

## **OPINION N° 111**

### **Opinion on ethical issues raised by the use of corpses for preservation or for exhibition in museums**

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## Introduction

The Ethics Committee addressed the issue of respect owed to deceased persons on a previous occasion, following a referral from the *Cité des Sciences de la Villette* (La Villette Science Museum) in 2008<sup>1</sup>. At the time, CCNE returned a specific targeted opinion on whether it was appropriate for an institution set up for the public good, such as the *Cité des Sciences*, to participate in the exhibition of corpses in lifelike situations contrived by plastination. In its response to the author of the referral, CCNE had expressed reservations regarding this kind of event, whose scientific and pedagogical objectives did not appear entirely substantiated<sup>2</sup>.

As this reply did not have the official status of an Opinion, on several occasions in 2009 various members of civil society and representatives of associations asked the Ethics Committee to express a less circumstantial position.

Responding to this request, the Committee decided to publish an opinion of a more general nature covering in broader outline issues arising out of using people's bodies after their death for the purpose of preservation or exhibition in museums. What is it allowable to do with corpses or body parts after death and what should not be done?

The recent report by the French Parliament on the revision of the laws on bioethics<sup>3</sup> rightly underlines that "*bioethics cannot be defined as only applying to the living. It also involves defining what those who are alive must not allow themselves to do with the bodies of the dead, these human remains being a memorial to the deceased*". The authors go on to say that "*when*

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1 Referral sent to the Committee by Guillaume Boudy, Director General of the Cité des sciences et de l'industrie, on the occasion of the projected "Body World" exhibition, for anatomic purposes, in *Cahiers du Comité consultatif national d'éthique*, N° 54/Jan-March 2008 pp.52-53.

2 *Ibid.*, p. 52

3 Information report n°2235 in "Révision des lois de bioéthique", ("Review of the laws on bioethics"), *Favoriser le progrès médical, respecter la dignité* (Encouraging medical progress, respect of dignity) rapporteur: Jean Léonetti), page 423, chapter 8, Le respect de l'identité et du corps de la personne décédée, 2010. (Respecting the identity and the body of the deceased).

*bodies are donated to science, all the consequences of the principle of respect for the human body after death have not been completely thought out*". In agreement with this finding, the Ethics Committee intends to clarify the ethical issues involved with specific reference to two types of posthumous use of human beings for exhibition or preservation in museums: on the one hand, there is the issue of the current use of corpses in various exhibition halls<sup>4</sup>; on the other hand, the question of what becomes of collections of human remains in museums in an international context, these bodies being sometimes claimed by their people of origin for laying to rest.

## **I. On the subject of the exhibition of corpses**

### **I.1. The dehumanisation of corpses... but not of our own**

In recent years, corpses<sup>5</sup> have been exhibited in various Western countries of liberal tradition. This is a paradoxical situation: our society considers that graveyard desecrations or exhuming a body<sup>6</sup> are shockingly offensive but seems to accept the exhibition of corpses. In France, as in many other countries, in places dedicated to remembering the dead, the community preserves and displays their names and also their portrayal, no more. The body itself is kept out of anyone's sight. French law provides for a symbolic place of meditation, even in the case of incineration (it is forbidden to scatter the ashes in public areas).

This paradox becomes understandable, however, if we observe that the bodies exhibited are not close to us and that they are in some way remote, or even "exotic". Although the name of some exhibitions seems to imply that we are seeing no more than "Our body", that is our own, in fact

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4 It is the concept of exhibition itself which is at issue here and not one or the other of the particular exhibitions which are variously presented by different organisers in different host countries.

5 Bodies are preserved by "plastination", also known as "polymer impregnation". Plastination is a technology for the preservation of biological tissues by replacing various body fluids with silicone. The method is used, inter alia, for research on vascular microsurgery.

6 When 34 graves in the Carpentras graveyard were desecrated in May 1990, it caused a great deal of emotion and the same was true when the Appellate Court ordered that singer Yves Montand's body should be exhumed for a post-mortem paternity test.

these are *other* people's bodies and not those of our own loved ones, or of close relatives whose families would appear to have decided that the best way of paying them homage was to exhibit them anonymously to the sight of their fellow citizens.

So there are two radically opposite attitudes, depending on whether these are "our" dead, whose bodies we conceal and whom we remember only in name, and other anonymous bodies which are put on show. We know nothing of the history of such people whose identity is contained in being a body. In body exhibitions, the corpse is no longer a specific person whose unique and private life could have crossed the path of our own life at some point. No one would even consider attending an exhibition where they would see a close and beloved relation simulating a life which has deserted them for ever. But when our dear departed are made anonymous by an industrial and technical process, they become multipurpose corpses.

There has always been an urge to see what is normally shrouded or remote. In earlier times, exhibitions featuring exotic items were frequent, for example dead adults or foetuses, Fragonard's skeleton horseman, or live exhibits such as Saartjie Baartman shown in Paris as the "Hottentot Venus" or Joseph Merrick nicknamed the "Elephant Man".

One of the pillars of ethical thinking consists in not treating people in a way you would not wish to be treated yourself. This "golden rule"<sup>7</sup> requires each of us to reflect whether we would be willing to allow other people's bodies to be exhibited although we would not like that to happen to ourselves or to anyone close to us.

## **I. 2. Comments on the subject of the reasons and purposes claimed by organisers**

In campaigns promoting this type of event, the argument based on the transmission of anatomical knowledge is recurrent. It postulates analogy with anatomic presentations shown to medical students in dissection rooms where are kept the cadavers of people who donated their body to science. Cadaver exhibitions, it is argued, are simply an extension of such access to the bodies of deceased persons provided to other sections of the population besides future doctors.

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<sup>7</sup> Persian literature gave us an early example (Zoroastrism) a thousand years BC: "That which is hateful to you, do not do to your fellow" (Shayast-na-Shayast 13,29, circa 1000 BC). For the importance of the "golden rule" in ethics, cf. R.M. Hare, *Essays on Political Morality* (1989) and *Essays on Bioethics* (1993).

Three comments come to mind in this connection:

- Doctors themselves are much less inclined to using cadavers, in view of the fact that — particularly in the case of surgeons — training now is much more frequently based on simulators which are more effective for the purpose by far. Furthermore, young surgeons learn by contact with living patients, guided in this by the experience and presence of their more experienced colleagues. The Committee had already had occasion to remark in 2005 that preserving fetuses and stillbirth infants in jars, where no one any longer paid them any attention, was evidence of the outdated nature of such practices<sup>8</sup>, which used to be justified for medical and educational reasons but are now no longer necessary in view of progress in medical imagery and body reconstruction. It is untrue that exposure or dissection are essential to learn about the inside of the human body. Be it for medical students or the public at large, it is no longer always necessary to teach anatomy by the observation of real corpses.

- The pedagogical purpose of body exhibitions is obscured by the lucrative ambition evidenced by charging an entrance fee. Furthermore, this lucrative aspect is in itself problematic. Is the exhibition of corpses for profit allowable? Is not the principle that human bodies are not property under attack by the fact that there is a commercial component to this "staging" of bodies? Even if it was deemed essential to allow people to view bodies, this would not mean that the process must needs be a matter for trade.

- We can see that the bodies exposed for view to spectators are shown in a manner very different from the one traditionally adopted for an audience of medical students. All of these exhibitions have in common that they represent ordinary actions of everyday life as though they were performed by the dead. However, a corpse running, playing a game or participating in sports is not a representation of a dead person or of death itself. In a "playful" way, bodies are exhibited for the public as though they were objects on show. Certain organisers have not hesitated to represent corpses copulating<sup>9</sup>. The dead are made in this way to be experiencing the whims and

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<sup>8</sup> On this subject, see: CCNE Opinion N° 89 *On preservation of the bodies of fetuses and stillborn infants* Reply to a referral from the Prime Minister, September 22, 2005.

<sup>9</sup> This is the case in particular of the German anatomist Gunther von Hagens.

fantasies of the living<sup>10</sup>. Such ambiguity cannot do anything else but cast suspicion on the pedagogical and anatomic motives expressed.

- People's consent, when the use of their bodies after death responds to purposes which are so obviously related to entertainment and profit, may be seen as an alibi for the abuse of power of the living over the dead. The specificity of such purposes makes it very difficult to accept the analogy between the consent given for exhibition and the consent given for scientific ends<sup>11</sup>. Although, for the past sixty years, ethical behaviour relating to the use made of the human body is based on free and informed consent, the fact that a practice has been consented to does not suffice to ensure its ethical legitimacy.

### **I. 3. A symptom of a crisis of representation?**

Using dead people for purposes of material gain and entertainment cannot be considered only in its medical and legal dimensions. Such events may be viewed as a symptom of the incapacity of today's society to re-transcribe reality into symbols. This could be described as a crisis of representation. The fact cannot be ignored that the organisers of this type of event never use artificial bodies to teach anatomy, despite the unprecedented possibilities computer tools and technology now provide. If truth be told, the spectators are not inclined to be taught anatomy, for which a plastic representation of the human body would be perfectly adequate; they want to see *real corpses*. As the organisers themselves and many spectators admit, artificial corpses, however perfect a resemblance, would deprive the exhibition of any kind of attraction. The fundamental appeal of these events is to see, rather than to learn about human anatomy. In itself, seeing is not discreditable. The problem lies with the attractiveness of looking at the corpses of *real* people.

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<sup>10</sup> It is significant that ancient Romans proscribed any disparaging statement concerning the dead as a mark of the obligation on the living to show restraint concerning those who are exposed defenceless: *de mortuis nihil nisi bene*.

<sup>11</sup> In France, one of these exhibitions was banned in April 2009 because proof of consent by the deceased had not been provided by the organisers. *Cour d'appel de Paris, ruling on April 30, 2009, n°09/09315*. For similar reasons, the exhibition was also prohibited in Taiwan shortly thereafter. (Cf <http://abcnews.go.com>. *Hawaii Shuts Down Real Human Bodies Show Island State Becomes First in the Union to Ban Controversial Exhibitions. Real Human Bodies from China*)

The word "fascination" is, for that matter, one which is recurrent in the reports of people who have attended these shows. Its use as an argument gives credence to the misleading idea that the intensity of our emotion could exempt us from having to give critical thought to what we are looking at.

Shifted from one part of the world to another, a corpse ceases to have a personal history and becomes part of a show, an object of curiosity to catch the eye. We are shown dead people whose body is supposed to be "brought to life" because of the games and sports they seem to be participating in. To present death from such an angle only leads to negating the tragic and compelling aspects of the event. To make death playful and spectacular is to excise its ancestral dimension ("dust thou art and unto dust shall return"), whereby our dead are "departed", "no longer with us" or more precisely, are present only insofar as we remember them in our thoughts and miss them.

The large number of visitors is put forward by organisers to accredit the cultural value of the exhibition. This would mean that ethical issues are solved because several million visitors attended the exhibition and that many of them thought it was "extraordinary", "sensational", etc. But is a large audience a sign in favour of culture? We should not forget that in previous centuries, public executions were such an attraction in France that they were attended by crowds of people and almost led to public disturbance. History testifies to the fact the public is fascinated and enthralled by seeing people put to death, tortured, drawn and quartered, or guillotined.

As has often been the case in the past, today's communities seem to be once more finding it difficult to move on to artefacts, mediation or symbols. We show the thing itself rather than bring it to mind. Symbols, which are a step away from reality, are seen as a missing dimension, a loss by comparison with abrupt and full-face confrontation with reality.

## **II. Anatomic collections: preservation and exhibition of human remains in museums**

Organisers of body exhibitions sometimes put forward, as an attenuation of the transgressive nature of their activity, the historical tradition of showing remains in various national museums.

Putting such matters into perspective is all the more useful in that it requires us to raise the issue of the legitimacy of certain collections whose presence in French museums has been the subject of controversy.

### II.1. What are the motives for preservation?

The social acceptance enjoyed by the cult of relics shows that it is not so much the exhibition of bodies which is criticised as the reasons motivating it. The cult of relics obeys anthropological, theological and religious criteria, so that bodies exposed in churches, enveloped in wax and clothing, are not just respected, they are venerated or the object of prayer. There is obviously no thought of public entertainment or moneymaking.

As regards the preservation or exhibition of human remains in public museums, this is done with the intention of bearing witness to an event of the past. It does raise a moral dilemma because of the critical view we would have if similar practices continued today. For example, we kept the remains of Pompeii, but clearly, should such a disaster occur today, the thought would not enter our minds of creating a museum where the public could come and see people buried by the volcanic eruption.

Preserving and exhibiting human remains of "head hunting" expeditions, that we now consider to be reprehensible, raise even more ethical issues. Considered acceptable until the 19th century, the decapitation of tattooed heads of slaves imported from New Zealand is not of any scientific interest. On the contrary, such practices tended to further delay scientific progress by substantiating the ideological prejudices of the time<sup>12</sup>. The ethical issue is made all the more acute by the fact that these heads (which are habitually described as "human remains"<sup>13</sup>) are now

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For example, according to Pascal Picq, the "Hottentot Venus", just like the Maori heads, are the heritage of a time when science tried to demonstrate, in the context of Europe's domination over the rest of the world, that white men were at the summit of the hierarchy of animal species and at a higher level than Africans or Asians. The course of the theory of evolution was redirected to justify the domination at that time of whites over the other "races" (cf. *Lucy et l'obscurantisme* éd. Odile Jacob, and *Nouvelle histoire de l'homme*, éd. Perrin.)

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The word for "remains" in French ("restes") is unfortunate in that it can also refer to leftovers, such as surgical residue and waste for destruction.

claimed by the communities from which they came and that the time when they were captured and executed is not that far in the past.

## **II.2. The obligation to respect the duty of people to their dead**

History testifies that communities everywhere have always sought to honour their dead. The claims filed by the communities concerned express an anthropological need known to every civilisation: ritualise death and grant the dead a place of sepulchre. The matter at issue is not simply recognition of a community's rights, but giving them the possibility of fulfilling the obligations they owe to their dead.

It is to be noted that the inhumation of human remains (sometimes considered to be also works of art) is on the increase internationally. Many museums in America, Australia and Europe have already responded favourably to such claims, so that France would seem to be increasingly isolated in its reticence to consider the matter and participate in the general trend for ethical reflection, alleging a legal argument based on a 2002 law on the inalienability of museum collections. This position, put forward by some museum curators, is invalid. While it is true that the public domain is inalienable, it is no less true that removing an item from public ownership (by a simple ministerial order) makes it alienable. It is incumbent on us to decide what we should do with the remnants of sombre episodes of our history. Simply ignoring such claims would be all the more disconcerting because internationally France is regarded symbolically as the country of birth of Human Rights. With regard to international law, dismissing the claims of the communities concerned would put France at odds with the fundamental principles to which it agreed through the ratification of the UN Declaration on the Rights of Indigenous Peoples adopted by the General Assembly on September 13, 2007<sup>14</sup>.

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Cf. UN Declaration on the Rights of Indigenous Peoples:

Article 11: 1. Indigenous peoples have the right to practise and revitalize their cultural traditions and customs.. (...). 2. States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.

Article 12: 1. Indigenous peoples have the right to manifest, practice, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains. 2. 2. States shall 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 indigenous peoples concerned. *Resolution adopted by the General Assembly, 13/ 9/ 2007.* [www.un.org/esa/socdev/unpfii/](http://www.un.org/esa/socdev/unpfii/)

Currently in France, these collections are no longer accessible to the public, which weakens still further the already controversial argument based on possible pedagogical value. Museum directors are aware that human remains, and even more so decapitated heads, are no longer decently fit to be seen in view of their provenance. Just looking at a Maori decapitated head, preserved in its original condition, is enough to understand that it cannot be reduced to the status of an ordinary patrimonial object. A face is not just an assortment of bones and tissues; it is the most expressive part of the human body<sup>15</sup>.

Therefore, objects in museums involving human remains indeed seem to be treated with the respect owed to people who were once alive. It is our relationship between the present and the past which is in question. We must ask ourselves how we want to relate to the vestiges of those who were gone long before our current ethical and legal principles were established. The view we have of the Maori heads must take into account our growing regard for the dignity of any human being, even after death. We cannot continue to keep such human remains in museum collections while their people of origin claim their restitution for reasons which we recognise as similar to the values we ourselves hold dear and express through the rites of inhumation with which we bury our own dead.<sup>16</sup>

### **III.3. Regulatory criteria for restitution**

Some museum curators fear that the restitution of Maori heads could set a precedent and lead them, in the long term, to having to return the mummies now in the Louvre, not to mention Cro-

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Cf. Lévinas E., *Totalité et infini. Essai sur l'extériorité*, M.Nijhoff, La Haye, 1961, p. 21 : « Irréductible à l'apparence physique de la personne, le visage est l'épiphanie d'une présence totalement inobjectivable, que je ne dois pas pétrifier, dé-visager ». (Irreducible to the physical appearance of a person, the face is the epiphany of a total unobjectifiable presence, which must not be petrified nor de-faced".

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The town of Rouen recently took steps in a humanist direction, when it decided to return to New Zealand a Maori head which had been kept in its museum since 1875. This was a symbolic gesture with the aim of expressing respect for a people who, like any other community, is attached to its culture and its identity. At the instigation of Senator Ms. Morin-Dessailly, the Senate's Committee for Cultural Affairs presented a draft which was adopted unanimously on June 29, 2009. This is a sign showing current developments in France's outlook on such matters.

Magnon bones. On this score, two situations need to be considered. The remains of Cro-Magnon and Neanderthal humans, being prehistoric, cannot really represent a moral dilemma. No possible claim for restitution can be made for these bodies which are, furthermore, of scientific value for mankind. Scientists need these bodies to study them and understand the evolution of species.

Although in certain situations the difference between contemporary and very ancient items is simple in the extreme, as is the distinction between what can be claimed for restitution and what cannot, it can serve as a guide to ethical reflection. In this respect, it must be remembered that the Maori people, indigenous to today's New Zealand, of Polynesian origin, are not a people of the past. The Maori heads may be those of the father or grandfather of young men who died on the battlefields in the First World War. Seen from that angle, an act of restitution contributes to the process of remembrance and healing which helps to turn a page on the long-held attitudes of Europeans towards those who were unlike them. This is a symbol of the recognition of the dignity of all peoples and, as such, participates in a universalist approach.

The Committee considers that it is possible to set up safeguards to prevent a chain reaction leading to a proliferation of restitution of the remains present in our museums. Three general principles could serve to form a set of collegially-controlled and dispensatory rules as regards the return to claimants of remains from France:

- The country of origin formulating the claim for restitution of human remains is the country of a people existing today;
- It is not intended that the relic be exhibited or preserved in reservations within the country of origin; it is to be laid to rest;
- The decision is taken in consultation with the institutions concerned, museums on French territory, directors of medical and pharmaceutical laboratories as well as supervisory ministerial authorities.

### **Summary of reflection and recommendations**

- The separation between the living and the dead is a cultural codification which is part of the way "living together" is organised. Traces of its anthropological importance are to be found in the most

ancient writings in our cultural heritage<sup>17</sup>. In the history of mankind, a recurrent concern, growing in strength, is respect for the dead, as expressed by refusing to exhibit them.

- Consent to giving one's body to science after death (for anatomical and pedagogical purposes) must not be taken as meaning acceptance of a post-mortem theatrical production for commercial gain. Consent is necessary to ethics, but consent is not sufficient in itself to bestow ethical legitimacy on an action. The dignity of the dead deserves consideration.

- Putting dead bodies on show in commercial exhibitions for entertainment is a measure of the need to pursue a collective discussion on the way in which our society positions itself in relation to other cultures, other sensitivities and in summary, forms of coexistence between "us" and "others".

- On a more specifically pedagogical level, all those undertaking dissemination of knowledge must reflect on a clarification of the motivations involved so as to distinguish between "anatomy", "art" and the unspoken inclination to see corpses<sup>18</sup>.

- The success encountered by these body exhibitions highlights the risk of impoverishment in the ways of transmitting knowledge to which our society is exposed. An undefined escalation in the quest for emotional impact, with messages needing to be increasingly shocking to have an effect on their audience, is a prospect which satisfies neither scientific nor ethical requirements.

- Claiming a supposedly anatomical and pedagogical purpose can be interpreted as an attempt to minimise the lucrative and media-oriented dimension of this type of exhibition. It constitutes a form of exploitation of dead bodies for material gain which is contrary to the spirit of French law.

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It is the cornerstone of one of the oldest and most famous of the tragedies in our culture, Sophocles' *Antigone* (Cf. *Antigone*, Transl.P. Mazon, Belles Lettres, Coll. Classiques en poche, 1997).

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The fact that in France, as in certain neighbouring countries, schoolchildren were obliged by their teachers to attend this type of exhibition, as constituting a lesson in anatomy, emphasises the need for collective reflection taking into account historical, anthropological and ethical factors.

- The regulation of practices involving the exhibition of dead bodies must apply equally to both public and private exhibitions. While the use of bodies for harvesting organs or for autopsy is essential and responds to firm and legitimate social expectations, the exhibition of a dead body, to whatever extent, belongs to a tradition now extinct.

- As regards collections of human remains, collective reflection on the subject became necessary due to changing perceptions and requests from the communities of origin. It takes into account specifics originating from the way in which such collections were acquired. It also considers the existence of new techniques with which exact copies of bodies can be made so that having access to the originals is no longer of great educational value.

- When certain human remains are claimed by the communities from which they originate, France should consider their restitution in the light of the Declaration of the United Nations that we ratified in 2007. Rather than elude these issues, it would be preferable to face up to them in good faith. They are not solely diplomatic in nature; they also contain an ethical dimension. All communities are entitled to pay their dead the respect they are owed.

- The historical argument, although it is not entirely without legitimacy — the need to preserve the traces and vestiges of a long gone past — must be weighed against other values such as the respect owed to each civilisation and friendship between members of the human community. To reject a practice need not lead inevitably to destroying all the evidence of its existence in the past. On the contrary, it is essential to remember what happened in earlier centuries. But the preservation of human remains cannot be an end in itself, *a fortiori* when it is injurious to the identity of the people concerned. It must also, therefore, be dedicated to an act of remembrance shared by all .

Paris, January 7, 2010