

Resolving the Human Remains Crisis in British Archaeology: A Reply with Insight into Related Issues in Finland

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Mike Parker Pearson, Tim Schandla-Hall & Gabe Moshenska's paper raises issues around the meaning and implication of reburial for the archaeological community. The question of whether all human remains should be reburied - as well as those of indigenous people or minorities - affects efforts to maintain the balance between ensuring the future of scientific study and answering the need for communities to claim back their ancestral remains.

Archaeology is often seen as an ethically challenging field of study because of its interest in life and death: the purpose of archaeology is to study the life of previous generations through the material artifacts they have left behind. That often includes the actual physical remains of those people. However, past generations do not exist without the meanings given to them by their descendants: previous generations are attached to the living through different factors such as biological and social, cultural and mythical ties. Thus, archaeology doesn't only produce information about lives of ancient people but also about the lives and history of the currently living. Therefore, how people and the material associated with them are presented has become a major ethical issue in archaeology - especially if that material is thought to be of a sensitive nature.

I am approaching the issue by giving examples of Finnish legislation and a discussion in

the Finnish scientific community about repatriation and reburial. With a few examples I hope to give a picture of the situation in Finland and the compromises made by legislators and the scientific community with the general public.

Finnish Legislation Concerning Human Remains

In Finland, the relationship towards the ancient dead is primarily defined through two statutes, the *Antiquities Act* and the *Health Protection Act* (Vilkuna 2000: 139). The dead and/or burial are also mentioned in, for example, the *Criminal Act*, *Burial Act* and in the *Act of the Medical Use of Human Organs and Tissues*.

The most influential statute concerning archaeological remains in Finnish legislation is the *Antiquities Act*. It protects both ancient monuments and artifacts. The *Antiquities Act* was passed in 1963 to replace the former 1883 statute for preserving ancient monuments. The *Antiquities Act* protects all ancient monuments automatically and forbids all harmful action towards ancient monuments. Official protection is supervised by the National Board of Antiquities. According to the Act, ancient burial structures are under protection (Muinaismuistolaki section 2; section 3). What is maybe unusual about the Antiquities Act is that it doesn't actually mention or comment on human remains or their protection. Typically the notion of burial is thought to contain the burial structures

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and the contents - human remains and grave goods. Neither does the Act comment on curatorial issues or scientific study (Vilkuna 2000, 139). Also, the act doesn't comment on underwater burials and their protection, though old ship finds are protected through the *Antiquities Act*.

The *Health Protection Act* was passed in 1994 and it contains the legal acts concerning burial and burial places, the storage of human remains before burial, the moving of human remains into another location, and measures to avoid the danger of contagion (Terveydensuojeluasetus section 7). In turn, the *Criminal Act* forbids desecration of graves and burial monuments and the removal of any burial associated artifacts from the grave (Rikoslaki section 17 subsection 12; Paljärvi 2002, 13-1).

Other acts concerning the treatment of human remains primarily concentrate on medical studies in determining the cause of death and preserving the medical records. For example, the *Act of the Medical Use of Human Organs and Tissues* was passed in 2001 to set standards concerning the removal, storage and use of human organs and tissues for the treatment of disease and injury, medical use and for teaching and research (Laki ihmisen elimien, kudoksien ja solujen lääketieteellisestä käytöstä section 1; Paljärvi 2002, 14). According to the Act all research must be carried out with respect for the deceased and in a way that doesn't visually change the appearance of the deceased. The Act also states that if there is a reason to assume the deceased would have objected studies while still alive the research and teaching may not be carried out (*The Act of the Medical Use of Human Organs and Tissues*: section 5).

None of these acts actually mention or give any guidelines on how to deal with archaeological human remains. Even the *Antiquities Act* only mentions burials and burial places but nothing about the actual physical human remains. Therefore, the interpretation of the law and ethical prac-

tices become crucial in determining what actions toward human remains are thought to be acceptable.

Discussion About Reburial and Repatriation

In Finland the state of the repatriation discussion differs from that in England and the USA. Finland has no colonial tradition that would have affected the mobility of cultural materials nor people and their remains. However, there is an indigenous minority group inhabiting Finland, the Sàmi, who have long been the object of study. The materials and collections related to indigenous people from Finland and abroad are relatively small in size compared to those in England. This is part of the reason why Finnish archaeological discussion about repatriation hasn't been the center of attention.

Finland's National Board of Antiquities has no official ethical codes concerning human remains. Typically, Finnish archaeology is guided by archaeological tradition, the example of colleagues, collective discussion and ethical codes of other countries and different associations and organisations like ICOM (Schauman-Lönnqvist, pers. comm.). The National Board of Antiquities has taken a case-by-case approach to determine the issues concerning human remains, their study and curation. The issue of ethical codes has been discussed in a working group, but general policy and practice in Finland has varied according to the object of study and situation (Schauman-Lönnqvist, pers. comm.).

In 1998 a temporary working group was established by the rector Kari Raivio of the University of Helsinki to determine the usage of bone collections and associated material in the biomedical department. The time limit for the working group was set until the end of the year 1999. The members in the working group consisted of professionals, including members from departments of forensic medicine and theology, the National Board of Antiquities, Ministry

of Education and the Department of Public Health. The working group also consulted experts from the Finnish Museum of Natural History, the Sàmi Parliament, Sàmi museum in Inari, the parish of Inari and the National Board of Antiquities (Neuvottelukunnan ehdotus Helsingin yliopiston rehtorille 17.12.1999).

To my knowledge, the only repatriation/reburial claim so far in Finland has come from the Sàmi people and concerned the Sàmi bones in the biomedical department. According to the working group the Sàmi bone collection consisted of over 160 skulls and 61 skeletons collected from areas of northern Finland and Sweden (Neuvottelukunnan ehdotus Helsingin yliopiston rehtorille 17.12.1999, 3). The working group's proposition of keeping the Sàmi collection intact was accepted and the collection was repatriated to the Sàmi museum in Inari where it can be reached and studied by scholars (Neuvottelukunnan ehdotus Helsingin yliopiston rehtorille 17.12.1999, 3; Ranta 2011, 9). According to the Chief Intendant) of the National Board of Antiquities' Archives and Information services - Leena Söyrinki-Harmo - parts of the Sàmi bone collections had been repatriated in the 1980s, and also in 1995, before the working group's proposition (Söyrinki-Harmo, pers. comm.; Ranta 2011, 8). At that time the repatriated material was buried in the cemetery in Inari. Later there had been discussions in the archaeological community about the reliability of the repatriated material. Some scholars believed it likely that the material was partly mixed with other collections and that there would have been bones involved that weren't meant to be repatriated. Also part of the material meant to be in the repatriated Sàmi collection might have been left behind (Söyrinki-Harmo, pers. comm.).

Nevertheless, the working group set up in 1998 already made clear efforts to respond to possible claims of repatriation. Relatively early in the discussion, even on an inter-

national level, in 1999 the working group expressed the possibility of repatriation of both foreign and domestic material. To my knowledge, apart from the Sàmi collection, requests for the repatriation of such material are yet to be made. Any future claims will be handled on a case-by-case basis. The working group took a stance on the exhibition of bone materials and proposed that replicas could be produced for museum display while the actual bone material could either be stored for scientific purposes or repatriated and reburied. The working group also aimed to discuss the possible repatriation or disposal of remains without provenance and for collections with little or no scientific value (Neuvottelukunnan ehdotus Helsingin yliopiston rehtorille 17.12.1999, 7). The typical way of disposing of this kind of bone material has been cremation and burial in the Malmi cemetery in Helsinki (Söyrinki-Harmo, pers. comm.).

Apart from the repatriation of the Sàmi collection, other satisfactory compromises have been made in Finland during the last few decades. During archaeological excavations in Turku during the 1960s and 1980s, one of the most significant Finnish bone collections was found. The bones are dated to approximately AD1500-1600 and consists of some 650 individuals. The bone collection was repatriated in the chapel built on the excavation site, and can be reached for scientific study. The reburial project was carried out by scientists from the Universities of Helsinki and Turku and from the National Board of Antiquities. A more recent find was that of 53 burials under the cathedral church in Porvoo found in 2007 during building work on the church premises. The burials are dated between the years AD1300-1700. A ten year preservation agreement for the found human remains was made between the parish of Porvoo and the National Board of Antiquities. After ten years the potential for study, preservation and possible reburial will be negotiated again (Salo & Kivikero 2010, 24.).

Conclusion

Archaeologists cannot work outside society; archaeologists and scholars in general cannot forget the fact that they are part of the power relations connected to legal and societal classifications (Anttonen 2010, 96). As scientists, archaeologists are bounded by law, societal values and ethical standards. Law essentially consists of rules about relationships between people and it demonstrates each operator's rights and responsibilities. The way archaeological material is exhibited and discussed affects the feelings of the general public and affiliate groups in particular (Watkins 2003, 129). The problem is where to draw the line between respect and disrespect and how to decide which or whose values to put first. This is where the way the law is interpreted becomes crucial in determining what actions are acceptable and which conditions should apply.

As Parker Pearson, Schadla-Hall and Moshenska note, as well as responsibilities, archaeologists should also have rights as experts for determining what kind of approach is tolerable in their own field. In the context of museum collections as a whole, repatriation cases should not determine the overall policy. Repatriation claims should be balanced against the interests of research, but more importantly against the value of public education. This requires that human remains, whether under study, conservation or exhibition, are treated and handled with respect and sensitivity. In this sense, a case-by-case approach might be preferable to the law of compulsory burial. By a case-by-case approach it is possible to take different views and contexts into consideration: it ensures claims to be made for repatriation but also secures the future archaeological study and knowledge gained from human remains. Reburial doesn't need to be the only option for archaeological material. The repatriation cases from Finland described above show a multi-disciplinary approach can bring results and allow all voices in the discussion to be heard.

As Parker Pearson, Schadla-Hall & Moshenska note, the act of promoting archaeological rights to knowledge cannot be the responsibility of a few. The issues concerning archaeological study are not only those of archaeologists but of other scientists as well. The ongoing and constantly maintained conversation about ethical goals and law is a crucial part of scientific dialogue which connects not only the archaeological community but also scientists of other fields, legislators and the general public. By actively taking part in these discussions different interest groups and their legitimate claims on the material can be addressed. It also means that all operators should be able and have a chance to explain their views and that should also be the case with the Ministry of Justice. In the case of making decisions and changes to the legislation that affects the archaeological community deeply, the MoJ should also consult archaeologists and be able to offer explanation and discussion of its reasonings.

I'd like to believe and I hope that the Finnish cases of repatriation demonstrate that, despite difference of opinions and confrontation between archaeologists and members of the public, it is possible to find satisfactory solutions to different kinds of ethical issues concerning archaeology today.

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