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Between objects of science and lived lives. The legal liminality of old human remains in museums and research

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ABSTRACT

Collections of old human remains in museums are currently under increased scrutiny and pressure. On the one hand they are problematised from a post-colonial and human rights point of view as the material remains of historic and ongoing structural violence connected to scientific knowledge production. On the other, new methods in archaeological science have led to increasing demand for destructive sampling. Without guidance and support by laws and formal standardised professional guidelines, museums may find themselves squeezed from two opposing sides. Based on an analysis of laws and professional guidelines, and a large-scale survey of the practical handling of old human remains in Swedish museums, this article argues that the lack of a shared professional process that recognises the complexity of old human remains as both objects of science and lived lives, risks undermining the role of museums in their relationship to both the public and the research community.

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Introduction: emerging needs

In recent years, the museum practice of curating and exhibiting human remains has been increasingly called into question and discussed. The arguments underlying this movement are multiple and complex. On the one hand, they are linked to the nature of human remains – simultaneously the material embodiment of a person, and biomaterial – situated between being objects of science and lived lives. Another, equally central dimension of the arguments is linked to the role of research and museums in the history of science. Both these dimensions must be considered when taking on this issue in academic debate, professional ethics, and legally – but as we shall see, the complex relationship between the two – and their entanglement with historic and contemporary research rarely are.

The organised movement to question the role of museums to hold and exhibit human remains started decades ago, mostly in indigenous communities in the United States, Australia, and New Zealand (e.g. Fforde, Hubert, and Turnbull 2002; Mihesuah 2000), and has more recently also started to reshape European museum practices (Clegg 2020). The critique is rooted in both ontological differences and in political ideology (Nilsson Stutz 2008, 2013). On the one hand, the collection of human remains for scientific purposes was viewed as anathema to indigenous cultural values and spiritual beliefs. But museums were also called out as institutions of colonial power and knowledge production, associated with oppressive powers that withheld the right of the colonised to write their own history and define their own culture (e.g. Fine-Dare 2002; Thomas 2000). As a response, legal frameworks like the Native American Graves Protection and Repatriation Act (25

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USC Ch. 32) were put in place to regulate a process of return of specific categories from museums, including human remains in the United States. While most countries still do not have firm legal instruments to regulate repatriation, professional organisations like the International Council of Museums (ICOM) have developed codes of ethics that 'set minimum professional standards and encourages the recognition of values shared by the international museum community' (ICOM 2017), which have had a fundamental impact on attitudes and practices in museums. ICOM also recently published a guidance for restitution and return of items from university museums and collections where human remains are identified as a suggested priority area (ICOM 2021). *The Vermillion Accord on Human Remains* adopted by the World Archaeological Congress in 1989 also stresses the importance of respect for both the dead and local and descending communities, and that agreements should be reached through respectful negotiation (World Archaeological Congress 1989). The postcolonial critique that initiated these changes, based predominantly on an indigenous rights perspective, has since expanded to include other forms of systemic inequality, in particular, racism (Dunnivant, Delande, and Colwell 2021), but could potentially grow to include other categories in the future.

The ethical challenges of collection and display of human remains in museums in the Nordic countries only gradually came into focus in Sweden in the early 2000s. After a few highly publicised repatriation cases, a first inventory of human remains was carried out in a limited number of museums and university collections in 2005 at the request of the Swedish government. A report on the presence of Sámi remains in Swedish museums was initiated by the museum *Ájtte* (Edbom 2005), and the same year, *the Living History Forum* synthesised the history of Swedish race biology. At this juncture, several research projects shed light on the issue through the presentation of case studies of ethnographic collections in Swedish museums (Hallgren 2010); emerging problematisation of Nordic colonialism (Fur 2013; Höglund and Burnett 2019); the history of the development of 19th century anthropology including 'race science' in Sweden (Broberg 1995; Ljungström 2004; Svanberg 2015) and its impact on policy in the 20th century welfare state (Roll-Hansen and Broberg 2005); a medical ethics perspective on using old human remains for research (Masterton 2010); and analysis of calls for repatriation through international comparative analyses (Nilsson Stutz 2008, 2013). In 2016, a report from the Swedish History Museum on the holdings of human remains in public Swedish museums underscored the need for further research (Drenzel et al. 2016). In 2020 the National Heritage Board published a support document (Riksantikvarieämbetet 2020) with guidelines to assist museums in developing their best practices in handling human remains.

During the same period, new methods in archaeology gave rise to the 'third science revolution' (Kristiansen 2014), resulting in an increased demand to access human biomaterials on behalf of researchers in the field. This direction in archaeology tends to generate significant public interest, high profile publications, and successful externally funded research projects and employment prospects, thus driving a development of the discipline in this direction. It also relies on destructive sampling of human remains curated in museums. While the Swedish Museum Law (2017:563) explicitly charges museums with a research mission in addition to curation and exhibition, the demand for destructive sampling can come into conflict with both the responsibility to preserve the specimen, and the desire to be an institution in step with surrounding social and cultural values. Museums are tasked to preserve, curate, and make their collections – in this case of human remains – available to the public and to researchers. With simultaneous demands for curation and conservation, on the one hand, and access to collections for research aims, on the other, museums increasingly find themselves pressured from two sides. This is likely to be an experience shared by museums on an international scale.

How, if at all, do museum professionals experience and negotiate these complex and sometimes conflicting pressures? Where do they position themselves as they try to accommodate different and sometimes conflicting needs? What laws and professional ethical support are in place to inform decision making and professional practice? As it turns out, there is very little solid ground to take refuge to. When turning to legislation, ethical guidelines, and best

practices, it becomes clear that the field of research on old human remains in Sweden – and elsewhere, is an unregulated field. Several important syntheses account for the state of the field in different national contexts (e.g. Marquez-Grant and Fibinger 2011) and in the face of emerging issues (Squires et al. 2019), highlighting similar needs to address this ethics deficiency in the field. This article presents the results of a large-scale survey that maps attitudes, practices and experiences of handling human remains in Swedish museums and frames the results within an analysis of the Swedish legal system. The survey is carried out within the research project *Ethical Entanglements. The care for human remains in museums and research* and serves as a case study to explore the general challenge of the legal liminality of old human remains in an international perspective.

Old human remains in Swedish museums

Swedish museums hold human remains from a range of different contexts, but they can all be categorised as ‘old’, as opposed to recent human remains kept for medical research, in medical and forensic facilities. This distinction is key for the lack of legislation of the field. While old human remains in museums are similar materially to their counterparts in medical research, their age removes them from the medical sphere, and from inclusion in medical ethics – instead they become heritage.

For our purposes here, human remains are defined as all matter originating from human tissue whether considered to be a part of an individual or defined as an object, part of, or intentionally or unintentionally included in objects (of art, craft, ritual artefact, or scientific artefacts), including bone, cremains, mummified tissue, hair, nails, skin, teeth, preparations of whole bodies, body parts and organs and other soft tissue, thin sections, and body fluids.

Most human remains in Swedish museums are traditionally considered unproblematic. The majority are from archaeological contexts and have typically been collected over time through practice regulated by law. They are implicitly considered to be a part of a shared cultural heritage associated with the majority population (Nilsson Stutz 2016) and are rarely considered as controversial and therefore tend to be overlooked in the research ethics debate. Rare exceptions have considered remains from historical and Christian burials that occasionally cause concern and protest on behalf of the public or the Church. These protests tend to be local, rarely affect the larger debate, and are often handled through immediate reburial at the time of excavation.

Other categories of human remains although fewer, have been more central for the emerging critique. One such category has been collected as part of historical ethnographic ‘expeditions’, often more or less explicitly associated with racist and colonial intellectual frameworks. They are now predominantly viewed as relics of the past and rarely used in research. While often removed from display, they are frequently discussed in debates about the ethics of human remains in museums. Another category of potentially problematic collections was developed within the medical field, in hospitals or medical faculties to teach and study anatomy and pathology. With the development of new methods in the teaching and training of physicians, they have lost their utilitarian value and in Sweden they have typically been transferred to historical museums. This change in location has transformed them from specimen of research and teaching to artefacts of the past and moved them from the natural sciences and medicine sphere, to become wholly or partially the preoccupation of the humanities, a transition that affects their perceived value. No longer used to ‘save lives’, they are now the material remains of medical history. While the public tends to view them as curiosities of the past, researchers and curators acknowledge their value as unique artefacts. In these historical collections we often find the remains of individuals who were marginalised because of their social status, health status, or by categorisation – as specimens collected to study anatomical typology (‘race’). These collections can become targets for pointed requests for repatriation from representatives of minorities or indigenous peoples, but also include a range of other individuals that were victimised in different ways by structural violence but not included in the dominating debate.

Finally, Swedish museums contain artefacts made of human remains or that incorporate human remains. This category includes everything from highly contested ritual objects to mundane hair jewelry. In this category we also include garments stained with blood, such as the famous shirts of Gustav II Adolf (Gustavus Adolphus, 1594–1632) on display at The Royal Armory (Livrustkammaren) – donated to build a material foundation for a heroic commemoration of the king – on his own initiative. Some of these pose familiar ethical problems, while others are considered unproblematic. However, new research methods that can reveal private and personal information (e.g. Begg et al. 2023; Masterton et al. 2007), may move some of these remains into new realms of ethical consideration in the future.

Provenance, collection history, and purpose thus show a range in the collections of human remains in Swedish museums. So does physical form and preservation. While much less debated, this factor tends to play an implicit role in how the remains are perceived by both professionals and the public. To put it simply: a fragmented anonymous rib is not likely to elicit the same response as a baby in a jar. Do these immediate emotional responses make a difference in museum and research practices? Is it reasonable to make a difference in the handling of these different categories of remains?

Between objects of science and lived lives

To capture the complexity of the category ‘human remains’, conceptually, legally, and scientifically, our research project ‘Ethical Entanglements’ relies on a model that sees them as moving on a spectrum between being objects of science and lived lives. This model is not intended to lead to any conclusion about how they should be handled, or define how we personally view them, but rather to capture the range of how they historically have been, and still are perceived, categorised, and handled – from the view of the remains as being a relative or an ancestor, to a view represented by the practice of predominantly scientific collection and curation – as objects to be studied. In between lies the range of levels of entangled object- and subjecthood that resonates through all the different aspects of the ethical challenge. Where along the spectrum, between object and subject, any given human remain is perceived to be located depends on several factors including provenance, research history, level of familiarity, level of information, state of preservation, and age, but also current political and cultural debates, cultural concerns, religious and spiritual convictions, and political needs.

On the lived lives end of the spectrum we encounter the human remains identified as relatives or ancestors. Here, the need to treat them according to the cultural prescriptions of mortuary ritual often result in them being returned to communities and buried. This is the understanding underlying most claims for repatriation, voiced by indigenous people as a spiritual and cultural difference. But a similar perception is sometimes also projected unto other remains. A recent example is the controversial cremation in 2020 of the conjoined twins preserved in formalin in 1863 in the care of the Natural History Museum in Gothenburg (Azurduy Högström and Gelang 2020).

On the other end of the spectrum, we find the human remains that are viewed as objects of science. In the past, this would have concerned most of them, but today, we increasingly view them as moving along the spectrum in both directions. As we use this model to understand the complexity of human remains, it is important to underscore that this is not only an ideological, spiritual, or emotional position. The fluidity of the categorisation is also captured by the research perspective. In archaeology, history, and anthropology, mortuary rituals are centred around the liminality of the corpse and the redefinition of the human cadaver from a subject into an object, or a subject-object other, from which the mourners can separate is central to the rite of passage (Nilsson Stutz and Stutz 2022). Their liminal positioning between subject and object, and between life and death, challenges cultural order and gives rise to ritual strategies and belief systems that in different ways negotiate their transgressive nature. Similarly, in bioarchaeology and osteology, it is the material remains of the person in the past that constitutes the departure of a study that gradually reveals

information about a lived life and personhood, including health, illness, pathology, age, and biological sex. Archaeogenomics and molecular archaeology reveal details about kinship, origin, diet, and migratory patterns at both a population and an individual level. In history, the material remains of an individual complemented by written records merge into a human destiny that becomes relatable and tells stories about human experience in the past. This liminality between the present and the past (Ion 2021) and between subject and object (Nilsson Stutz and Stutz 2022) is also what makes human remains captivating in art, and powerful as (part of) ritual objects or as memorabilia (e.g. hair jewelry).

In addition to the theoretical understanding of the liminality of the human corpse and human remains, we must also add a political consciousness of how this liminality has been weaponised. Dehumanization and objectification are strategies of structural violence often directed against the living. From this perspective, the human remains brought to Swedish museums from ethnographic expeditions, archaeological excavations in colonial contexts, and from poor houses and medical facilities, came into being through the complex mechanics that viewed them as ‘other’, as ‘fair game’, and as *more objects of science than subjects in the past*. The treatment of criminal corpses in the 18th century is another case in point (Tarlow 2016). The practice to anatomise and exhibit criminal corpses, and to turn parts of them into commemorative objects such as pocketbooks (as in the infamous case of William Burke, on display at Surgeon’s Hall in Edinburgh), extends the punishment beyond the execution into violent objectification. The recognition of these practices creates further ethical entanglements: Because of this history, collected human remains become powerful material evidence of this structural violence, marginalisation, and discrimination in the past – information that can be valuable in the building of cases against oppression also in the future. But their very existence perpetuates the victimisation. Their value for addressing past injustice does not necessarily solve the ethical dilemma of telling that story without the consent of the person it concerns, but it adds to the ethical complexities of the research and care for old human remains.

Paradoxically then, the more we know about the remains – from cultural knowledge and affiliation or from research, the more they become ‘subjects’. Their subjecthood emerges, not only from traditional knowledge and spirituality, but also from the research process. This places an ethical responsibility also on the research side of the relationship. At the same time, this research relies on the material remains of these past humans. Human remains, as objects of science *and* as lived lives are valuable and worthy of protection. But as conflicting claims are being raised, we must ask ourselves: what can, and should we protect – the object of science or the lived life? Can we protect both? Legal frameworks are put in place to regulate protection and conflicting needs, but as we shall see, the laws in place in Sweden (and we suspect, elsewhere) do not address the complexity of old human remains and does not provide a path to negotiate the multiple ethics that surround them.

Legal frameworks regulating human remains

While there are several laws that regulate the handling of dead bodies in Sweden, there is no legal framework that offers concrete support for decision making regarding old human remains. No law in Sweden today considers the complex nature of old human remains as both objects of science and lived lives, or even as a contested category. An overview of the legal system shows a distinction between the recently dead and the long dead, where the former are treated as deceased persons, and the latter as cultural heritage.

Laws regulating cultural heritage

- The Historic Environment Act from 1988 (Kulturmiljölagen 1988:950) regulates the protection of cultural heritage, which refers to place names, archaeological monuments, historic buildings, and cultural objects that are categorised as ‘ancient remains’ which is defined as

‘remains of human activity in ancient times that have been created through the practices of times past and have been permanently abandoned’ (Kap 2, 1 §). The law does not specifically mention human remains, but what we refer to here as old human remains, would for the most part fall under this provision given their age. The category is not explicitly mentioned in the text, but human remains are presumably included in the protected category of ‘remains of human activity’, in particular ‘graves, funerary structures and grave fields, as well as cemeteries and other burial grounds’ (Kap 2 1 §). Human remains encountered in other contexts fall under other categories of archaeological sites including ritual sites, occupation sites, etc. In other words, *they are protected as material traces of past human activity – not as past people.*

- The Museum Law (2017:563) regulates the museum sector’s responsibilities, accessibility, expectations of competence, active and responsible curatorship, and collaborations. It makes no mention of human remains or any other collection category but includes provision for a possible passage for negotiation: The government may communicate regulations for State Museums for how to handle ‘objects with limited culture historical value’ (10 §) to regulate the deaccessioning of items from museums, and this potentially provides a path for repatriation. The connection is not spelled out, but looms in its absence.

In the Legal Council referral on Cultural Heritage Politics (Kuhnke and Ström 2016) human remains from the Sámi community are given special attention. Following the Framework Convention for the Protection of National Minorities, the Sámi hold the statuses of national minority and indigenous people, which afford them special cultural rights (Kuhnke and Ström 2016, 75). As a part of a strategy to strengthen Sámi culture, the Department of Culture suggests the development of guidelines for the handling of human remains in museums and for the identification and repatriation of objects in museum collections where there may be special ethical reasons for their return (Kuhnke and Ström 2016, 76).

Both the Historic Environment Act and the Museum Law view human remains as objects of science, on par with lithics, ceramics, or other artefacts. Their worthiness of protection is linked to their context. What the laws carefully protect are the remains of the human activity in the past and their context – not the human remains themselves and definitively not the past person. Exceptions are potentially given in the Legal Council referral to certain categories of human remains where the protection of human remains in museums can be extended as a *special* right to indigenous groups, presumably because of the differences in cultural values and spiritual beliefs.

Laws regulating burials and resting places of the dead

Other laws that regulate the treatment of the dead human body concern the more recently dead. Still, the categorisation of the body oscillates between object and subject.

- The Burial Law (Begravningslagen 1990:1144) regulates the registration of deaths, burial places, the process of inhumation and cremation including the handling and disposal of the cremains, the reopening of burials which is only allowed when it does not disturb the human remains or ashes (2 kap, 13 §), and in rare cases the relocation of a burial. A burial site may be wholly or partially discontinued, under the purview of the County Administrative Board, which may discontinue the burial rights (7 kap, 34 §), in which case the burials can be removed. The law is detailed about how to transfer the control of burial ‘devices’ (headstones, etc.) (7 kap, 28, 35-37 §§), but does not detail the fate of the human remains.
- The disturbance of burials is also regulated by the Swedish Penal Code (Brottsbalken), in chapter 16, Crimes Against Public Order (Brottsbalken 16 kap, 10§). Here, the dead is referred to as a ‘deceased person’ moving it on the spectrum towards subjecthood. It is stated that disturbance of burial, defined as the act to without authorisation, move, injure or outrageously treat the corpse or ashes of the dead, open a grave without authorisation, or otherwise inflict

damage on or abuse a coffin, urn, grave or other resting place of the dead or a tombstone (revised in 2022, SFS 2022:607), is a criminal offence punishable with up to four years of imprisonment. Archaeological excavations of burials are regulated by the Cultural Environment Act and thus authorised.

Laws regulating the treatment of the dead in the medicolegal sphere

Interference with dead bodies also occurs within the medical and medicolegal sphere. The Health and Medical Care Act (2017:30) regulates the care for the dead as part of the responsibility of the healthcare system. While not explicitly stated it is inferred that this refers to the recently dead. Other laws, such as the Criteria for the Establishment of a Human Death Law (1987:269), and the Declaration of Death Law (2005:130), regulate the legal moment of death. The Autopsy Law (1995:832), and the Transplantation Law (1995:831) regulate how dead bodies can be handled within the medical and medicolegal sphere. In contrast to the laws regulating cultural heritage and museums, these laws recognise the past personhood of the dead. In The Autopsy Law, the human remains are defined as ‘the body of a deceased person’. The law states that an autopsy must be carried out in a way that is professional and ‘with respect for the deceased’ (1§). The general guidelines from the National Social Board (SOSFS 1996, 28) further clarify that this respect is central regarding *all* interference with dead bodies, also when taking place outside the bounds of the healthcare sector and should be observed by all engaging with dead bodies, also non-medical or health care personnel (p. 4). However, when it comes to establishing consent, the laws provide room for negotiation as consent can be given by the subject before death, or by a relative – and in some cases it can be inferred from assumptions about values held by the deceased and is weighed against the value of the interference. For forensic examinations, consent is not required by the deceased or by their relatives. Here *the body is redefined as evidence*, which, at least temporarily, overshadows any concern for their personhood. To sum up, the language of the laws regulating treatment of dead bodies in the medical and healthcare fields tends to depart from a recognition of personhood, but still leaves room for ambiguity.

Laws regulating research more broadly

The Ethics Review Law Regarding Research on Humans (2003:460) regulates research on living subjects, but also on human biomaterials from living and dead humans. It is vague on how to regulate research on old human remains, and the reason for this is that it relies on informed consent which is a recent concept (Bazzano, Durant, and Rhode Brantley 2021; Beauchamp 2011).

The law centres on respect for the human value, human rights, and human well-being, which all must be weighed against the value of the research. Human well-being is placed above the needs of society and research (8§). Research can only be approved if the risks are outweighed by the scientific benefits. For our purposes here, it specifically regulates research involving a physical intervention on a dead human (3§) or, in rare cases, studies on biological material taken *for medical purposes* from a dead person and that can be connected to this person. However, for consent regarding dead persons, the law refers to the Autopsy Law, and the Law for Transplantation (13 §), which are limited to medical (and in some cases forensic) use or research, and, depending on the circumstances, flexible in terms of the negotiation of consent. It is difficult to see what support or guidance they offer regarding old human remains in museums which almost never are accompanied by documented or inferred informed consent, and for which it is impossible to pretend to know what kind of treatment might have been deemed acceptable by the dead subject and in accordance with their attitudes and values. In some cases, the law allows for research without informed consent, but only in cases where there is a clear benefit for the research subject or somebody else suffering from a similar condition – or if there is a very low risk of harm. In all cases, the person, a close

relative or legal guardian must be informed (20–22 §§). It is unclear if the Ethics Review Law Regarding Research on Humans regulates research on old human remains. Formal ethical review is not required for research on old human remains and is rarely carried out (something also pointed out for the United States by Bendremer and Richman 2006). For researchers who nevertheless engage with ethical review or reflection, for example when addressing research ethics in a grant proposal, the weighing of benefit vs risk of harm comes into focus. For research on old human remains a common response is to play down the potential harm rather than argue for the benefit (in particular, it is hard to argue for the benefit of the participating subject). By playing down the harm – for example by arguing that the specimen ‘is very old’ and ‘does not have any identified living relatives’, researchers move their subject of research on the spectrum towards objects of science. While pragmatic, this approach can cause problems as it signals that researchers do not recognise the lived life end of the spectrum.

To sum up, the Swedish legal system does not recognise the complexity of old human remains. While never stated explicitly, there is a conceptual split between the bodies of the recent dead who are protected by laws regulating the medical and healthcare sphere where their subjecthood is recognised, and the long dead, who fall under the provision of cultural heritage protection, categorising them as objects of science, with a focus on how to preserve them and in rare cases deaccession them. A certain level of exception, and an increased level of attributed subjectivity, can be extended to old human remains of indigenous peoples, but the framework leaves the majority unproblematized in the category objects of science.

Support documents

In the absence of clear legal support, the Swedish National Heritage Board recently developed a document to guide and support museums in formulating their own policies (Riksantikvarieämbetet 2020). The document offers an ethical framework structured around four core principles: *respect of the individual in their cultural context*, *respect for descendants*, *respect for different groups*, and *respect for knowledge* (Riksantikvarieämbetet 2020, 7), but the responsibility of developing a policy falls on each individual museum. The document proposes recommendations and centres on concepts such as ‘professionalism’ and ‘good practice’. But when it comes to more detailed practical instructions, the document leaves room for interpretation. Human remains should be handled ‘with respect’, and all who handle them should be ‘aware of different perspectives and consider them in an objective way’ (Riksantikvarieämbetet 2020, 10). The rest of the document makes suggestions, and employs words like ‘can’ and ‘could’ rather than ‘shall’ and ‘must’. At first glance, it emphasises that human remains are to be treated similarly to other accessioned objects, including storage and handling focused on preservation. The word ‘material’ is often used when referring to the human remains, and the instruction: ‘Human remains should be marked with an object number’ (Riksantikvarieämbetet 2020, 13) indicates an implicit categorisation of human remains as objects. At the same time, there is a consideration that allows for museums to move the remains on the spectrum towards lived lives. This is visible in the extra cautioning to be restrictive and careful when accessioning human remains, suggesting revision of outdated terminology in databases, limit access to data base images, carefully consider image policies, shield off areas in the storage rooms containing human remains, include trigger warnings in exhibitions, to consider/or not to store human remains with their grave goods, etc. The document extends special consideration for human remains from indigenous peoples or minorities, which should be consulted before remains are used in exhibitions. For research the document proposes that the museum should consider *if* ethical review is required. The wording underlines the lack of clarity with regards to the application of ethical review for old human remains, which yet again underscores their liminality.

Mapping practices in Swedish museums

How do museum professionals experience and negotiate this situation? Are human remains in museum collections treated as objects or subjects? What can the practical handling tell us about categorisations and decision making? Are museums supported in making ethical decisions and what is still needed to support strong professional ethics? To find out, I conducted a survey to map practices, procedures, and values in Swedish museums. A more detailed presentation of the study will be published elsewhere, but here the main results will be presented and articulated with the ongoing critical debates and the existing legal frameworks.

The survey was distributed online to the museums that in the report from 2016 (Drenzel et al. 2016) indicated that they hold human remains. Prior to distribution, the project was approved by the Swedish Ethical Review Authority (Dnr 2021–04859). The survey was initiated in November 2021 and remained open for a year. It included 34 questions across 5 themes: 1) The character of the collection; 2) Policy and practice concerning curation and handling of the remains; 3) Policy and practice concerning accessibility and exhibition; 4) Policy and practice concerning research; 5) Relations to society broadly. Sixty-five museums were contacted and 48 completed the survey, which corresponds to a response rate of 74%. The participating museums include big institutions with collections of thousands of individuals, to museums with isolated remains; they are located across the country and includes museums in big cities as well as in smaller communities.

The survey reveals patterns of both consensus and diversity in attitudes and practices.

There is a *consensus* around several core values and practices, including a perceived high value of the collections for their scientific and pedagogic potential, and overall, a sense of living up to a professional and ethical handling of the collections.

- Eighty-five per cent of the responding museums consider that their collections of human remains are valuable for science or for pedagogical purposes.
- For the few museums that respond negatively to this question, the reason given is usually that they have few remains, or that the remains in their care are marginal to the main purpose of their museum.
- Overall, this recognised value carries over in the handling of the remains with priority given to conservation and access to researchers ranked as first or second priority by 61%, with access to research ranked second by 37%, followed by ‘respect for the integrity of the dead’ which is rated as the second priority by 24%.
- A distinct group of museums (22%) ranks ‘respect for the integrity of the dead’ as number one priority in the treatment of the remains, and there appears to be some correlation here with museums that have experiences with repatriation. A majority claim to treat all human remains equally in their storage (69%).
- Seventy per cent of the responding museums exhibit human remains which reinforces the notion that they have pedagogical value. Among the 30% that do not exhibit human remains there were those that refrained from doing it for ethical reasons, but also those who did not feel that the human remains were significant enough to be prioritised in the exhibition or relevant for the exhibitions. Among those who exhibit human remains, only 30% claim to exhibit them ‘like any other object’ while the others have created an atmosphere of respect (for example through adapted lightning), and 27% of them made active decisions to not show *certain* remains.

While the scientific and pedagogical values are important and accommodated in the practices, there may be a distinction between the storage and exhibition contexts, where there appears to be a higher degree of accommodation to recognise the lived life in the exhibition context, compared to the storage context where the need to preserve the object of science is prioritised. But this can be discussed and nuanced since showing the remains in and of itself can be viewed as more objectifying than providing them a resting place in the storage rooms.

The interpretation of the *diversity* in the survey is more complex.

- Thirty-eight per cent indicated that they hold human remains that they consider problematic, and these usually referred to human remains from ethnographic contexts or of unknown provenance. In general, archaeological human remains were not considered problematic.
- When asked about internal policy for handling human remains in storage and exhibition 53% responded that they had one, but when asked about how useful this policy was in supporting the work 50% gave a good grade (90–100%), while 36% still hovered around a 50% helpful rating which is weak.
- Forty-seven per cent had a formal policy in place for internal ethical review for research access. When asked to describe their process, it varied greatly from one institution to another. Some referred to the ICOM Code of Ethics for Museums (ICOM 2017), others to guidelines by the National Antiquities Board (Riksantikvarieämbetet 2020), others to the National Board of Ethics Review to support their process. Others only referred to their own board, colleagues, or director.
- The experienced pressure for access on behalf of the research community also varied across the board. Twenty-five per cent experienced high pressure, and 49% reported an increase in last 10 years. In general, it was museums with substantial archaeological collections that reported a very high pressure.
- A similar variation can also be seen in the relationships with the public. There was a great degree of variation in attitudes to sharing images of human remains: 49% of the museums share images through open databases, or in commercial products like postcards or posters. Fifty-one per cent only shared images with researchers or not at all. The experience of public critique was varied, with 28% of museums reporting experiences of this. Thirty-four per cent had experiences of repatriation or reburial. When asked about regular engagement with issues of ethics at the workplace we see a spread across the board with 35.5% reporting the engagement as extensive, 29% as medium, and 23.5% as weak or very weak
- When asked, most feel that they can live up to the ethical standards they have set for themselves, but 31% gave a measure of 50% or less indicating that there is considerable need of support. When the answer was negative, the reason given was lack of funds, space in storage facilities etc.

From this overview of the most significant patterns in the survey we can draw several preliminary conclusions. Human remains in Swedish museums are, for the most part, still considered to be more objects of science than lived lives. They are viewed as scientifically valuable, and the main priority of museums is to preserve them and make them available for research and to the public in exhibitions. This is not surprising since it aligns with the foundational role of museums. But when looking at the results we also see a gradual move along the spectrum towards recognising the lived life. While preservation and access to research is regarded as the top priorities in most cases, human remains are often exhibited in ways that set them apart from objects. A similar distinction is also visible in different strategies regarding the sharing of images. Museums with experience of repatriation tend to move the human remains in their care more towards the side of lived life, indicating that the process itself can be transformative.

From the survey we can glean a tension between different forms of ethics. What is considered ‘problematic’ in the self-reported evaluations varies. For some it is lack of provenance, which affects the scientific value, while others refer to ethnographic or anatomical collections as problematic, which tends to engage other ethical concerns. Overall, there is a pattern in the responses where museums that report low levels of concern also report high levels of compliance with ethical standards. Paradoxically, this indicates that museums that problematise their collections, and thus potentially engage in more attentive ethical work, will report a lower level of compliance,

while it arguably could be the opposite. Without unified standards, the reflections are not automatically comparable.

Finally, the survey shows a lack of consistency regarding processes and support in decision making for access to research. This translates into a lack of support for both researchers and curators who strive to be ethical in their respective professions. The lack of uniform guidelines for reviewing requests for destructive sampling for example, may result in a difficult work situation for those charged with preserving collections without proper funding for the workload involved in making the assessments. In the worst case it can also open the door to undue influence and favouritism in a relatively small research community. While there is nothing indicating that human remains are mistreated in Swedish museums, the lack of formal and generally shared professional ethics constitutes a potential weakness that could become a problem in case of mounting pressure for access or emerging public critique.

Conclusion

Are old human remains people, or are they heritage? How should they be treated in museums and research? While research practices, museum practices and public debates increasingly recognise the complex nature of old human remains as both objects of science and lived lives, this study shows that there is no consensus – neither in law nor in guidelines – on how to handle this development. The research on old human remains is a largely unregulated field. This is a problem for mainly two reasons: First, it leaves both museums and researchers working with old human remains vulnerable to critique from the public, especially from a post-colonial perspective questioning the right of research to treat the remains of people as objects of science. This critique is valid but can still be nuanced since many museum professionals and researchers share the sensibilities of human remains being a more complicated category than neutral objects. Second, the lack of standardised protocols for reviewing access to human remains for destructive sampling (Alpaslan-Roodenberg et al. 2021), and for sharing potentially sensitive data, risks causing unnecessary stress, potentially create conflicts, and in the worst case, may cause damage to valuable and sensitive remains. Finally, the review of both laws and practice identifies an inconsistency in the categorisation of human remains where old human remains from indigenous people are considered with more care for their subjectivity than human remains from non-indigenous contexts. This is a problem because it risks restricting the ethical debates to specific groups, while leaving other categories of old human remains completely unproblematized.

What are the solutions? It is often said that ethical guidelines and recommendations can never be universally applicable, or they become too vague and toothless. This is probably true, especially with regards to such complex and entangled ethics as those pertaining to old human remains in museum collections. There needs to be a flexibility in the system for it to be practical. But while universal ethical principles may be reductionist, a standardised professional ethical approach that explicitly recognises their complexity is necessary to handle current and emerging ethical issues. If we recognise that human remains are both objects of science and lived lives, and that they can move along this spectrum, in the legal frameworks at our disposal, in the professional practices in museums, in the research process, and in public debate and political discourse, then we need professional ethics that recognise this complexity rather than try to reduce it. *Instead of standardised ethical solutions, we need standardised processes that allow us to address the complexity of old human remains.* When looking at comparable national cases it seems like there are two potential ways forward. One is updated legislation, where the Human Tissue Act in England and Wales (2004) and Scotland (2006) serve as models. While still making a firm distinction between the recently dead and older remains (boundary set at 100 years), the updated legislation has stimulated an overhaul of professional ethics regarding human remains in museums and research (e.g. Department for Culture, Media and Sport 2005). Another interesting solution, at least with regards to research, is offered by the Norwegian Ethics Committees and its National Commission for

Research Ethics on Human Remains established in 2008. This Commission evaluates ethical aspects of research pertaining to human remains in museums and collections, and in archaeological contexts and acts as an advisory body. The impact of this model will be evaluated in an upcoming study, but a preliminary observation is that a centralised forum for evaluation and advice will homogenise and strengthen ethical standards within the profession, and act as a reference for all parties, including museum professionals, researchers, descending communities, and the public at large.

A more nuanced approach to human remains in museums may sometimes mean repatriation, reburial, and the removal of remains from display, but it may also mean a more secure and respectful process to evaluate access for research and display. While the public critique levelled at museums in Sweden so far has been limited, it is likely that they as democratic and inclusive institutions will have to engage in thoughtful and productive dialogue in the future. In this work, they would be strengthened by a more generally shared professional ethics to refer to both in their external communications and in their internal practices. This practice should be formulated in a way that recognises the complexity of human remains as valuable *both* as objects of science and lived lives.

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