaupel**, “Tooth Cementum Annulation for Age Estimation: Results from a Large Known-age Validation Study”, in: *AJPA* 123 (2), 2004, pp. 119–129.

SOCIAL AND CULTURAL ANTHROPOLOGICAL APPROACHES TO HUMAN REMAINS IN ETHNOLOGICAL MUSEUMS AND COLLECTIONS

Hilke Thode-Arora

These days, it is rare to find untreated skulls and bones among the holdings of ethnological collections, unless the museums in which they are located have multiple specialisms. In such collections, the human remains are generally skulls, mummies or bones that have been treated according to specific cultural practices, as well as a significantly larger volume of objects containing or made of elements of human remains such as hair, bones or teeth. In order to understand the relevance – both historical and contemporary – of human remains it is necessary first to outline social and cultural anthropological terminology, subject matter and methods.

One discipline – multiple names

Terms such as “ethnography” and “ethnology” (which used to be known in German as *Völkerkunde*) originate from the period of the Enlightenment in the late eighteenth century. The fact that they have been used differently at various times in the history of the discipline, but also differently in different countries (and languages) has frequently led to confusion among non-specialists. In the former East Germany and Eastern Bloc countries, “ethnography” used to be – and indeed still is – the general term; its West German equivalent is “ethnology”. In Anglophone and Hispanic countries, “anthropology” or “antropología” is a wider discipline comprising biological anthropology, archaeology, linguistics and ethnology. In English-speaking parts of the world, “ethnology” is viewed as a historical sub-discipline, while “social anthropology” or “cultural anthropology” corresponds to what is called “ethnology” in West Germany.¹³⁷

Today, this range of terminology and specialisations is still reflected in the sub-disciplines found at universities and museums in various countries. This is due to the country-specific developments and theoretical approaches that have emerged within the discipline since the nineteenth century, when anthropology became established as a university subject, and academic societies and museums were founded. In the German tradition, biological anthropology, social/cultural anthropology, ethnology and archaeology were closely linked, but remained separate subjects.¹³⁸

137 Fischer 1988, pp. 3–4 and 14–25. Accordingly, the term “anthropology” will be used in this text, while “Ethnologie” is used in the German version of the Guidelines

138 See the sections “The Origin and Significance of Collections”, pp. 60f. and “Archaeological Human Remains”, pp. 68f.

What is anthropology concerned with?

As with all scholarly disciplines, the history of anthropology as a discipline contains various historical and theoretical strands focusing on different aspects.¹³⁹ Accordingly, the definitions of its subject and focus also vary widely. Since the last third of the twentieth century, the notion of what comprises anthropology has been greatly expanded, which means that nowadays the focus includes not only “foreign”, “non-European” and “pre-state”¹⁴⁰ societies and cultural practices, but also smaller – or far bigger, global-scale units. Anthropology could be described as a scientific discipline “that captures the differences and congruencies in the ways of life of communities of people¹⁴¹ and seeks to explain them.”¹⁴² Or, to put it in more constructivist and thus more modern terms: “Anthropology observes how cultural phenomena, concepts and ideologies are articulated,¹⁴³ passed from one society to another, and acquire meaning in various places around the world and in very different contexts.”¹⁴⁴

There are numerous definitions of what culture is (or what it is not), which also vary according to theoretical orientation and the dominant *Zeitgeist*. They do, however, all share certain elements: culture is the learned part of the human behaviour of a group or community rather than something innate. It forms a complex system of categorisations, norms, values, worldviews, aesthetics and cognitive clusters and is expressed in material culture (e.g., in a particular kind of decorated skull) and immaterial culture (e.g., in a particular belief about the hereafter) but also in conduct (e.g., worshipping ancestors in a particular way): “Culture is everything that man does, makes and thinks [...], or the ‘total way of life of any society’.”¹⁴⁵

139 See, for example, Fischer 1988; Hahn 2013.

140 All these terms reflect not only certain theoretical approaches and distinctions but also blind spots and prejudices within the science associated with a particular era.

141 In modern anthropology, this very much includes specific communities within one’s own or another society; thus, there are anthropological investigations into pub visitors, companies, homeless people and round-the-world sailors.

142 Fischer 1988, p. 20.

143 In this definition, “articulated” means not just verbal but also material expressions, i.e., objects.

144 Hahn 2013, p. 11; Fischer 1988, p. 4: “The theoretical frame of anthropology is ‘cultural theory’. It starts with the fundamental assumption that while differences between the way people live exist in dialogue with their [author’s note: natural and social] environment and are thus inter-related with it, they are otherwise invented and handed down to members of an ethnic unit by means of enculturation [socialisation].” See also Kimmich et al. 2010.

145 Waal 1976, p. 336.

Theoretical concepts and approaches in anthropology

In the nineteenth and early twentieth centuries, it was the German-speaking anthropologists in particular who pursued an object-based approach, whereby collection holdings played a critical role in forming theories pertaining to cultural evolution, cultural versus biological conditioning and the diffusion of cultural elements and material innovations.

During this period, Western anthropologists adhered to the evolutionary paradigm according to which human beings developed in stages, with Europeans being regarded as the (supposedly) most advanced. In practice it was often the same researchers who would collect specimens for several disciplines simultaneously during this period – predominantly untreated human remains such as skulls or bones that were intended to provide the basis for a “racial science” within the framework of biological anthropology; ethnographic objects, including artefacts containing human remains such as hair, bones and teeth, but also culturally modified remains such as head-hunting trophies, scalp locks or shrunken heads; and archaeological finds such as mummies. Today, evolutionism is a relic of the past.

The theoretical concepts and approaches of anthropology and the issues it addresses are currently the subject of wide-ranging discussions and deconstruction within the discipline. Nonetheless, it is possible to identify in the very different, recurring theoretical concepts running through the history of the discipline – with their modifications and specific emphases – several major, often interlinked, methodological approaches, all of which also take effect when researching death and the deceased. A very brief summary follows below.¹⁴⁶

The **comparative cultural approach** compares ways of life and their articulations in different human communities.¹⁴⁷ The goal is to identify and analyse structural regularities both within and between communities or societies. For this purpose, anthropological universals (such as confronting mortality) are analysed in these communities’ or societies’ respective cultural specificities and social practices (e.g., ancestor worship).

In the **holistic approach** the configurational factors of a specific community/society are observed and analysed both at a particular time and historically within their special contexts. Here anthropologists not only consider norms, values and structured behaviour but also pay particular attention to (divergent) social practices (for example, how societies treat the deceased).

¹⁴⁶ See Wandel. For a critical view of anthropological methods see, for example, Hahn 2013, pp. 61–83.

¹⁴⁷ In Hahn’s opinion, see above.

In the **systems- and process-oriented approach** culture and community are regarded as an integrated whole in order to consider the internal dynamics and processes of interaction as well as interdependencies between biological, ecological, economic, social and psychological systems and components.¹⁴⁸

The **multi-perspective constructionist approach** recognises worldviews, belief systems and classifications as culturally learned: people structure their experiences according to their worldviews, which they regard as the only true version of the world. The Western system of knowledge, including anthropology, is likewise a worldview and belief system among many other worldviews, such as those of the communities from which the collection holdings originate (this is what led, as mentioned above, to human remains being assigned to various types of museum). The anthropology of the 2000s follows a highly constructivist approach, which primarily identifies, documents and analyses various discourses and articulations of a material and immaterial nature.

Anthropologists frequently prefer to work on **individual case studies**, thus taking a micro-perspective – and often comparative – approach. Although there is a danger of particularism here, it does have the advantage of bringing them extremely close to the sources and the protagonists' lifeworlds and discourses instead of working at an abstract meta-level.

Contemporary museum anthropology represents a segment, or a specific focus, of anthropological research. By looking at the material culture of various human communities, it explores and contextualises aspects of technological knowledge, immaterial culture, social structure, religion and worldviews. This can happen in two ways: by conducting empirical anthropological research into material culture in the artefacts' communities of origin or by doing research on the material nature of the objects and their provenance in the museum collections themselves.

Particularly with a view to dialogue with representatives of communities of origin in cases where certain technical skills from the past may not have survived, ethnological collections view themselves as archives of material but also of immaterial human culture – music and sound documents or written records from the communities of origin are often held in collections in addition to artefacts.

148 The applied anthropology of recent years might pursue lines of enquiry such as why certain infrastructure projects in structurally weak regions ("development cooperation") or certain organisational structures in companies do not function as planned (see Klocke-Daffa 2019).

The **skills-based approach**¹⁴⁹ assumes that in the course of cooperation with representatives of the communities of origin material culture in particular can yield an insider view of practical knowledge and allow parallel knowledge cultures to be accessed and documented: in other words, objects are an expression of the “embodied knowledge” possessed by those who make them, thanks to their years of practice and their expertise and experience. The artefacts, moreover, represent the immaterial concepts of their makers during the production process – back in 1988, Pomian referred to the role of objects as a medium for signs and symbols. All this also applies to collection holdings containing or made of human remains, whether a fan containing elaborately woven hair or a flute produced from human bone, with corresponding levels of meaning that can be empirically studied.

The remains of deceased and living people in ethnological collections

It seems to be a universal human characteristic that bones, skulls and other remains of people who have died within one's own kinship group and/or community are initially treated ritually – whether in the form of burial, cremation or preservation (e.g., mummification) or by safekeeping bones stripped of flesh through decay or exposure. Human remains from communities other than one's own are not, however, always accorded the same degree of respect, as shown by examples of wars, genocides, ethnicides, head-hunting and conduct towards people regarded as being outside the community (e.g., slaves). Grave robbery and other methods of acquiring skulls, bones or mummies carried out by Western scholars and collectors without the knowledge of the descendants – and even against their will – belong to this category.

There is apparently no society in which objects that contain parts of deceased people from the same community are considered completely profane, and they are treated accordingly. There is much more ambiguity in the case of collection holdings which incorporate the remains of people still alive at the time. They can have profane, emotional or even ritual connotations, hair being a case in point. The wigs made of real hair that are frequently worn by Japanese geishas – a practice that started around the mid-twentieth century – have no connection to anybody they know or hold in high regard, and are apparently regarded as profane objects.

149 See Flitsch 2009, pp. 12–19.

In the nineteenth century, head, shoulder and back ornaments fashioned from human hair were highly esteemed on the Marquesas Islands; the hair might have come from friends, relatives, people who were particularly revered or slaughtered enemies, or it could just have been purchased.¹⁵⁰

Thus, the first question to be asked of ethnological collections that include holdings containing human remains or consisting of culturally modified human remains is: Are these objects sensitive in the relevant community of origin, and did the objects wrongfully become part of the collection?¹⁵¹ Here it is advisable to ask the opinion of authorised representatives of the community of origin. One thing to consider, however, is that even within communities of origin, there may be a wide spectrum of opinions. Traditionalists and modernisers, representatives who have turned their backs on the older religious beliefs of their ancestors and now profess Islam or Christianity, urban and rural residents – to name just a few categories – may have very different attitudes about whether these objects should remain in Western collections and whether they should be studied, publicly exhibited or repatriated.

Particularly in the case of collection holdings that are made of or contain human remains, it is always appropriate to ask why and under what conditions the members of the communities of origin parted with them. While there are some clear-cut cases of wrongdoing, there are also cases where remains or objects were handed over voluntarily and without duress. There were various reasons for this; documented occurrences include giving away the human remains of enemies or of those who did not belong to the in-group; parting with preserved human remains after converting to Islam or Christianity; or the desire for rare, innovative raw materials such as metal, which seemed to warrant giving up treasured, culturally modified human remains.

Once an examination into whether holdings were acquired unjustly or are of a potentially sensitive nature has been completed and nothing speaks against studying or exhibiting culturally modified human remains and holdings that contain human remains, these can be just as relevant as any other artefacts for pursuing social and cultural anthropological lines of enquiry¹⁵² – including making use of the options for scientific analysis that have also been presented.¹⁵³ Any of the approaches mentioned above – comparative cultural, holistic, systems- and process-oriented, multi-perspective constructionist, and case studies – can be applied here.

150 See, for example, Biebuyck and Abeele 1984, pp. 238, 239; Handy 1971, p. 283; Steinen 1928, pp. 8, 9, 19–21. On the apparently universal function of hair as a component of cultural communication, see, for example, Leach 1958.

151 On colonial contexts, sensitive collection holdings and research into provenance, see the guidelines *Care of Collections from Colonial Contexts*, German Museums Association 2021.

152 See the catalogue of questions on p. 36.

153 See the section “Ways of Analysing Human Remains”, pp. 75f.

The same applies to the museums' remit to popularise social and cultural anthropological research and present it in an easily understandable form, essentially acting as "interpreters" to contextualise material that might at first glance seem incomprehensible to the general public. This invariably implies relativising one's own cultural interpretations and thinking critically about one's own culture. One aspect of this, for example, is recognising and documenting the fact that scholarship is always part of a society and thus culture-bound. The theoretical framework of early evolutionary anthropology – which triggered an interest in both collecting and researching human remains – first emerged in the colonial era, when the different stages of evolution observable in nature initially led Western scholars to assume similarly unequal stages of development of different ethnic groups; only after attempts to prove this notion failed was it acknowledged as a scientific fallacy. It is notable that exhibitions are currently emphasising precisely this historical, discursive aspect, which places it firmly within the social and cultural anthropological tradition: after all, in the history of the discipline, which stretches back more than a hundred years, it has mainly been the holistic and multi-perspective approaches that have repeatedly questioned not only the putative certainties about one's own society, but also the paradigmatic theoretical concepts of anthropology.

Collection holdings containing or made of human remains are hence just as relevant as artefacts for social and cultural anthropological research, while also belonging to the "sensitive" category that requires special attention.

Sources and further reading

- ▶ **Arjun Appadurai**, "Introduction: Commodities and the Politics of Value", in: Arjun Appadurai (ed.), *The Social Life of Things. Commodities in Cultural Perspective*, Cambridge 1986, pp. 3–62.
- ▶ **Fredrik Barth**, "Introduction", in: Fredrik Barth (ed.), *Ethnic Groups and Boundaries: The Social Organization of Cultural Difference*, Bergen, Oslo, London, Boston 1969, pp. 9–38.
- ▶ **Daniel P. Biebuyck, Nelly van den Abeele**, *The Power of Headdresses: A Cross-Cultural Study of Forms and Functions*, Brussels 1984.
- ▶ **Thomas Bierschenk**, Matthias Krings, Carola Lentz (eds), *Ethnologie im 21. Jahrhundert*, Berlin 2013.
- ▶ **Hans Fischer**, "Anfänge, Abgrenzungen, Anwendungen", in: Hans Fischer (ed.), *Ethnologie: Einführung und Überblick*, Berlin 1988, pp. 3–38.
- ▶ **Hans Fischer**, "Ethnologie als Allerweltswissenschaft", in: *Zeitschrift für Ethnologie*, 114, 1989, pp. 27–37.

- ▶ **Hans Fischer**, “Fünfzig Jahre Ethnologie”, in: *Paideuma* 47, 2001, pp. 7–23.
- ▶ **Mareile Flitsch**, *Des Menschen Fertigkeit: Ethnologische Perspektiven einer neuen Wertschätzung praktischen Wissens*, inaugural lecture, Völkerkundemuseum der Universität Zürich 2009.
- ▶ **Hans Peter Hahn**, *Ethnologie: Eine Einführung*, Berlin 2013.
- ▶ **E. S. Craighill Handy**, *The Native Culture in the Marquesas*, New York 1971 [reprinted from 1923].
- ▶ **Sabine Klocke-Daffa**, *Angewandte Ethnologie: Perspektiven einer anwendungsorientierten Wissenschaft*, Wiesbaden 2019.
- ▶ **Dorothee Kimmich, Schamma Schahadat, Thomas Hauschild** (eds), *Kulturtheorie*, Bielefeld 2010.
- ▶ **Igor Kopytoff**, “The Cultural Biography of Things: Commoditization as Process”, in: Arjun Appadurai (ed.), *The Social Life of Things: Commodities in Cultural Perspective*, Cambridge 1986, pp. 64–91.
- ▶ **Edmund Leach**, “Magical Hair”, in: *Journal of the Royal Anthropological Institute* 88, 1958, pp. 147–164.
- ▶ **Krzysztof Pomian**, *Der Ursprung des Museums: Vom Sammeln*, Berlin 1988.
- ▶ **S. M. Shirokogorov**, *Ethnical Unit and Milieu*, Shanghai 1920.
- ▶ **Karl von den Steinen**, *Die Marquesaner und ihre Kunst: Studien über die Entwicklung primitiver Südseeornamentik nach eigenen Reiseerlebnissen und dem Material der Museen*, Vol. 2: *Plastik*, Berlin 1928.
- ▶ **Annemarie de Waal Malefijt**, *Images of Man: A History of Anthropological Thought*, New York 1976.

LEGAL PROVISIONS FOR DEALING WITH HUMAN REMAINS IN MUSEUMS AND COLLECTIONS

Carola Thielecke and Michael Geißdorf

It may be assumed that most countries have legal provisions for dealing with the bodies of the deceased, and different cultural ideas about how funerals, for example, should be organised are reflected in these provisions. In Berlin, for instance, laying out a body in an open casket is explicitly prohibited, whereas in Ireland this is legally permitted as a traditional component of funerals.

For German collections, the only legally binding stipulations are those of German law and certain provisions of European and international law that have become part of German law.

Naturally, it is sometimes advantageous to know the legal provisions of other countries when communicating with people from those countries, since this can contribute to a better understanding of their expectations. For example, the Native American Graves Protection and Repatriation Act (NAGPRA) includes provisions that govern the return of human remains to Indigenous groups in the United States. While these provisions may have shaped the expectations of representatives of these groups and should, therefore, be borne in mind during negotiations if possible, they are not legally binding for German collections.

As these *Guidelines* are intended primarily for German institutions, the following remarks are confined to an overview of the stipulations of German law that are binding for these institutions.

Numerous legal issues may arise in connection with human remains in museum collections. As many of these issues are not clearly regulated by German law, there may be a great deal of uncertainty in practice about what the law does and does not permit. Standards that deal directly and explicitly with the legal status and handling of human bodies and other human remains are few and far between, while none of them explicitly address the museum context or the work of university collections. Case law has sought to answer many of the important fundamental questions by interpreting more general legal standards. However, since case law is always connected to individual cases, such light as it has been able to shed is only sufficient to illuminate individual aspects.

Legal conditions for working with collections that include human remains

Human bodies in German constitutional law: Preserving the human dignity of the dead pursuant to Article 1 Section 1 of the Basic Law

The Basic Law or constitution is the foundation of the German legal system. Its first part is devoted to fundamental rights: the core, inalienable rights of every individual.

It has long been accepted that at least Article 1 Section 1 of the Basic Law also applies to the dead. This reads: “Human dignity shall be inviolable. To respect and protect it shall be the duty of all state authority.”

The Basic Law itself does not define or explain what is meant by “human dignity”; rather, it is expected that the courts will define this legal term. With respect to the protection of human dignity even after the death of the individual, case law has stressed two aspects:

► **The dead body must be treated in a way consistent with the protection of human dignity guaranteed by the Basic Law;** in particular, it may not be degraded to the status of an object. This means that a body may not be treated like inanimate matter; for example, it cannot be exploited industrially or commercialised.

This aspect has played a fundamental role in the court rulings on the *Body Worlds* exhibitions in which Gunther von Hagens’s “plastinates” – specially prepared human bodies – are on display. These rulings have consistently declared that this sort of presentation is only permitted for scientific and educational purposes. While it was considered permissible to aestheticise the plastinates, this may be done only if it serves the cause of popular science education.¹⁵⁴ However, the realm of the permissible ends where the artistic creative drive – or worse, commercial interests – begin to dominate. According to the courts, whether the deceased consented to such forms of presentation is immaterial; it is not the values of the individual that are at issue, but those of the community at large. For this reason, von Hagens was forbidden from selling certain merchandising products.

In the context of collection practices, what this may mean is that, in principle, exhibiting anatomical specimens in a scientific context is constitutionally unproblematic. Similarly, exhibiting human remains in contexts such as an archaeological collection does not constitute a violation of human dignity provided that the presentation seeks to communicate scientific findings.

¹⁵⁴ For example, one plastinate had been set up in the pose of a football player scoring a goal and included a football. The court considered this display to be compatible with human dignity since it helped to make scientific issues accessible to laypeople.

However, care must be taken to ensure an appropriate context within the exhibition. For example, any suggestion of humour must be categorically avoided. Similarly, it would presumably be problematic for a contemporary artist to use parts of dead bodies in their art. Extreme caution should also be exercised by museum shops when selling products whose design references items in the collection consisting of or incorporating human remains, for example by showing images of such objects. While scientific publications, especially catalogues, are surely unobjectionable, some types of souvenirs could violate legal regulations.

► **The memory of the dead and their personality must be protected.** In this context, the Federal Constitutional Court developed the legal concept of “post-mortem rights of the individual”. Deriving from this concept is the right to defend the memory of the deceased against defamation and objectively incorrect portrayals. In contrast, it would be permissible, for example, to (re)interpret the deceased’s role in society, provided this is not done in a pejorative way.

The concept of post-mortem rights of the individual is based on the “Mephisto ruling” of 1971, in which the Federal Constitutional Court had to deal with the eponymous novel by Klaus Mann. The protagonist of this novel is based on the actor Gustaf Gründgens, whose proximity to the Nazi regime is treated in a way that makes him look unprincipled. At the hearing, the court ruled in favour of Gründgens relatives, who argued that the portrayal was an attack on his reputation.

However, post-mortem protection does not last forever. According to the Federal Constitutional Court, post-mortem rights of the individual fade in proportion to the memory of the deceased (the commemoration of the dead). This is without a fixed time limit; in some cases, protection can end as early as twenty-five years after death, while in other cases (for example, that of Frederick II of Prussia) it may last significantly longer. However, a greater level of protection for high-status personalities would be difficult to reconcile with the right of all people to equal respect for their dignity – i.e., the right of each individual’s autotelic nature to be guaranteed by virtue of their human dignity.

Post-mortem rights of the individual are relevant for dealing with human remains in cases where the deceased’s identity is known. With respect to the work of museum collections, it is clear that post-mortem rights of the individual do not apply to the “unnamed dead” dating from European classical antiquity. When dealing with these human remains, only the aspects discussed in connection with human bodies and dignity of the dead (see p.97) need to be considered. This also applies, for example, to skeletal remains of persons whose name is known, but about whom little or no other information has come down to us.

In the case of the remains of persons whose memory is still upheld, perhaps in the form of ancestor worship, the protection of their personal rights must be taken into account. This could apply, for instance, to personalities who lived in the eighteenth or nineteenth century; an extreme example would be the preserved body of Jeremy Bentham.¹⁵⁵

In these cases, care must be taken to present the human remains in a way that does not denigrate the person's life, although it is not necessary to comply with the wishes of relatives or descendants, for instance by celebrating the deceased as heroic in the absence of corroborative historical evidence.

Finally, it should be noted that stipulations of the Basic Law are rarely applied directly. It is very unlikely, for example, that a complainant who wants the presentation of human remains in a collection to be altered would explicitly cite Article 1 of the Basic Law.

Far more important in practice is the indirect impact of basic rights. The basic rights bind "all public authorities". This means that all public institutions and authorities – including public collections – must "directly" observe basic rights in their work. This could mean, for instance, that a collection may have to interpret and apply the house rules for access to its holdings differently depending on whether the holdings contain human remains or not. In this way, the collection would be able to ensure that the basic right of human dignity is observed. Similarly, the courts must interpret all laws in conformity with the Basic Law. The above-mentioned rulings on exhibiting plastinates were made by administrative courts in proceedings dealing with official permits for the exhibition. The courts were obliged to interpret administrative regulations "in the light of the Basic Law".

Human remains in German civil law

The German Civil Code codifies a number of rights that allow the holders of those rights to dispose of an object in a certain way. These are the rights of property.

Ownership and possession of human remains

In particular, these rights include ownership and possession, between which there is a legal distinction. The right of ownership is the strongest of the rights of property. Enshrined in Section 903 of the Civil Code, it gives the owner of an object the right to dispose of the object as he or she sees fit. Thus, the owner may, in principle, sell, lend, alter or even destroy an object. In special cases, however, other laws may prohibit one or another of these acts – for example, the owner of a listed building may not destroy it, because its destruction is prohibited by the law on the preservation of monuments.

¹⁵⁵ An English solicitor and philosopher who, according to his own wishes, was dissected after death, preserved as an "auto-icon" and exhibited in a display case at University College London.

The legal concept of possession derives from Section 854 of the Civil Code. In legal terminology, possession merely indicates having practical control of an object and entails limited rights only. For example, while a leaser may be in possession of an object, he or she is not the owner of that object. Unlike the owner, a leaser may not sell or destroy the object.

However, according to the Civil Code, rights of property (including the right of ownership) only apply to “items” as defined by Section 90 of the Civil Code. The law does not explicitly address whether a body constitutes such an “item”, hence this remains a question of interpretation. Some jurists hold that the body of a recently deceased person is not an “item” at all. Arguably, the dominant opinion, however, assumes that while a body does constitute an “item” in the sense of Section 90 of the Civil Code, it is exceptionally a thing outside commercial intercourse (*res extra commercium*). Both groups, however, conclude that since rights of property cannot apply to the bodies of the recently deceased, there is no basis for claiming rights of ownership to them.

At the same time, there is a consensus among jurists that human remains of people who died long ago are susceptible to being traded in the sense of civil law, so that it is possible to have rights of ownership to them.

However, the Civil Code is no more precise or conclusive than the Basic Law with respect to the question of the boundary between *res extra commercium* and “tradeable objects”. Here, too, it is assumed that once post-mortem rights of the individual and the commemoration of the dead have faded, human remains – and hence also human tissue – become tradeable, although there is no clear, much less a legal definition of when this point is reached.

As German courts have never been called upon to rule on such a case, it has not been conclusively established whether the end of the commemoration of the dead shall be defined in terms of German customs or whether the traditions of other cultures must be taken into account. In answering this question, German courts will not, of course, be able to disassociate themselves from the ideas of the legal and cultural environment of which they are a part. Since these ideas also include the universal validity of human dignity, however, it seems possible that the courts may include the moral values of other countries in their deliberations if they are sufficiently relevant to the circumstances.

In contrast, the legal status of severed body parts of living people – i.e., hair, extracted teeth and also blood – is clear: once detached from the body, these become the property of the person from whom they originated, who may dispose of them as he or she sees fit, including, for example, by selling them.¹⁵⁶

In summary, an Egyptian mummy, a northern German bog body or bones dating from European antiquity may be the property of a collection according to civil law and may be listed as such in the museum inventory. The same is true of artefacts made using human tissue from living people, such as hair pictures, which can be purchased and owned by collections without issue. In contrast, the status of human tissue from deceased persons who may still be subject to the commemoration of the dead is far less clear. This applies, for example, to anatomical specimens dating from the Nazi era. In the case of some of these specimens, there may be doubts about whether they are the property of the collection holding them.

The legal concept of care of the dead

The above remarks do not mean that it is impossible to have rights to a recent body. In the case of bodies still subject to the commemoration of the dead, i.e., bodies that cannot yet be property, eligible persons have a (very limited) right to care for the dead. In general, those entitled to care for the dead are the deceased's next of kin, irrespective of whether they are also the heirs. Entitlement to care of the dead allow those who hold it to make decisions about burial or organ donation (although in some German federal states it does not include the right to donate the body to medical science). The next of kin may not make these decisions entirely as they see fit; rather, they are bound by the known or assumed will of the deceased. Entitlement to care for the dead also includes duties, particularly the duty to ensure the burial of the body (see below for the Burial Act).

Civil law recognises the care of the dead as a legal concept worthy of protection. Thus, the next of kin, as the regular holders of the right to care for the dead, can have recourse to civil law if their rights are infringed – e.g., if a third party attempts to interfere with the burial.

156 Side note: With some modifications, human dignity and the protection of personal rights also apply to tissue taken from living persons (e.g., in the case of the sculptures by Marc Quinn and artefacts containing, for example, the hair of living persons). One crucial difference is that, in the case of tissue from living persons, holders of the basic rights are able to bring their own claims if they learn of infringements of their rights. Moreover, different legal stipulations apply in the case of the living (especially the general freedom to act as laid down in Article 2 Section 1 of the Basic Law).

In cases where it is known that the person from whom the tissue originated was able to “donate” it without detriment to their health (especially in the case of hair, finger- and toenails or blood) and did so willingly and in the knowledge of how they would be used, procedures can presumably be less rigid than in the case of remains of the dead. Thus, the industrial exploitation of human hair that was voluntarily sold is surely compatible with human dignity. In contrast, hair forcibly cut from concentration camp prisoners – even if they were still alive at the time – is fully subject to the standards set out above.

Additionally, those entitled to care for the dead can claim rights of the dead that have been codified by civil law. For example, libel can be prosecuted according to Section 823 of the Civil Code, and this includes libel against deceased persons. Next of kin can therefore press libel charges under civil law on behalf of their deceased relative.

This provision must be interpreted by the court in accordance with post-mortem rights of the individual as per Article 1 of the Basic Law. Thus legal protection against libel under civil law fades along with constitutional rights of the individual at the point (not defined in law) when commemoration of the dead has ceased.

Post-mortem commercial exploitation of human remains and post-mortem commercial exploitation of personality

In the section on the Basic Law, we remarked that a distinction must be drawn between dealing with a deceased person's body and dealing with their personality or memory. It should be noted that the second aspect may have an impact on dealing with the person's remains as well. We pointed out that a body as such may never be commercially exploited. However, the personality may be commercially exploited even after death – for example, pictures of deceased film stars may be used for advertising purposes. The right to use images commercially in this way is part of the estate under civil law and thus belongs to the heirs (in this case, therefore, not necessarily to the next of kin). This legal concept does not last indefinitely either. In a 2006 case about the claims of Klaus Kinski's heirs to his estate, the court ruled that the right to commercial exploitation of personal rights – specifically, the use of Klaus Kinski's name – ends ten years after death. However, it was made clear that, in principle, personality rights (e.g., protection against libel) persist beyond this point (Federal Court of Justice, ruling of 5 October 2006, I ZR 277/03). Some caution is advisable, at least in the case of personalities who have died within the last hundred years. For example, in the context of collections, pure merchandising products (i.e., not catalogues and similar objects) showing a picture of the deceased could be problematic.

Legal problems when acquiring ownership of human remains

Even where rights of ownership may exist to human remains or (ritual) objects incorporating human remains, said ownership is not necessarily effectively transferred to the collection in which they are held. The general provisions of civil law are applicable here (Section 929ff. of the Civil Code). These regulations specify the manner in which the right of ownership is transferred from one holder to another and the circumstances in which errors in transfer cause ownership to remain with the original owner rather than being effectively transferred. If ownership has not been effectively transferred, the last rightful owner may have a legally enforceable claim to the return of the object by the possessor.

Owing to constraints of space, it is impossible to list all the possible scenarios here. To give one example, however, a thief does not acquire ownership of stolen goods and is therefore unable to transfer ownership to a third party (Section 935 of the Civil Code). If a collection purchases a stolen object from a thief, immediate acquisition of ownership is therefore impossible, irrespective of whether the object is made of, say, wood or human bones. In this case, the collection simply comes into possession of the object. Nevertheless, other regulations of the Civil Code do provide for ownership to be transferred to the collection at a later stage. One such regulation is the legal concept of usucaption (Section 937ff. of the Civil Code), which presupposes that the collection was unaware of the unlawful “acquisition” of the object by the thief. The issue is whether the collection acted in “good faith”. If this is the case,¹⁵⁷ it can become the owner of the object after ten years even if the object was stolen. If the object was acquired by the collection more than thirty years ago, a previous owner will generally not be able to enforce a claim of ownership in court. If in doubt, a legal expert should be commissioned to determine whether the collection has ownership of a given object.

Other provisions in German law

In the interests of completeness, we will briefly touch upon burial law and legal provisions for protecting the human body.

Burial law

Legislation on burials and cemeteries lie in the remit of the individual German federal states. The relevant laws may vary considerably from one state to another not only in their structure, but also in content. For example, mandatory interment is formulated differently in the laws of different states. All of them mandate that those entrusted with the care of the dead must see to the burial of deceased persons within a short period after death. However, all the burial laws also contain certain escape clauses that permit exceptions to mandatory interment. In the case of persons leaving their bodies to medical science, mandatory interment is not suspended, but delayed: in this case, burial must take place once the body is no longer being used for scientific purposes. In some exceptional circumstances, suspension of mandatory interment can be made permanent, especially for the purpose of producing permanently preserved anatomical specimens for teaching and research (on this see, for example, the Berlin Dissection Act, specifically Section 9 Clause 3 in conjunction with Section 7). With reference to the *Body Worlds* exhibition, therefore, it was ruled that the plastinates do not have to be buried since they are in permanent use for the purposes of anatomical study.

¹⁵⁷ In view of the fact that certain practices connected with the acquisition of objects that were already illegal in colonial times were widespread and common knowledge, it is necessary to examine carefully whether the museums can really claim to have acted in good faith.

The burial and cemetery laws and related special laws do not include escape clauses for the special case of human remains held by collections. Some have concluded from this omission that such remains fall under the burial laws and must therefore be interred; however, this is probably incorrect from a legal perspective. The burial and cemetery laws concern the disposal of the bodies of recently deceased persons. This follows from the purpose of the laws: one crucial reason for mandatory interment is to contain the dangers that can be posed by (recent) bodies. At the same time, the laws also seek to ensure the respectful treatment of the dead, but here too such treatment is guaranteed only for a limited duration. However, the burial and cemetery laws themselves provide for the dissolution of graves and the deconsecration of cemeteries after an interment period of (usually) thirty years. In such cases, it is not necessary for exhumed bones to be reburied. This shows that the applicability of the laws does not extend to older human remains and also explains why legislators saw no need to include special regulations in the burial laws for cases such as human remains from archaeological excavations, relics in churches or human remains in collections. It follows that mandatory interment according to the burial and cemetery laws does not apply to these cases.

Criminal law

The Criminal Code contains two sections that may be relevant for the protection of human bodies. The first is Section 168, which prohibits the violation of graves and thereby protects the human remains within them. However, the majority of legal scholars hold that this provision is applicable only for as long as the body, the actual “object” of the crime, is still deemed worthy of reverence and is thus still being commemorated. Thus, the remains must still be attributable to a specific individual.

The second provision that may be relevant is Section 189, which penalises the defamation of the dead. However, a mere negative value judgement of the deceased is not sufficient to constitute an act of defamation, which presupposes an exceptionally grave slander of the dead person. It is difficult to imagine actions by collection employees or presentations in exhibitions that would constitute such an act of defamation.

Human remains in international law

International law too contains very few provisions that deal directly with the treatment of human bodies.

The UN Declaration on the Rights of Indigenous Peoples of 2007 contains an explicit provision about human remains. According to Article 12 of this declaration, Indigenous peoples have the right to the repatriation of the remains of their members.

Additionally, the Law of War (humanitarian international law) acknowledges the principle of customary law that parties to a conflict must give each other the opportunity to properly bury their dead.

These two provisions are most likely to be relevant to repatriation demands. However, they do not provide a sufficient basis for actionable claims for restitution.

Legal provisions for claims against collections to return human remains

There are no legally codified claims for return pertaining specifically to the repatriation of human remains. In individual cases, it might be possible to make claims for return in accordance with general regulations. In practice, however, legal proceedings for the return of human remains will be rare and the overwhelming majority of decisions about claims for return will be based on the criteria of collection ethics or on the political context. The recommendations compiled in the practical section of this publication are intended as assistance for those cases where no legal claim for return can be lodged.¹⁵⁸

Possible claims for return under German law

The first possibility involves claims according to the Civil Code. This contains certain legal provisions on the basis of which holders of property rights such as the right of ownership or other rights can contest infringements of those rights.

Sections 985ff. give owners the right to demand the return of their property from others. To the extent that human remains can be chattels pursuant to Section 90 of the Civil Code (see above) and that rights of ownership in them exist, they can be subject to Sections 985ff. of the Civil Code. If so, the rules that apply are the same as for any other object. Whether the object of a claim for return is a painting or a mummy is irrelevant for the application of claims for return under property law. The legitimacy of both claims must be examined according to the same rules.

To the extent that a human body is still subject to commemoration and cannot therefore constitute property, property law is not applicable. Such a body is subject to the above-mentioned care of the dead, which is recognised by the Civil Code as an independent legal concept. The persons authorised to care for the dead are entitled to resort to civil law to contest interference with that right, for example if the body is removed (Section 858 Clause 1; Section 861 Clause 1; Section 862 Clause 1; Section 864 Clause 1 of the Civil Code).

¹⁵⁸ See "Repatriation", pp. 45f.

These provisions must be applied in a way consistent with the guarantee of human dignity stipulated in Article 1 Section 1 of the Basic Law. Thus, members of a community of origin could conceivably cite their entitlement to care for the dead as grounds for demanding the return of human remains by a collection. To do so, however, they would have to prove that they are relatives of the person whose remains are the subject of the claim. Their relationship to the deceased would also have to be close enough for the law to assume that commemoration of the dead has not yet ceased and that the claimants are authorised to care for the dead. This would be the case, for example, with great-grandchildren claiming the remains of a great-grandparent. Establishing entitlement to care for the dead would be more difficult in the case of cultural contexts where persons who are neither biological relatives nor next of kin may be entitled to this right; such claims would require examination on a case-by-case basis. The crucial issue in such cases may be the question of who buries the dead in these communities. However, while no German court ruling is available for this question to date, membership of the same community of origin alone is unlikely to suffice for claiming the right to care for the dead. Finally, proof would have to be submitted that the body was removed from the persons entitled to care for the dead.

Claims for return cannot in principle be based immediately on post-mortem rights of the individual as defined in Article 1 Section 1 of the Basic Law. Only in exceptionally rare cases could the post-mortem rights of the individual enshrined in the Basic Law form grounds for the return of human remains. Such a claim could be lodged only by those entitled to care for the dead, who in general would be the next of kin of the deceased. They would have to demonstrate, and if necessary prove, that allowing the remains to stay in the collection is incompatible with the human dignity of the deceased. In practice, it is difficult to conceive of a court upholding such a claim.

Claims for return under international law

We have already mentioned the UN Declaration on the Rights of Indigenous Peoples. By signing this declaration, the Federal Republic of Germany declared the intention “to seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with the Indigenous peoples concerned” (Article 12 No. 2 of the Declaration). However, it is impossible to infer legally binding rights to return from this wording. Nor does international law contain other agreements that explicitly provide for the return of human remains. Customary law has so far not established a right to the return of human remains in international law either.

In individual cases, claims could be lodged on the basis of the Act on the Protection of Cultural Property, for which the international legal framework is supplied by the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (14 November 1970).

This agreement was first implemented in German law by the Act on the Return of Cultural Objects of 18 May 2007, which created rights of return under public law. These legal provisions were transferred in 2015 into Sections 49ff. of the Act on the Protection of Cultural Property.

However, enforceable claims to return only exist for objects which were imported into Germany after a certain date.¹⁵⁹ Thus the relevance of the Act on the Protection of Cultural Property for the return of human remains is likely to be extremely limited, since the number of objects in German collections containing human remains that were illegally exported from their countries of origin after the relevant cut-off dates is likely to be very small.

Additionally, human remains for which claims for return are made must be classified as cultural assets in the sense of these regulations. Moreover, claims according to the Act on the Protection of Cultural Property can only be made by the signatory state from whose territory the cultural assets were illegally exported, not by private persons or authorised representatives of the community of origin. Lawsuits must be brought under current law against the party who has de facto power over the cultural asset. Thus, a lawsuit could be brought in the administrative court against a collection holding unlawfully exported human remains.

For cultural assets illegally exported before 1970, some legal literature discusses the possibility that a claim to return may exist under customary international law. Legally enforceable claims against individual collections cannot in principle be based on this law. If the human remains were acquired in violation of international criminal law (i.e., via genocide, crimes against humanity or war crimes), it seems conceivable that the country of origin may have a claim to return under international law against the country holding the remains. As this has not been sufficiently established by international law, however, no enforceable claim can currently be made under customary international law.

Additional claims under international law may exist on the basis of special agreements governing the return of the remains of combatants from various wars. For example, the Treaty of Saint-Germain-en-Laye of 1919 made provisions for the return of the remains of fallen World War I soldiers. Similarly, the United States always seeks to bring home the remains of its fallen soldiers.

¹⁵⁹ In the case of objects from member states of the European Union, the date is 31 December 1992. In the case of objects from other UNESCO signatory states it is 27 April 2007.

Claims for return and budgetary law

In conclusion, it should be noted that the public budgetary laws do not categorically prohibit the return of collection items to third parties. This is self-explanatory in cases where there is a legally enforceable claim to return. However, even cases where the reasons for returning an object are purely ethical will often be compatible with budgetary law, since this law only seeks to prevent public authorities from taking measures that are entirely incompatible with the principles of sound economic management. For example, an annotation was added to the law on the federal budget according to which collections are explicitly permitted to return cultural assets acquired in the course of Nazi persecutions and collection items from colonial contexts. The budgetary laws of some federal states, however, also prohibit the return of objects without payment if there is no legal basis for the surrender.

As there are marked differences in budgetary law in the case of different collection funding bodies, a careful assessment must be made on a case-by-case basis to determine whether return is permissible under budgetary law. In most cases, the collection must obtain a decision from its funding body, and in some cases also from the specialist ministry and the Ministry of Finance. In some cases, a decision by the legislature responsible for the budgetary law may be required as well.

Further reading

The following list is a non-representative selection. The opinions given in individual publications are not necessarily shared by the authors of this chapter.

- **Arbeitskreis Menschliche Präparate in Sammlungen**, Empfehlungen zum Umgang mit Präparaten aus menschlichen Geweben in Sammlungen, Museen und öffentlichen Räumen (Stuttgarter Empfehlungen), <https://www.aerzteblatt.de/archiv/38021/Mitteilungen-Empfehlungen-zum-Umgang-mit-Praeparaten-aus-menschlichem-Gewebe-in-Sammlungen-Museen-und-oeffentlichen-Raeumen> [12.02.2020].
- **Ralf Gröschner**, Menschenwürde und Sepulkralkultur in der grundgesetzlichen Ordnung, Stuttgart 1995.
- **Ines Klinge**, Todesbegriff, Totenschutz und Verfassung: Der Tod in der Rechtsordnung unter besonderer Berücksichtigung der verfassungsrechtlichen Dimension, Baden-Baden 1996.
- **Bernhard Kretschmer**, Der Grab- und Leichenfrevl als strafwürdige Missetat, Baden-Baden 2002.

- ▶ **Adrian Schmidt-Recla**, “Eine Stimme des Rechts”, in: Sandra Mühlenberend, Jakob Fuchs, Vera Marušić (eds), *Unmittelbarer Umgang mit menschlichen Überresten in Museen und Universitätssammlungen. Stimmen und Fallbeispiele*, Dresden 2018, pp. 16–26.
- ▶ **Hans-Theodor Soergel, Jochen Marly**, *Bürgerliches Gesetzbuch mit Einführungsgesetz und Nebengesetzen, Kommentar zu § 90, Rdnr. 9 ff.*, Stuttgart 2000.
- ▶ **Julius von Staudinger**, *Kommentar zum Bürgerlichen Gesetzbuch, Kommentar zu § 90, Rdnr. 27 ff.*, Munich 2004.
- ▶ **Claudia von Selle, Dirk von Selle**, “Menschliche Überreste in deutschen Museen: Rechtliche Freiräume, moralische Ansprüche”, in: *KUR* 5/12, pp. 169 ff.
- ▶ **Monika Christine Weck**, *Vom Mensch zur Sache? Der Schutz des Lebens an seinen Grenzen*, Shaker Verlag, Aachen 2003.

ETHICAL PRINCIPLES FOR COLLECTIONS CONTAINING HUMAN REMAINS¹⁶⁰

Christian Lenk

The relationship between ethics and law with respect to human remains in collections

Ethics is generally understood as the systematic reflection on human conduct, especially in relation to other people. In modern ethics conduct is defined as intentional acts carried out by self-determined actors who are fundamentally capable of following normative (ethical) principles in pursuing their goals. The distinction between *ethos* – in the sense of customs and traditions – and *ethics* as a consideration of the right way to act dates back to Antiquity. *Ethos* plays an especially important role in dealing with human remains in that it demands a respectful and reverent treatment of the deceased as reflected in regional rituals and traditions.

Academic disciplines such as modern medicine, history, archaeology and biological anthropology are to some extent based on collecting and studying human remains and specimens prepared from body parts. As such, they make a major contribution to our understanding of human culture, history and religion as well as providing information about how the body functions. This research follows the paradigm of modern scientific methodology, which obeys different rules to the traditional treatment of the dead. We assume that the use of human remains in laboratories and collections in the context of research work today is normally justified by the additional knowledge it yields, so that this practice does not in itself raise any fundamental ethical objections.¹⁶¹

Historically, the acquisition or preparation of human remains was in some cases carried out in a legal framework (e.g., colonial) that today would be regarded as unacceptable or inadequate. Yet even now, there is no separate law regulating the handling of human remains in collections. A number of paradigmatic cases, such as the return of Herero skulls from the Charité's collection to Namibia or the discussion about the origin of Aboriginal skeletons in the Amalie Dietrich Collection, have highlighted the importance of formulating ethical considerations concerning the handling of human remains in

160 The present contribution is a revised version of the section on ethical principles in the first edition of the *Recommendations for the Care of Human Remains in Museums and Collections* published in 2013, which was compiled together with Claudia von Selle.

161 People can decide while they are still alive to donate their body to an anatomical institute for research and teaching purposes (in some cases including display) by making a testamentary disposition. This mechanism was created to provide an ethical-moral basis for research into human remains.

collections that go beyond existing legal provisions. Such considerations do not represent a conclusive commentary on the issues described. Rather, they are a snapshot of the ongoing ethical discussion about the handling of human remains. The question of how to deal with human remains in collections can only be answered in interaction with the various academic disciplines involved.

This applies most especially to legal assessments. In the case of processes that extend over a long period of time, like the collection of human remains, a legal assessment is not sufficient given how legal parameters have changed historically. Key evaluation criteria such as “human dignity” or “post-mortem rights of the individual” cannot be covered merely by the application of the law but fall within the broader field of (legal) ethics.¹⁶² By the same token, formal legal criteria, such as the statutory period of limitation, cannot simply be applied without paying heed to ethical considerations.¹⁶³

Dealing with human remains for collecting purposes

As the Israeli physician and expert on bioethics Michael Barilan states, using a dead human body for purposes other than burial without the consent of the person concerned or of their relatives is usually regarded – at least in Europe – as a serious violation of human dignity. That said, in the Western tradition anatomy and science enjoy a certain degree of “immunity” from this general principle, which has allowed them to use the bodies of deceased persons for research purposes, in some cases without prior consent.¹⁶⁴ It was, after all, Western culture and the various human sciences (anatomy, biological anthropology and medicine) that changed the traditional religious approach to dealing with human corpses.¹⁶⁵ The breaking of taboos in the eighteenth century, such as the preparation of the “Irish Giant” Charles Byrne, whose skeleton is still on display – against his express will – in the Hunterian Museum in London, testifies to the dramatic changes in attitudes to the dead human body that have taken place. Religious practices for dealing with the human body were thus now at odds with the ethically motivated principle that human remains can and even should be used for scientific purposes because this contributes to the advancement of knowledge and to the common good.

¹⁶² Von Selle and von Selle 2012, p. 169.

¹⁶³ In Germany, public institutions are advised in the interests of the former owners and with a view to compensatory justice to ignore the statutory period of limitation when dealing with cultural goods that were lost as a result of the persecution that took place between 1933 and 1945. The rules to be applied here are summarised in the Washington Principles (Washington Conference on Holocaust-era Assets 1998).

¹⁶⁴ Barilan 2011, p. 3.

¹⁶⁵ Lenk 2011, pp. 22f.

The philosophy of Utilitarianism underlying this approach fundamentally places the interests of the living in knowledge acquisition and scientific advancement over the religious sentiments of the deceased and their relatives – regardless of whether the deceased is from a European or a non-European culture.¹⁶⁶ Jeremy Bentham, an exponent of the Utilitarianism of the time, affirmed the persuasive power of the materialistic, utilitarian mode of thinking not least with his decision to allow his own body to be dissected and left to science; it can be viewed to this day at University College London. The fundamental principle that the bodies of deceased persons can and should be used to benefit the living is today widely recognised by science and medicine and finds expression, for example, in post-mortem organ and tissue donation. The corpses of those who have donated their bodies to science are used not only for teaching anatomy at universities but also for research. Indeed, nowadays donations of dead bodies are even used to produce implants for medical treatment following the requisite processing and preparation.

In modern ethics and law the consent of the person concerned or their relatives is normally required if body materials (e.g., body fluids, cells, tissue or organs) are to be used for research and medical procedures. By contrast, such an approach to human remains in historical collections is not normally possible. Arriving at a firm ethical position on the issue in the absence of statements of the will of the owner of the human remains in question is hence problematic. The situation is further complicated by the fact that the products and objects in question stem not only from our own cultural and scientific tradition but also include human remains from other cultures.¹⁶⁷ General speaking, however, a distinction should be drawn here between instances where the will of the person in question is unknown (e.g., in the case of prehistoric remains) and cases where the use of a body for collections or research has been explicitly rejected (as in the above-mentioned case of Charles Byrne or in certain colonial contexts).

Ethical foundations and codes

Critics of repatriating human remains sometimes note that the ethical obligations pertaining to the handling of human bodies are regionally different, historically divergent and generally undefined. Yet it would certainly be unacceptable for today's collecting institutions to adopt an ethical standpoint that does not rest on a modern and enlightened understanding of human rights or that fails to take account of the diversity of regional traditions.

166 Cf. Pitts 2003, pp. 202f., p. 210.

167 For an overview see Squires et al. 2020.

In historical terms we should bear in mind that criticism of colonialism can also be traced back to the European Enlightenment: Immanuel Kant writes in his *Rechtslehre*, for example, referring to the conquering of the colonies, that “all these supposedly good intentions [...] cannot wash off the stains of injustice in the means used for this purpose”.¹⁶⁸ It is therefore – irrespective of any formal legal provisions – incorrect to assert that the practices of material acquisition often carried out by violent means and/or without the participation or against the will of the local population were in line with the sense of justice of the time. Indeed, many of the erstwhile “collectors” were themselves well aware of the injustice of what they were doing, but felt themselves “obliged” in the service of science to appropriate the materials or objects in question. A survey of the various official publications and codes that have been issued on the subject over the past thirty years allows us to distil the essence of a basic ethical understanding.

ICOM Code of Ethics for Museums (1986 and 2017)

The *ICOM Code of Ethics for Museums* prescribes “minimum standards of professional practice and performance for museums and their staff”.¹⁶⁹ The Code regards museums as responsible for “tangible and intangible natural and cultural heritage”¹⁷⁰ and thus ascribes to them an important cultural and authoritative function. The Code refers to the museums’ “stewardship” of their collections, which has both official and indeed moral connotations and sees the museums as the “custodians” and administrators of a valuable historical and cultural legacy. In order to fulfil this role, a museum must collect, conserve and exhibit objects in a proper manner in order to preserve public trust.¹⁷¹ The Code refers on the one hand to the special value of the collections and thus to the cultural and political mandate that this implies; on the other hand, certain criteria, such as “lawful ownership” must be observed if this mandate is to be fulfilled.

Section 2.5 of the Code concerns “culturally sensitive material” and brackets human remains together with “material of sacred significance”.¹⁷² The collection of such objects should be carried out in a manner “consistent with [...] the interests and beliefs of members of the community, ethnic or religious groups from which the objects originated”, where these are known. It does not, however, specify whether this refers to present members of a community or to historical ideas and beliefs. Section 4.4 (“Removal from Public Display”) advocates treating requests for the repatriation of human remains with respect and sensitivity and states that local museum policy should define how such requests should be handled.

168 Kant 1797, 1997, p. 477.

169 ICOM 2017, p. 1.

170 ICOM 2017, p. 6.

171 ICOM 2017, p. 9.

172 ICOM 2017, p. 10; on research and exhibitions see also Sections 3.7 and 4.3, pp. 20 and 25.

Seen as a whole, then, the *ICOM Code of Ethics* represents a cautious attempt to define a number of criteria for the acquisition, care and repatriation of human remains without making specific stipulations. Rather, those responsible for collections are encouraged to play an active role and develop practices and procedures that are in line with the minimum standards of the Code.

Vermillion Accord of the World Archaeological Congress (1989)

The *Vermillion Accord* formulates some general rules for dealing with human remains in archaeological contexts. Alongside a general statement about taking a respectful approach, it also outlines a position against discriminatory conduct, urges efforts to take account of extant expressions of the will of the deceased and the communities of origin and outlaws illegitimate conduct in connection with human remains. The latter is likely to become relevant particularly when gaps in the legal provisions of certain states mean that the unethical and inappropriate treatment of human remains (for example, grave robbery or damage to historic sites) is not explicitly ruled out (or was not ruled out in the past).

Thus Section 1 of the *Vermillion Accord* calls for “[r]espect for the mortal remains of the dead [...] irrespective of origin, race, religion, nationality, custom and tradition”. Section 2 likewise calls for “[r]espect for the wishes of the dead”, in this case probably referring to more recent instances such as that of the aforementioned Charles Byrne. Section 3 advocates “[r]espect for the wishes of the local community and of relatives or guardians of the dead”. This may, however, raise issues of definition if the regional or cultural attitude of a local community to human remains cannot be clearly inferred. In Section 4, the *Vermillion Accord* goes on to advocate “[r]espect for the scientific research value of skeletal, mummified, and other human remains (including fossil hominids)”, implying that it may be necessary to weigh up the claims of communities of origin against the value of human remains for scientific research. Finally, Section 5 sees negotiation and agreement “on the basis of mutual respect for the legitimate concerns of communities for the proper disposition of their ancestors” as the norm underlying decisions about the use of human remains in archaeology. Thus, positions that pursue the interests of research on human remains without acknowledging the interests of communities of origin are de facto ruled out. The “legitimate concerns” referred to in the quoted passage thus evidently do not refer to existing legal provisions but are legitimate insofar as cultural concepts contain an actual reference to human remains. The approach outlined by the *Vermillion Accord* was supplemented in 2005 by the *Tamaki Makau-rau Accord*, which also included the ethical aspect of displaying and exhibiting human remains and sacred objects.

Recommendations for Dealing with Preparations of Human Tissue in Collections, Museums and Public Spaces by the Working Group on Human Specimens in Collections (2003, in German)

These Recommendations concern human remains in anatomical, anatomical pathology, forensic and anthropological collections, i. e., collections usually located in medical institutions and medical faculties. The involvement of the German medical profession in Nazi crimes plays a special role here. Indeed, the working group's Recommendations are the most detailed and most explicit statement to date on how to deal with human remains in collections linked to the German context of injustice.

Section 1 of the Recommendations formulates as a general principle that the collection and preparation of human tissue “for the purposes of presentation and demonstration to a professional and general public” is both permissible and important in order to portray and explain scientific connections. As elsewhere, the Recommendations refer to the need to treat human remains in all contexts with an appropriate degree of respect for human dignity. Section 2 states with reference to the field of medicine that “[i]n the light of Germany's Basic Law [...] using specimens of human tissue should [...] as a rule only be considered with the effective written consent of the deceased”.¹⁷³ The problem with the medical use of historical specimens is that this consent frequently does not exist.

With respect to the context of injustice in Nazi Germany and in the GDR, the Recommendations refer to human dignity:

“If it transpires that the deceased lost his or her life on the grounds of their ethnic origin, views or for political reasons through violent means organised and directed by the state or if the facts give grounds to suppose the likelihood of such a fate, then this constitutes a serious violation of personal dignity. If a context of injustice of this kind is ascertained in an individual case, then the specimens should be removed from the relevant collections and given a dignified burial or treated in a similarly dignified manner.”¹⁷⁴

Here it is important to note that similar forms of violation of human dignity were committed in a colonial context vis-à-vis members of other states and ethnicities in the course of anthropological and medical research.¹⁷⁵ Probably in reference to the concept of the fading of the personal link in German data protection law, the Recommendations analogously assume a possible “fading of the memory of the deceased”.¹⁷⁶

173 Arbeitskreis Menschliche Präparate in Sammlungen 2003, p. 378.

174 Ibid., p. 379.

175 Von Selle and von Selle 2012, p. 173.

176 Arbeitskreis Menschliche Überreste in Sammlungen 2003, p. 379.

Here, however, the question arises in an intercultural context as to what extent the fading of memory and hence of those aspects of an individual in need of protection can also be applied to other states and cultures.

Report on the Human Remains Management of the IZIKO Museums of South Africa (2017)

A further example of an evaluation of human remains collected in a colonial context is the Report of the IZIKO Museums of South Africa. The Report, published in 2017, evaluates collections of human remains in the context of colonial history. The report was occasioned by the realisation that the museums' collections contained many human remains, some of which had been acquired unethically. This should also be viewed in the context of "racist science",¹⁷⁷ for which human remains were collected as examples of different "racial types" and thus were directly connected with the "development of false theories about race".¹⁷⁸ Historical scientific literature is cited as evidence of this.¹⁷⁹

Here two key points of criticism are identified:

*"The first is that the context within which 'collecting' took place was that museums were complicit in the development of racist, pseudo-scientific theories which formed the foundations upon which white supremacist policies were built. The second is that the methods used to obtain bodies were totally unethical and could be simply described as 'grave robbing' with the absence of informed consent from the families or communities from which the bodies or skeletons were obtained."*¹⁸⁰

Accordingly, in these cases neither the circumstances of acquisition nor the form of use comply with ethical standards: there was neither any kind of agreement reached with the affected persons or with the communities of origin about the removal and preparation of human remains, nor can it be claimed that this was of value to science. In accordance with the evolutionist paradigm of the science of the time, collections of skulls and skeletons were assembled to provide data for future research. As part of this approach the bodies of the deceased were to be used to underpin pseudoscientific theories about the superiority of the "white race" to the detriment of the communities of origin. This "white supremacism" was not of historical or theoretical significance for the population; rather, it served until well into the 1990s as a basis to justify the political repressions and deprivation of rights in South Africa's apartheid regime.

¹⁷⁷ IZIKO 2017, p. 5.

¹⁷⁸ Ibid.

¹⁷⁹ Legassick and Rassool 2000, 2009.

¹⁸⁰ IZIKO 2017, p. 3.

The problem of the pluralism of values in dealing with human remains

The collection and presentation of human remains of cultural, religious and spiritual significance from a large number of different cultures poses the tricky problem for those responsible of finding an acceptable balance between the mandates of museums and collections and the beliefs of the communities of origin. At the same time, seeking a solution based on the “lowest common denominator” simply harbours further problems and cannot take adequate account of all the actors’ interests. In particular we should remember that Western ideas about property, personhood, individuality, tradition and the collective often do not map with the corresponding Indigenous concepts¹⁸¹ and in the postcolonial era should not be regarded as binding with respect to human remains in an international context. However, given the existing problems we should also be aware of possible areas of convergence:

First, in the twenty-first century there exists a broad intercultural consensus that human remains should be treated with respect and reverence, which proscribes degrading treatment in research, collecting and presentation.¹⁸² Various points of reference document the current status of the German discussion about the treatment of the human body, for example, the legal dispute concerning the exhibition *Body Worlds* by Gunther von Hagens.¹⁸³

Second, there is a strong consensus in the international discussion that Indigenous groups have a right to the repatriation of human remains in the possession of collections,¹⁸⁴ insofar as a close cultural relationship to these remains exists. As the International Museums Council stresses in Section (6) of its Ethical Code, the values and needs of other ethnic groups must always be treated with respect by the owners of international collection holdings, and “museums should be prepared to enter into a dialogue for the return of cultural property to a country or people of origin”.¹⁸⁵

181 Cf. Squires et al. 2020.

182 Arbeitskreis Menschliche Präparate in Sammlungen 2003, p. 379.

183 See also the section “Legal Provisions”, pp. 96f.

184 Cf. United Nations General Assembly, Declaration of the United Nations on the Rights of Indigenous Peoples, Article 12, Section 2.

185 ICOM 2017, pp. 32ff.

Third, in addition to a clear vote in favour of repatriating human remains – especially those acquired in colonial contexts – it would also seem advisable to take into account the important function of collections as conservational and competent cultural institutions and to develop objective and, where possible, binding criteria for potential returns. Here the Swedish National Heritage Board¹⁸⁶ and the British Department for Culture, Media and Sport¹⁸⁷ provide guidelines.

Sources and further reading

- ▶ **Arbeitskreis Menschliche Präparate in Sammlungen**, “Empfehlungen zum Umgang mit Präparaten aus menschlichem Gewebe in Sammlungen, Museen und öffentlichen Räumen”, in: Deutsches Ärzteblatt, Vol. 8, August 2003, pp. 378–383.
- ▶ **Michael Y. Barilan**, “The Biomedical Uses of the Body: Lessons from the History of Human Rights and Dignity”, in: Christian Lenk et al. (eds), *Human Tissue Research: A European Perspective on the Ethical and Legal Challenges*, Oxford 2011, pp. 3–14.
- ▶ **Department for Culture, Media and Sport (DCMS)**, *Guidance for the Care of Human Remains in Museums*, London 2005, www.britishmuseum.org/sites/default/files/2019-11/DCMS-Guidance-for-the-care-of-human-remains-in-museum.pdf [01.07.2020].
- ▶ **International Council of Museums (ICOM)**, *Code of Ethics for Museums*, Paris 2017, <https://icom.museum/en/resources/standards-guidelines/code-of-ethics/> [20.11.2020].
- ▶ **IZIKO South African Museums**, *Report on the Human Remains Management and Repatriation Workshop*, 13th–14th February, 2017. Cape Town, Republic of South Africa. http://icme.mini.icom.museum/wp-content/uploads/sites/16/2019/01/Report_on_the_Cape_Town_Workshop_02.17.pdf [17.6.2020].
- ▶ **Immanuel Kant**, *Die Metaphysik der Sitten, Rechtslehre*. § 62 Das Weltbürgerrecht, Frankfurt am Main 1797, 1997.
- ▶ **Martin Legassick, Ciraj Rassool**, *Skeletons in the Cupboard: South African Museums and the Trade in Human Remains, 1907–1917*, South African Museum, Capetown 2000.
- ▶ **Martin Legassick, Ciraj Rassool**, “South African Museums and Human Remains”, in: Anette Hoffman (ed.), *What We See: Reconsidering an Anthropometrical Collection from Southern Africa, Images, Voices and Versioning*, Basel Afrika Bibliographien, Basel 2009, pp. 182–203.

186 Swedish National Heritage Board 2020, p. 13.

187 Department for Culture, Media and Sport 2005, Part 3, pp. 23–29.

- ▶ **Christian Lenk**, “Mein Körper – mein Eigentum?”, in: *Aus Politik und Zeitgeschichte*, Vol. 20–21, 2011, pp. 22–27.
- ▶ **Jennifer Pitts**, “Legislator of the World? A Rereading of Bentham on Colonies”, in: *Political Theory*, Vol. 31, No. 2, pp. 200–234.
- ▶ **Kirsten Squires, David Errickson, Nicholas Márquez-Grant**, *Ethical Approaches to Human Remains. A Global Challenge in Bioarcheology and Forensic Anthropology*, Cham (CH) 2020.
- ▶ **Swedish National Heritage Board**, *Good Collections Management: Guidance for Managing the Return of Cultural Objects*, Stockholm 2020, <http://raa.diva-portal.org/smash/get/diva2:1433378/FULLTEXT01.pdf> [01.07.2020].
- ▶ **United Nations General Assembly**, *United Nations Declaration of the Rights of Indigenous People*, Resolution 61/295, 2007, <https://www.un.org/Depts/german/gv-61/band3/ar61295.pdf> [14.12.2020].
- ▶ **Claudia von Selle, Dirk von Selle**, “Menschliche Überreste in deutschen Museen: Rechtliche Freiräume, moralische Ansprüche”, in: *KUR*, Vol. 5, 2012, pp. 169ff.
- ▶ **Washington Conference on Holocaust-era Assets**, *Washington Principles. The Washington Principles on Nazi-Confiscated Art*, Washington 1998, www.kulturgutverluste.de/Content/08_Downloads/DE/Grundlagen/Washingtoner-Prinzipien/Washingtoner-Prinzipien.pdf [20.11.2020].
- ▶ **World Archaeological Congress**, *The Vermillion Accord*, 1989, in: *Historic Scotland* (ed.), *The Treatment of Human Remains in Archaeology. Operational Policy Paper 5, Annex B*. www.historicenvironment.scot/archives-and-research/publications/publication/?publicationId=02e7320f-4fb2-4c4a-8aba-a58e00e3f22c [17.06.2020].
- ▶ **World Archaeological Congress**, *Tamaki Makau-rau Accord*, 2005, <https://worldarch.org/code-of-ethics/> [18.11.2020].

THE SIGNIFICANCE OF ANCESTRAL HUMAN REMAINS TO AUSTRALIAN ABORIGINAL AND TORRES STRAIT ISLANDER PEOPLE

Michael Pickering

"The boxes are put into graves or sometimes put in a cave and the Elders who speak to the spirits say, 'You're home now, we've put you back into your country and you've been taken away for a long time, but now you're back home'."

(Neil Carter, Repatriation Officer, Kimberley Aboriginal Law and Culture Centre)

Australia is home to over 350 Aboriginal and Torres Strait Islander (Indigenous Australian) cultural groups, many now identifying as Nations. Neighbouring Nations share a number of common cultural beliefs and practices, uniting groups socially over time and over long distances. Nonetheless, each Nation has its own unique identity, language, beliefs, histories and cultural practices. This also applies in the way each Nation perceives death, and the cultural beliefs and practices applied to the care of the dead, recent and ancestral.

There is, therefore, no universal Indigenous Australian philosophy regarding issues surrounding death, such as causes, mortuary rites, religious beliefs, spirits, the status of remains after death and opinions for the process of repatriation of the dead. To ascertain such beliefs, direct consultation with the affected group is required. However, there are some generic shared trends in the beliefs of Indigenous Australians regarding death.

Traditionally, Indigenous Australians have complex religious beliefs and accompanying ceremonies that mark a person's transition through the various stages of life, conception, birth, initiation into adulthood, initiation into higher levels of sacred law, until eventually death. Death is another transitional phase in life. Upon death, a person's spirit has to be cared for. The spirit can have a number of manifestations. There is the spirit of individuality, which has to be sent to the next plane of existence, there is a spirit of life, which has to return to its conception site to await rebirth. There are also more malevolent spirits, which can remain on earth to cause distress to the living and which have to be driven away or managed. The separation of spirit from flesh is achieved through complex ceremonies, many taking years to complete.

At the completion of mortuary rites, the spirit(s) are believed to leave the remains and depart, yet for many Indigenous Australians some aspects of the spirit of the deceased persist in the remains. This remaining spiritual essence can be benevolent, malevolent or neutral. What is important is that the remaining spirit can be managed if the remains continue to be treated with respect.

With the arrival of Europeans, Indigenous Australian cultures were subjected to imposed ideas, particularly religion. Over time, many have adopted alternative religious affiliations, such as Christianity, and traditional mortuary practices have been replaced by modern religious practices. This does not mean that traditional values have been extinguished. Indigenous Australians have always responded to change, be it environmental or social. This is demonstrated in the oral histories, rock art and anthropological and archaeological evidence. Many traditional values have carried over into the twenty-first century and remain a foundation for the beliefs of modern Indigenous Australian peoples. These include strong beliefs in the continued presence of the spirit in the remains. Thus, as with traditional beliefs, the deceased are to be accorded appropriate mortuary ceremonies and their remains treated with respect.

This means that Ancestral Indigenous Australian remains, whether in their original burial sites, or in repositories around the world, are believed to retain aspects of the spirits of the deceased. When disturbed through collection, or subsequent research, these spirits are considered to be in distress, and it is a social obligation for their descendants to return them to their homelands through repatriation. This act not only settles the restless spirits, but also heals social distress believed to have been caused by the activities of those restless spirits.

There is no “tradition of repatriation” for Indigenous Australians. It is a new experience requiring the development of new philosophies and social and ceremonial protocols. It is both distressing and rewarding for Indigenous Australians and this needs to be appreciated in repatriation engagements.

Repatriation in Australia

The repatriation of Indigenous Australian Ancestral remains is supported by Australian Government policy, which states:

For Aboriginal and Torres Strait Islander peoples, the return of ancestral remains back “to country” is the first step towards recognising their dignity. It restores their rightful place as Elders, mothers, fathers, grandmothers, grandfathers, uncles, aunts, brothers and sisters.

It acknowledges the wrong done to them and allows the ancestors to finally rest in peace in their homelands. It recognises the unbreakable bond, customary obligations and traditional practices between the living, the land and the dead.

Australian public museums have been returning Indigenous Australian remains for over thirty years. Over this time, philosophies and processes for the repatriation of remains have been refined, debated and tested. Approaches to researching the provenance of remains have greatly improved, with emerging international repatriation networks. Many of the experiences of Australian repatriation practitioners and researchers are published, providing a valuable resource for those individuals and institutions just beginning to consider repatriation activities.

Many Ancestral Remains can be returned directly to communities. For those that cannot, or for which more consultation and provenance research is required, Federal and State Australian Museums offer to hold them until appropriate custodians can be identified. Such remains held by museums are not the property of the museum and must be returned to appropriate custodians upon request.

The Australian Government has a Repatriation Unit that has oversight of all remains returned from overseas and for which custodians cannot yet be identified or who do not have resources to receive remains at the time. This Unit is overseen by an “Advisory Committee for Indigenous Repatriation” consisting solely of Aboriginal and Torres Strait Islander members.

The return of remains, and provision of in-kind or financial support to communities when possible, has led to greater trust between communities and museums. This is reflected in increased levels of consultation and a stronger expression of Indigenous community voices in non-repatriation related activities, such as exhibitions and collections interpretation. As a result of engagements initiated by repatriation, the outcomes have been rewarding, for the Indigenous Australians, the institutions and the individuals involved.

Sources

- ▶ **Australian Government 2020 Indigenous Repatriation**, <https://www.arts.gov.au/what-we-do/cultural-heritage/indigenous-repatriation>
- ▶ **returnreconcilerenew.info** A website with extensive resources. Its aim is to raise awareness and understanding about repatriation of Ancestral Remains and assisting repatriation practitioners and researchers in their efforts to bring Ancestors home.
- ▶ **Cressida Fforde, C. Timothy McKeown, Honor Keeler** (eds), *The Routledge Companion to Indigenous Repatriation: Return, Reconcile, Renew*, Routledge: London 2020.
- ▶ **Michael Pickering**, *A Repatriation Handbook: A Guide to Repatriating Australian Aboriginal and Torres Strait Islander Ancestral Remains*, National Museum of Australia, 2020.
- ▶ **Paul Turnbull**, *Science, Museums and Collecting the Indigenous Dead in Colonial Australia*, Palgrave Macmillan, 2017.

THE RESPONSIBILITY TO RESTORE THE ANCESTRAL HAWAIIAN FOUNDATION THROUGH REPATRIATION AND REBURIAL

Edward Halealoha Ayau

Traditional Hawaiian knowledge, values, practices and proverbs reflect a significant aspect of Hawaiian identity, which includes the fundamental responsibility to care for iwi kūpuna (ancestral skeletal remains) and moepū (funerary possessions). Kanaka ‘Ōiwi is a traditional term by which Hawaiians identified and continue to identify themselves as Indigenous people. Kanaka is a generic term for people and ‘Ōiwi metaphorically means native, but literally translates as, “of the bone”, defining Hawaiians as the Indigenous people of Hawai‘i and most importantly, indicates that our identity is a function of the bones of our ancestors.

Similarly, the term kulāiwi means “homeland” and literally translates as “bone plain” and indicates a connection between the land and the people. As a result, our homeland is defined as that place in which the bones of our ancestors and eventually ourselves and our descendants, are/will be placed. Kulāiwi establishes an inter-relationship between the living and the dead.

Designated family members carried the kuleana (responsibility, duty, privilege) of ensuring that the deceased received kanu pono (proper burial). This meant that the iwi were buried with ceremony and treasured possessions needed in the spirit world were ho‘omoepū ‘ia (laid to rest) with the deceased. In some instances, secrecy was critical and the iwi and moepū were hidden to protect them from those who wanted to appropriate the spiritual power of the bones or to desecrate them. As a result, the tranquillity of a person’s spirit and the well-being of their descendants depended upon the level of protection provided to the iwi.

“Ola nā iwi” is a traditional saying that translates to mean “the bones live”. It is said of an elder who is well cared for by his or her family and also of those who provide such care. This ‘ōlelo no‘eau serves to remind us that our kūpuna (ancestors) reside within our own iwi. This relationship gives rise to a profound duty to care for and protect the bones of our kupuna which is a kuleana (duty, responsibility, privilege). The relationship between the ancestors and the living is interdependent, whereby each cares for the other. Families maintain this kuleana by ensuring the ancestors are properly buried and protected as the physical and spiritual health of the family is a function of the well-being of the ancestors.

One way to maintain the responsibility to care for the iwi is explained by the saying, “Mai kaula’i i nā iwi i ka lā”, which means, “don’t expose the bones to the sunlight”. Preventing exposure of iwi is critical because a deceased person’s ‘uhane (spirit) resides in a world known as pō, which means darkness. Thus, the proper place for iwi is to be placed in the ‘āina so that its mana (spiritual essence) can nourish the land physically and spiritually. From this proverb we understand that the responsibility to care for iwi includes protecting against disturbances that would result in exposure to light. Therefore, removal of iwi, displaying and studying them are forms of desecration based upon this belief because they cause exposure to light.

Maintaining the kuleana to care for the iwi and moepū is a profound expression of our cultural identity as Kanaka ‘Ōiwi. The time has come for all iwi kūpuna removed from burial sites to be kanu pono (properly buried). By reburying the iwi, the ancestral foundation is strengthened, the interdependence between past and present continues and the land is re-infused with mana necessary to sustain the ancestors, the living and the generations to come. In death, our ancestors yearn to be a part of the family again. We believe that by uttering their name, by asking for their help and guidance, by placing them in the position of supporting the family once again – **they live on**.

From 1990 to 2015, the work to repatriate iwi kupuna was performed by the organisation Hui Mālama I Nā Kūpuna O Hawai‘i Nei. I am the former Executive Director of that organisation and we conducted 114 repatriations and hundreds of reburials. At times we partnered with the Office of Hawaiian Affairs and Island Burial Councils to return and rebury the ancestors and their possessions. Since 2015, the lead agency to perform repatriations both national and international is the State of Hawai‘i Office of Hawaiian Affairs.

In the actual work to repatriate and rebury our ancestors in the present time, we learned to protect ourselves from the psychological harm inherent in the revelation that our ancestors were repeatedly stolen and shipped off to foreign places without consent. Each time we learned of a repeated heinous act of burial site desecration, we were subjected to an incredible level of kaumaha (traumatic harm). Our protection came in the form of traditional prayers taught to us and knowing who we are as ‘Ōiwi. Armed with such understanding, we were able to shield ourselves from these ill effects. I don’t mean to give a misleading impression that we were not negatively impacted because we were. However, we learned to process this negativity so that it did not consume us in anger and weaken our ability to effectively focus on the goal of returning the ancestors home.

There is one section of the German Museum Guidelines¹⁸⁸ that is of particular concern which is the “context of injustice”. At its core, humanity must be respectful of the sanctity of the grave. It is especially painful for Hawaiians to realise that the final resting places of our beloved deceased, among the most sacred aspects of our society, were repeatedly looted by foreigners. And as if these realisations were not painful enough, having to justify our *kaumaha* (trauma and anguish) is a further infliction upon our psyche and harmful to our well-being.

We are fellow human beings and expect to be treated with care, respect and aloha, just as those at any museum, institution, government agency or individual has the right to expect the same treatment from us. Because of our profound aloha and respect for our ancestors, their plight to be made whole again is our sacred duty. The desecration of Indigenous graves by White Europeans is a well-known colonial practice that institutions need to come to terms with. The failure to do so will only perpetuate and reify past injustice. A healthy discourse is a positive step towards reconciliation and healing.

Humanitarian values and duties direct that righteousness prevail and that disputing parties work together in the spirit of cooperation and transparency to support respective family needs. We will respectfully offer any institution its collective humanity vis-à-vis our ancestors by affording the opportunity to return the *iwi kūpuna* (ancestral Hawaiian skeletal remains) to their *kulāiwi* (homeland) in order to help make our “*ohana*” (family) whole again. In return, the institution will receive from us humanity’s greatest gifts: healing, mutual respect, affirmation of dignity and our most profound aloha (love).

In general, for Native Hawaiians a context of injustice automatically exists for all *iwi kūpuna* held by any museum, institution, government agency or individual in any country for the following reasons:

1. Hawaiians did not bury family members with the intent of abandonment or inviting removal for sale, science or barter. Burial is a permanent commitment to the Earth Mother *Papahānaumoku* and relocation of members requires family consent without exception.
2. The Hawaiian government codified cultural values into law to protect family members and their final burial places when on 24 August 1860, King Kamehameha IV and the Nobles and Representatives of the Hawaiian Islands enacted, “An Act for the Protection of Places of Sepulture” which provided in part,

188 Editorial note: The author is referring to the *Recommendations for the Care of Human Remains*, German Museums Association 2013.

“[i]f any person, not having the legal right to do so, shall willfully dig up, disinter, remove or convey away any human body from any burial place, or shall knowingly aid in such disinterment, removal or conveying away, every such offender and every person accessory thereto, either before or after the fact, shall be punished by imprisonment at hard labour for not more than two years, or by fine not exceeding one thousand dollars.”¹⁸⁹

Any collecting of remains after 1860 would have been illegal under Hawaiian law. The Provisional Government which overthrew the Hawaiian Kingdom in 1893 kept the existing statutory framework in place. Hawai‘i was made a territory of the United States in 1898 and a US State in 1959. There is no repeal of this law, and in 1909 was amended as:

“ACT 26. AN ACT TO AMEND SECTION 3196 OF THE REVISED LAWS OF HAWAII, PERTAINING TO OFFENSES AGAINST THE RIGHT OF SEPULTURE. Be it Enacted by the Legislature of the Territory of Hawaii:

SECTION I. Section 3196 of the Revised Laws of Hawaii is hereby amended so as to read as follows: “Section 3196. Punishment. The right of human sepulture is sacred, and shall not be disturbed except as provided by law. If any person, not having any legal right to do so, shall willfully dig up, disinter, disturb, scatter, remove or convey away any human body, or the remains or bones, or any of the remains or bones thereof, from any cemetery, burial place, mausoleum, cave or vault, where the same has been legally interred or deposited, or shall willfully break, disturb, scatter or remove the coffin, casket or burial clothes in which such body or remains shall have been interred or deposited, either in whole or in part, whether such cemetery, burial place, mausoleum, cave or vault be public or private property, or shall knowingly aid in such act as aforesaid, the person so offending, and all persons accessory thereto, either before or after the fact, shall be punished by imprisonment at hard labor for not more than 2 years, or by a fine not exceeding \$1,000.00.”

SECTION 2. This Act shall take effect upon its approval. Approved this 18th day of March, A. D. 1909. WALTER F. FREAR. Governor of the Territory of Hawaii.”¹⁹⁰

189 See Law of his Majesty King Kamehameha IV, King of the Hawaiian Islands, Passed by the Nobles and Representatives, at their Session, 1860. Honolulu: Printed by Order of the Government, p. 21. See also: The Penal Code of Hawaiian Kingdom, compiled from the Penal Code of 1850, and the various penal enactments since made pursuant to the Legislative Assembly, June 2nd, 1868. Published by Authority. Printed at the Government Press, Honolulu, Oahu, 1869, p.162.

190 See <https://babel.hathitrust.org/cgi/pt?id=uc1.a0004688925;view=1up;seq=7>, p. 32.

3. The museum must provide clear evidence that a Hawaiian family consented to the taking of ancestral skeletal remains from their places of sepulture and a Hawaiian government official authorised the export from the jurisdiction of the Hawaiian Islands.
4. The removal of ancestral Hawaiian skeletal remains from a grave site after August 1860 constitutes the criminal act of theft in violation of express Kingdom of Hawai'i law at the time.
5. The continued possession of the ancestral Hawaiian skeletal remains also violates Hawaiian cultural values and internationally accepted norms of decency exemplified by the 2007 United Nations Declaration on the Rights of Indigenous Peoples, Article 12.

We request that the German Museum Guidelines either delete this section or that it clarifies that in the absence of clear proof of family consent and government authorisation to export, the possession of human skeletal remains by any German museum is deemed an injustice subject to repatriation.

A NAMIBIAN EXPERIENCE: THE CONTENTIOUS POLITICS OF REPATRIATION OF HUMAN REMAINS AND SACRED OBJECTS

Alma Nankela and Jeremy Silvester

Many Southern African countries, including Namibia, continue to wrestle with repatriation demands due to the lack of clear guidelines and policies on negotiations, handling and managing these returns. The development of these tools will establish an agreed framework and procedure for dealing with human remains in Namibia.

The inventory of human remains in the Namibian institutions is now growing following recent repatriations.¹⁹¹ The first successful return took place in 2011 when twenty human remains were returned to Namibia from the Charité University Hospital in Berlin. The return obtained international publicity due to the direct and well documented link between these human remains and the 1904/08 Herero and Nama genocide in Namibia. Photographs of some seventeen decapitated heads that had been used for research and published in a German scientific journal in 1913 were republished in the media. The heads had been taken from prisoners held in the notorious concentration camp on Shark Island at Lüderitz for racial studies. A second return took place in 2014 when the human remains of a further thirty-five individuals were returned. A third return took place in 2018 when the remains of twenty-seven more people were returned. Therefore, a total of eighty-two individuals have, to date, been returned to Namibia.¹⁹² The consequence has been that a growing number of human remains are currently in storage at the National Museum of Namibia, the National Archives of Namibia and other institutions across the country.

191 Shortly after independence, the National Museum of Namibia's collection of human remains stood at Minimum Number of Individuals = 55. The number has more than doubled over the last decade following the three returns of ancestral remains from museums in Germany

192 Furthermore, in February 2019, two sacred heritage objects – a Bible and a whip that had belonged to the famous anti-colonial resistance leader, Kaptein Hendrik Witbooi – were returned by the Linden Museum, from Stuttgart in Germany. Additionally, an over 500-year-old Portuguese stone cross from Cape Cross was repatriated to Namibia in August 2019 from the German Historical Museum in Berlin, Germany.

Current status quo

Following recommendations from a workshop report¹⁹³ entitled “Human remains management: extending the conversation throughout southern Africa”, the Ministry of Education, Arts and Culture endorsed the establishment of the Working Group on the Namibian National Committee for Human Remains and Heritage Objects (HRC) in 2019. The committee operates on a voluntary basis and it has been tasked with critically examining Namibia’s current methodology for claims and repatriations following the recent returns of human remains and heritage objects from Germany. It further aims at assisting the Ministry with the development of comprehensive guidelines and a national policy for the handling and management of human remains and heritage objects in Namibia held in foreign institutions. The documents set agreed frameworks and procedures for dealing with the process for claiming, repatriating and handling the returns of human remains and other sacred heritage objects of Namibian origin. The Committee members comprised of Namibian specialists with backgrounds in archaeology, forensic anthropology, ethnography, history, law, museology, civic society as well as a representative from the Council of Traditional Authorities.

During 2019, the committee successfully developed the national guidelines for the repatriation of human remains (and associated objects) and heritage objects of Namibian origin. It set out clear instructions for reporting lines and making claims. The guidelines will facilitate clear communication and coordination both locally and internationally. An important section establishes the criteria for reviewing requests made by claimants and sets out an ideal timeline and process for repatriations. The clarification of the process is important because it makes the financial implications clear that will need to be planned for in all future returns. It has further recognised the roles of local institutions, existing legislation and communities in dealing with reports and cases where a claim has been made for the return of ancestral remains. One recommendation is that the Committee should continue in an advisory role to provide guidance regarding individual cases.

Namibia’s legislation and policy

In Namibia, the national regulatory authority for the identification, protection and management of cultural and natural heritage resources is the National Heritage Act, (Act No. 27 of 2004).

193 Nankela and Silvester 2019

The national repository institution for cultural heritage objects is the National Museum of Namibia. However, the National Heritage Council may also entrust a “heritage object” to any other “museum or institution” that the Council determines.¹⁹⁴ The National Heritage Council Act does not yet effectively cover the issue of the repatriation of human remains or the management of human remains in Namibian museums. It is for these reasons that the current Heritage Act is being reviewed to address new developments. The most serious consequence of the virtual silence in the Act regarding the repatriation of human remains and return of important artefacts is that the Namibian Government has faced difficulties in defining standards for the restoration of human dignity and deciding the process that should be followed to determine the final resting place of human remains and significant artefacts.

The significance of human remains for the communities of origin in Namibia

For most Namibian communities, life does not end with death, but continues in another realm. The concepts of “life and death” are not mutually exclusive and there are no clear dividing lines between them. Death, although a dreaded event, is perceived as the beginning of a person’s deeper relationship with all of creation, complementing life and the beginning of communication between the visible and the invisible worlds.

To most communities in Namibia, the goal of life according to traditional belief systems was to become an ancestor after death. Whilst Namibians today are largely Christian there is a high degree of syncretism with traditional beliefs incorporated into religious rituals and everyday practices. This is why in many communities every person who dies must be given a funeral, supported by a number of sacred rituals involving traditional beliefs and practices. After death, bereavement and the proper honouring, interment and remembrance of the dead ensure their memory and presence continues. If this is not done, it is believed that the dead may become a wandering spirit, unable to live or rest properly after death and therefore a danger to those who remain alive.

Most human remains (and associated objects) and important heritage objects of Namibian origin were acquired by German institutions during the colonial period. The “collectors” who provided bones and bodies as well as heritage objects included military personnel, racial anthropologists and individuals who were directly linked to the genocide inflicted upon Namibians by Germany.

¹⁹⁴ For example, when the sacred stones of the Ovambo kingdoms of Oukwanyama and Ombalantu were returned from Finland they were entrusted to the custody of the relevant traditional authorities.

Whilst colonialism was, as Frantz Fanon argued, implicitly violent, the existence of human remains and artefacts in German museums that were obtained during the genocide is morally unacceptable. We urge all German museums to collaborate with Namibia in conducting systematic provenance research and to identify any human remains and objects collected in this way so that a comprehensive inventory of these human remains and heritage objects can be provided to Namibia.

Historians estimate that over 80,000 people were killed in the genocide.¹⁹⁵ The crude statistic represents about 80 per cent of the Herero and 50 per cent of the Nama communities at that time, although it also included some San, Damara and Owambo.¹⁹⁶ Many OvaHerero died in the Omaheke after the battle of Ohamakari. The majority of surviving OvaHerero and Nama men, women and children were then rounded up as prisoners and confined in concentrations camps such as “Shark Island” in Lüderitz, Windhoek and Swakopmund, towns where the need for forced labour was greatest. Over three years or more, the OvaHerero and Nama prisoners, including men, women and children, were rented out to local businesses or were forced to work on government infrastructure projects. The conditions of work were so severe that less than half of all the prisoners in the camps survived.

The skulls of some of the victims were sent to Germany where racial anthropologists studied them as part of an attempt to justify racist theories about the superiority of Europeans. The victims suffered a double abuse. The corpses or skeletons were acquired and taken out of Namibia without the consent of the families or communities where they lived and their bodies were then used for scientific experiments and stored as “specimens” of racial types. They were dehumanised (as their biographical data and names were seldom recorded), sold to institutions and individuals as mere objects, exhibited and displayed in colonial museums. The return of human remains, in particular, must be handled with extreme solemnness and sensitivity as an act of “rehumanisation” and “reconciliation” and part of the process of healing the wounds of the past and discrediting and dismantling enduring racist ideologies. The return of ancestral remains has had a deep emotional impact on descendant communities and the Namibian nation at large.

195 The genocide resulted from the 1904 “extermination order” *Vernichtungsbefehl* issued by the German chief military commander Gen. Lothar von Trotha and the treatment of prisoners in the concentration camps.

196 Bachmann 2018.

The contentious politics of repatriation

The National Museum of Namibia has been at the forefront of the repatriation of the human remains and sacred heritage objects in Namibia since 2011 on behalf of the Namibian Government. The Museum has set up a technical committee involving both local heritage institutions and various traditional authorities. This Committee is responsible for accessioning, verification and co-ordinating the handling of human remains in German institutions and agreeing on the form of ceremonies that should take place with each return.¹⁹⁷

The rituals that took place combined traditional ceremonies and practices with Christian and State rituals. Each time human remains have been returned people have driven to the airport to welcome them, as was the practice when Namibians returned from exile. After this, the remains have been made available for the public to visit and pay their respects – by being laid in state in Parliament Gardens – the same practice that has been bestowed on individuals who have been recognised as national heroes/heroines and buried at the Heroes Acre outside Windhoek. All the repatriated remains are currently kept in the National Museum of Namibia out of public reach. They are not displayed or exhibited but the affected communities are granted, on request, access to privately view the remains and or to perform further rituals while Government continue to engage the affected communities on their final resting places.

Challenges

Inadequate documentation

Descendent communities want to know the individual identities of the people who are being returned and to know where they had lived, so that they can be reunited with their families and returned to their community. One alarming feature of many of the records provided with the returned human remains is that they contain a profusion of gaps and question marks. For example, of the first fifty-four people whose remains came from Germany in the first two returns, only four had names.¹⁹⁸ Few clues are available to identify the vast majority of those individuals who have been returned.

197 The Namibian Government has also made a request for German citizens to transfer any human remains of Namibian origin in their private collections to Charité Hospital Museum, which can then act as a contact point with the Namibian authorities.

198 Two of them were TshūIKō and IKai - two young San women. The German records indicate that their bodies were obtained from the area around Otjitua area in about 1900.

We believe that, where possible, the challenge of “rehumanising” people whose bodies were treated as museum specimens should involve research into their biographies to try and trace direct historical links with the families or the local communities where they lived. Building biographies will not only contribute to a sense of individual identities and enable the possible reconnection with families and communities, but also rehumanise people who were treated as “specimens”.¹⁹⁹

Unfortunately, the reality is that provenance research has, generally, to date, focused on German museum archives. The research, therefore, provides more information about the German “collectors” than the Namibian victims. The reality is that most human remains were labelled in museums with broad “ethnic” labels – e. g., “Herero” or “Ovambo”. Geographical locations are also often vague, making it difficult, for example, to know which of the many “Ovambo” kingdoms or “Herero” communities a person might have originated from. It would be useful if there was a Namibian research unit that could trace the footsteps of the “collectors” and try to establish the likely place of origin of victims and artefacts inside Namibia. Whilst this research might be difficult it should certainly be attempted.²⁰⁰ It seems possible that there will only be very few cases where it will be possible to make the direct link between the remains of a person and their descendants and, thus, reconnect them with their family. In other cases it might be possible to link the remains of a person to a particular place and community and then consultation can clearly take place about a suitable final resting place. However, in cases where the information is extremely vague, it might be necessary to consider reburial at a national memorial site.

A further challenge is likely where remains are identified with a community that straddles national boundaries.²⁰¹ The policy and guidelines that we are developing recognised the need to make provision for cases where international consultations will be required. The provisions will establish a mechanism for cross-border Working Groups to negotiate returns that might be of mutual interest to Namibia and a neighbouring country.

199 An example of the way a biography can be reconstructed would be the case of one of the Namibians whose remains are currently held in the archaeology collection of IZIKO museums in Cape Town, South Africa.

200 In Namibia, the politics of identity are also complicated by a legacy of apartheid that associated these type of labels with the construction of ethnic homelands, under the Odendaal Plan of 1968, as an alternative to the vision of a Namibian nation

201 For example, human remains might be attributed to Uukwamyama, yet colonial borders cut this kingdom in two as it straddles the Angolan-Namibian border. Similar challenges are faced with human remains that are identified as “San” from the Kalahari or “Griqua” – communities that moved around within the region where international borders now divide Namibia from Botswana and South Africa.

Existing heritage legislation

As has been previously stated, Namibia has no legislation or policy that provides guidelines on the procedures to be followed when human remains are discovered, returned and handled. Namibia's institutions do not have a common "Code of Conduct" in relation to the discovery, exhumation and reburial of human remains. A second set of guidelines will provide direction to Namibian museums on organising community consultation, repatriations and protocols on handling and facilitating access to human remains that have been returned to Namibia.

Community engagement

The Ministry of Education, Arts and Culture is mandated by the Government to organise the return of each set of human remains. Contacts are usually made with the traditional authorities of the affected communities and a steering committee established, including representatives from other Governmental agencies and civil society organisations. The Committee then recommends to Cabinet individuals who will travel to collect the remains in Germany as part of the Namibian delegation, usually led by the minister responsible for culture. The challenge is that the lack of clear information often makes it difficult to identify which is the relevant "affected community" that should be represented in the delegation to travel. Consultations also have to engage with local politics as the meetings have also generated disputes, with rival claimants both stating that they are the legitimate spokespersons for a community. Negotiations can also be extensive when there are conflicting opinions about the treatment of human remains (should they be buried or displayed as evidence of the genocide or past atrocities) or the location of their final resting place.²⁰² The challenge for the HRC Committee in developing the policy is to find an acceptable framework for resolving conflicts within communities over the treatment of human remains returned to Namibia.

202 Activists who argue for the display of the returned victims of genocide reference the display of much more recent victims in the Genocide Museum in Kigali in Rwanda. However, others, such as Chief Johannes Isaack, the Chairperson of the Nama Traditional Leaders Association have argued that the remains of their ancestors should be buried or they will remain "restless".

Conclusion

Finally, the issue of consultation and collaboration should not be viewed as purely a Namibian issue. Therefore, the guidelines for negotiations, repatriations, handling and managing human remains set up by the Namibian Government will be shared with the international community. A statement made by Namibia's former President, His Excellency, Hifikepunye Pohamba, at the time of the first return of human remains from Germany in 2011 contextualised the return of the skulls as part of a wider process of re-viewing history. He identified the returns as part of a process of decolonising our narratives of the past in both Germany and Namibia: "We shall continue to rewrite this history, and of course, our former colonisers and occupiers must continue to be co-authors." The repatriation of human remains is not only important for Namibia, it is also important for Germany. Dealing with the past through "restorative justice" is central to domestic revisions of history that shape contemporary positions on race and international relations in Germany.

The German Museums Association's *Guidelines* focus on the technical aspects of "deaccessioning" unethically collected human remains. However, they make no recommendations on what should be done in a museum that returns human remains to Namibia. Through the HRC Committee, we would recommend that the return of human remains should include consultation about the way in which the story of a return will be reflected and displayed in the returning institution after the return. The return of human remains to Namibia should be supported in the context of supporting reconciliation and the recovery of affected communities. However, in Germany it should also be integrated into new exhibitions and activities that reflect on the legacies of Germany's colonial past. Silences are not a solution.

Sources

- ▶ **Klaus Bachmann**, *Genocidal Empires: German Colonialism in Africa and the Third Reich*, Berlin 2018.
- ▶ **Cressida Ffore, Jane Bubert, Paul Turnbull**, *The Dead and their Possessions: The Repatriation in Principle, Policy and Practice*, New York & London 2002.
- ▶ **Larissa Förster**, “These skulls are not enough”: The Repatriation of Namibian Human Remains from Berlin to Windhoek, 2011, *Dark Matter* 2013, <http://www.darkmatter101.org/site/2013/11/18/these-skulls-are-not-enough-the-repatriation-of-namibian-human-remains-from-berlin-to-windhoek-in-2011/> [22.12.2020].
- ▶ **Reinhart Kössler**, “Imperial Skulduggery, Science and the Issue of Provenance and Restitution: the Fate of Namibian Skulls in the Alexander Ecker Collection in Freiburg”, *Human Remains and Violence*, Vol. 4 (2), 2018.
- ▶ **Jonathan Kovaks**, *A Catalogue of the Human Setakell Remains from the Archaeological Collection of the State Museum of Namibia, Cimbebasia Vol. 13*, National Museum of Namibia: Windhoek 1991, pp. 53–57.
- ▶ **Paige Linner, Jeremy Silvester**, *Human Remains Management and Policy Development in Southern African Museums*, 22–23 March 2018. Unpublished report, Museums Association of Namibia, 2018.
- ▶ **Alma Nankela, Jeremy Silvester**, *Human Remains Management: Extending the Conversation throughout Southern Africa*, 29 March 2019. Unpublished report, National Heritage Council and Museums Association of Namibia, 2019.
- ▶ **Vilho Shigwedha**, “The Homecoming of Ovaherero and Nama Skulls: Overriding Politics and Injustices”, *Human Remains and Violence*, Vol. 4 (2), 2018.
- ▶ **Jeremy Silvester**, *Report on the Human Remains Management and Repatriation Workshop*, 10 May 2017, unpublished report, Museums Association of Namibia, 2017.
- ▶ **Holger Stoecker, Andreas Winkelmann**, “Skulls and Skeletons from Namibia in Berlin: Results of the Charité Human Remains Project”, *Human Remains and Violence*, Vol. 4 (2), 2018.

SOURCES OF THE GUIDELINES AND FURTHER READING

Selection

- ▶ **Aboriginal and Torres Strait Islander Library, Information and Resource Network Inc. (ATSILIRN)**, Aboriginal and Torres Strait Islander Protocols for Libraries, Archives, and Information Services, 2005, <https://atsilirn.aiatsis.gov.au/protocols.php> [18.06.2020].
- ▶ **Arbeitskreis Menschliche Präparate in Sammlungen**, Empfehlungen zum Umgang mit Präparaten aus menschlichem Gewebe in Sammlungen, Museen und öffentlichen Räumen, in: Deutsches Ärzteblatt, Heft, 2003, pp. 378–383, <https://wissenschaftliche-sammlungen.de/de/service-material/materialien/stuttgarter-empfehlungen-zum-umgang-mit-paeparaten-aus-menschlichem-gewebe-sammlungen-museen-und-oeffentlichen-raeumen-2003> [02.02.2021]
- ▶ **Fredrik Barth**, Introduction, in: Fredrik Barth (ed.), *Ethnic Groups and Boundaries. The Social Organization of Cultural Difference*, Bergen, Oslo, London, Boston 1969, pp. 9–38.
- ▶ **Vicki Cassman, Nancy Odegaard**, “Examination and Analysis”, in: Vicki Cassman, Nancy Odegaard, Joseph F. Powell (eds), *Human Remains: Guide for Museums and Academic Institutions*, Lanham MD 2007, pp. 49–76.
- ▶ **German Museums Association**, E-Reader to the guidelines. Care of Collections from Colonial Contexts, Berlin 2021.
- ▶ **German Museums Association**, Guidelines for German Museums. Care of Collections from Colonial Contexts, 3rd edition, Berlin 2021.
- ▶ **German Museums Association**, Leitfaden für die Dokumentation von Museumsobjekten, Berlin 2011.
- ▶ **Alexandra Fletcher, Daniel Antoine, JD Hill** (eds), *Regarding the Dead: Human Remains in the British Museum*, The Trustees of the British Museum, 2014, https://www.britishmuseum.org/sites/default/files/2019-11/Regarding-the-Dead_02102015.pdf [12.02.2020].
- ▶ **Larissa Förster, Sarah Fründt**, Human Remains in Museums and Collections. A Critical Engagement with the “Recommendations for the Care of Human Remains in Museums and Collections” of the German Museums Association. *HSoz-Kult Historisches Forum*, No. 21, 2017, <https://doi.org/10.18452/19383> [12.02.2020]
- ▶ **Sarah Fründt, Larissa Förster**, “Menschliche Überreste aus ehemals kolonisierten Gebieten in deutschen Institutionen. Historische Entwicklungen und zukünftige Perspektiven”, in: Marianne Bechhaus-Gerst, Joachim Zeller (eds), *Deutschland postkolonial? – Die Gegenwart der imperialen Vergangenheit*, Berlin 2021, pp. 527–556.
- ▶ **Jakob Fuchs, Diana Gabler, Christoph Herm, Michael Markert, Sandra Mühlenberend** (eds), *Menschliche Überreste im Depot. Empfehlungen für Betreuung und Nutzung*, Koordinierungsstelle für wissenschaftliche Universitäts-sammlungen, 2020, https://wissenschaftliche-sammlungen.de/files/3515/7987/3438/Menschliche_berreste_im_Depot.pdf [12.02.2020].

- ▶ **Christian Geulen**, “Weltordnung und ‘Rassenkampf’”, in: Stiftung Deutsches Historisches Museum (ed.), *Deutscher Kolonialismus. Fragmente seiner Geschichte und Gegenwart*, exh. cat. Deutsches Historisches Museum, Berlin 2016.
- ▶ **International Council of Museums (ICOM)**, *Code of Ethics for Museums*, 2017 <https://icom.museum/wp-content/uploads/2018/07/ICOM-code-En-web.pdf> [15.06.2020].
- ▶ **Rüdiger Jütte**, “Die Stuttgarter Empfehlungen zum Umgang mit Präparaten aus menschlichem Gewebe in Sammlungen, Museen und öffentlichen Räumen”, in: Cornelia Weber, Klaus Mauersberger (eds), *Universitätsmuseen und sammlungen im Hochschulalltag. Aufgaben, Konzepte, Perspektiven*, Berlin 2010, pp. 43–48, <https://doi.org/10.18452/17868> [12.02.2020]
- ▶ **Koordinierungsstelle für wissenschaftliche Universitätsammlungen in Deutschland**, *Besitz- und Eigentumsfragen*, Berlin 2015, https://wissenschaftliche-sammlungen.de/files/1115/7555/9793/HR_Besitz-und-Eigentumsfragen_201912.pdf [02.07.2020].
- ▶ **Salvador Muñoz Viñas**, *Contemporary Theory of Conservation*, Oxford 2005.
- ▶ **Sandra Mühlenberend, Jakob Fuchs, Vera Marušić**(eds), *Unmittelbarer Umgang mit menschlichen Überresten in Museen und Universitätsammlungen. Stimmen und Fallbeispiele*, Hochschule für Bildende Künste Dresden 2018, <https://wissenschaftliche-sammlungen.de/files/1815/4469/5645/Unmittelbarer-Umgang-mit-menschlichen-berresten-in-Museen-und-Universittsammlungen.pdf> [02.07.2020]
- ▶ **Nationaal Museum van Wereldculturen**, *Return of Cultural Objects: Principles and Process*, Amsterdam, Berg en Dal, Leiden 2019.
- ▶ **Native American Grave Protection and Repatriation Act (NAGPRA)**, Public Law 101-601 101st Congress, 1990, <https://www.nps.gov/orgs/1335/index.htm> [15.06. 2020].
- ▶ **Niedersächsisches Ministerium für Wissenschaft und Kultur**, *Leitfaden zum Erwerb von Museumsgut. Eine Handreichung für die Museen im Land Niedersachsen*, Hanover 2013.
- ▶ **Sergei Mikhailovich Shirokogorov**, *Ethnical Unit and Milieu*, Shanghai 1920.
- ▶ **Friedemann Schrenk, Anke Kuper, Anne Marie Rahn, Isabel Eiser**, “Menschen in Sammlungen. Geschichte verpflichtet”, in: Anna-Maria Brandstetter, Vera Hierholzer (eds), *Nicht nur Raubkunst! Sensible Dinge in Museen und universitären Sammlungen*, Johannes Gutenberg-Universität Mainz 2018, <https://www.vr-elibrary.de/doi/pdf/10.14220/9783737008082> [02.07.2020].

- ▶ **Federal Ministry of State for Culture and Media, Minister of State in the Foreign Office for International Cultural Policy, Culture Ministers of the Federal States and the national associations of local authorities**, Framework Principles for dealing with collections from colonial contexts, 2019, <https://www.auswaertiges-amt.de/blob/2210152b2731f8b59210c77c68177cdcd3d03de/190412-stm-m-sammlungsgut-kolonial-kontext-en-data.pdf> [02.05.2021]
- ▶ **Hilke Thode-Arora**, *Interethnische Ehen. Theoretische und methodische Grundlagen ihrer Erforschung*, Berlin 1999.
- ▶ **UNESCO/ICOM**, *Running a Museum: A Practical Handbook*, 2004, <https://unesdoc.unesco.org/ark:/48223/pf0000141067> [14.12.2020]
- ▶ **Barbara Wills, Clare Ward, Vanessa Sáiz Gómez, Capucine Korenberg, Julianne Phippard**, “Conservation of Human Remains from Archaeological Contexts”, in: Alexandra Fletcher, Daniel Antoine, J. D. Hill (eds), *Regarding the Dead: Human Remains in the British Museum*, London 2014, pp. 49–73.
- ▶ **Andreas Winkelmann, Holger Stoecker, Sarah Fründt, Larissa Förster**, *Interdisziplinäre Provenienzforschung zu menschlichen Überresten aus kolonialen Kontexten. Eine Arbeitshilfe des Deutschen Zentrums Kulturgutverluste, des Berliner Medizinhistorischen Museums der Charité und von ICOM Deutschland*, Berlin, in press.
- ▶ **Andreas Winkelmann**, *Repatriations of human remains from Germany – 1911 to 2019*, in: *Sensitive Heritage: Ethnographic Museums, Provenance Research and the Potentialities of Restitutions*, *Museum & Society*, Vol. 18 (1), University of Leicester, 2020, <https://journals.le.ac.uk/ojs1/index.php/mas/issue/view/197> [02.07.2020].
- ▶ *Common Statement of the Federal Government, the Laender and the national associations of local authorities on the identification and return of Nazi-confiscated cultural property, especially Jewish property*, 1999, <https://www.kulturgutverluste.de/Webs/EN/Foundation/Basic-principles/Common-Statement/Index.html> [12.02.2020]
- ▶ *Handbook on the implementation of the “Common Statement of the Federal Government, the Laender and the national associations of local authorities on the identification and return of Nazi-confiscated cultural property, especially Jewish property” from December 1999, new edition 2019*, <https://www.kulturgutverluste.de/Webs/EN/Research/Guidelines/Index.html> [12.02.2020]

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- ▶ Leitfaden. Professionell arbeiten im Museum – Leitfaden, 2019
- ▶ Guidelines. Care of Collections from Colonial Contexts, 2nd edition, 2019 (also available in German and French)
- ▶ Hauptsache Publikum! Besucherforschung für die Museumspraxis – Leitfaden, 2019
- ▶ Guidelines for the Care of Collections from Colonial Contexts, 1st edition, 2018 (also available in German and French)
- ▶ Leitfaden für das wissenschaftliche Volontariat am Museum, 2018
- ▶ Museums, Migration and Cultural Diversity. Recommendations for Museum Work, 2015 (also available in German)
- ▶ Recommendation for the Care of Human Remains in Museums and Collections, 2013 (also available in German)
- ▶ Das inklusive Museum – Leitfaden für Barrierefreiheit und Inklusion, 2013
- ▶ Leitfaden zur Erstellung eines Museumskonzepts, 2011
- ▶ Nachhaltiges Sammeln. Ein Leitfaden zum Sammeln und Abgeben von Museumsgut, 2011
- ▶ Dokumentation von Museumsobjekten, 2011
- ▶ schule@museum – Handreichung für die Zusammenarbeit, 2011
- ▶ Bürgerschaftliches Engagement im Museum, 2008
- ▶ Museumsberufe – Eine europäische Empfehlung, 2008
- ▶ Qualitätskriterien für Museen – Leitfaden für die Bildungs- und Vermittlungsarbeit, 2008
- ▶ Standards für Museen – Leitfaden, 2006



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