

The reasons underlying ethics within the archaeo-anthropological arena

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Abstract. Human historical findings of the past represent a precious scientific and cultural source for acquiring knowledge of humankind's evolution. In Italy, still timidly, albeit with a greater frequency if compared to the past, the ethical reflection is turning its attention over processing the material mentioned above, which dwells in an intermediate position between living and what cannot be deemed living anymore. The reasons for a specific codification aimed at processing those findings, with the ultimate goal of fostering the spreading of good practices among researchers and those who operate within the cultural heritage field, are miscellaneous. In the search for a balance between anthropologic, ethical, and religious instances evoked by these findings and those on the development of knowledge and scientific research, which those findings can ensure, ethical expertise may furnish the necessary coordinates to question the needed interventions within the area of interest in the view of specific human values. It is hence necessary to provide in the curricular path of archaeologists, anthropologists, physicians, biologists, museum curators and those working in this particular disciplinary field, a proper ethical education on the handling of these artefacts, which could ensure adequate consideration of the various interests and rights involved and a proper balance between research and respect.

Keywords: Human remains, post-mortem, ethical competence, healthcare, moral competence.

Introduction: Ethical considerations

The study and moral evaluation of pre-established rules underpinning the society, interhuman relations and behaviours toward all living individuals exposed to the risk of injury to one's integrity degradation, marginalisation and extinction constitute morality's traditional and complex domain.

Amidst all the current reflections, the most current arduous crux is undoubtedly constituted by the relation between ethics and science, which is emblematically synthesised with the following question: is it possible to implement everything that up-to-date scientific acquaintances render implementable?

A query that solicits complex questions when raised concerning life: should we prolong through artificial conditions the existence of one individual who

has no expectancy of improvement and suffers? Is it morally admissible to grant a request for euthanasia? Should we still carry out clinical trials on animals and sentient beings for the sole benefit of human beings? (1-3).

Therefore, the question "Can we do everything possible?" arises, and yet, under even more problematic terms, when one compares it with a no longer living "subject matter" such as human artefacts of the past.

It is well recognised that the archaeological heritage is a resource of great importance when employed to gain comprehension of ancient societies used to live and behave, as well as being pivotal in the inquiry on economic conditions, lifestyle, and alimentary habits of past civilisations (4, 5).

Human remains to fall within the archaeological umbrella and constitute invaluable evidence of past

cultures, such as an effective tool of acquaintance that is handy for reconstructing the biological history of the *Homo Sapiens* species.

That is why the considerable potential of their application in research and didactics poses interrogatives all revolving on their peculiar nature, a nature of what remains of people that exhaust their circle of life. Can we arbitrarily operate on an artefact that has been lifeless for hundreds or thousands of years? Is it admissible to raise a moral query on artefacts lacking an identity? How should one qualify those artefacts? Moreover, yet, which moral statute should be conceded thereof? Is it proper to regulate those activities with an ethical code? (6).

The international scientific community defines findings (i.e., mummies, anatomical ones, skeletal, or single bone) for a direct relation per se with a human being as 'sensitive', raising complex questions of social, cultural, and ethical nature (7, 8).

Indeed, even before tackling the various problems that such material may evoke, a preliminary reflection is required on the very legitimacy of operating an ethical reflection in a context that overreaches the lives' limes. Furthermore, even under the legal context, these issues resemble a grey area where individual rights are no longer recognised, albeit enduring in the form of artefact, which entails legal recognition and protection.

Reasons for an ethics reflection beyond the *bios*

In investigating the reasons which justify broadening the horizon of ethics to human remains, even if belonging to a very far past, some arguments could offer valuable points of reflection on this subject.

Firstly, one might consider how human remains, often equated with whichever naturalistic artefacts - at least with regard to the preservation thereof - are characterised and respectively differentiated from the latter for their complicated symbolic worth, anthropological, cultural, psychological and religious, and that is capable of recalling posterity and/on communities (9, 10).

Human identity strictly correlates to the historical and geographic context within which it develops. Contrarily to other living beings, human identity is a cultural construct that is predominantly built and ac-

quired on interactions amidst a single person, the community identity, and the milieu (11).

By virtue of the cultural value of human identity, the relation among individuals acquires a peculiar significance that transcends the biological one and hence does not quench with life termination of an individual as intended as a mere naturalistic event (12). Humankind, actually, has always wondered over the meaning of life, its finitude, and death as an occurrence that has marked its culture profoundly, to the extent of conjecturing through mythology, philosophy, and denominations an idea of a "beyond death" and thus, the conception of immortality. Albeit research point toward animals being able to manifest, in the imminence of their end-of-life, a sort of consciousness of this event, man has a constant/ever-present awareness throughout life. The self-awareness of this finitude is well uttered through the ancient-Greek lemma employed during Homer age, βροτός, which, dissimilarly from Aristoteles, defines *humankind* as "the one who is destined to die" (i.e., subject to death), rather than a rational being. "Dying" and "being able to die" are two dimensions that differentiate the specificity of the human experience.

The awareness of existing relationships among individuals, based on the recognition of the existence of the other, of its path, and its experienced, impede one from eyeing that human-non-living remains as a sheer extraneous object. Nevertheless, conversely, awareness drives one to overcome spatial and temporal boundaries intertwined with the occurrence of death to appreciate what still remains a portion of us that mirrors itself in the common destiny of precarity, narrowness, and finitude and that dictates answers of respect and sacrality.

This indissoluble bond between the body and the individual, recognised from several cultures, imprints an inviolability to the body, even to any state's interference, as enshrined by the formal consecrated Nuremberg Code.

The force of this intimate such as the private characterisation that the remains assume in custody and invoking the memory of a person, extends its anthropological-cultural and symbolic value beyond the life of the individual, justifying the ethical reflection revolving around the various forms of post-mortem use of the body or parts of it.

Moreover, an additional reason legitimising the broadening of ethical competence to what no longer can be deemed living is correlated to the varied conception of death, of which human remains, and their treatment process are evocative.

Corroborating how much the death episode for the individual could take on spiritual nature meanings, the spectrum of which goes beyond the biological nature of the episode itself, could be deduced not only from the necropolis or cemeteries but tantamount from the mortuary rites that in different cultures and historic epochs follow the momentum of passage (inhumation, burial, incineration, exsiccation, excarnation, mummification, cannibalism). The dead worship is ascribable not yet to the cadaver's value but to the high symbolic importance conferred on the corpses so that even human remains would become worthy of moral consideration. Indeed, it is not devoid of significance that in various States, one day of the year is devoted to commemorating the deceased, nor that funerary mores are differentiated for taking leave of those who left.

Under this context, Becchi recalls that during the late 19th-century Germanic legal culture, some even went so far as to advocate a right for the dead. According to this innovative approach for the time in which it was conceived and that presents modernity aspects in respect of post-mortal protection of personality, the boundaries of personhood do not begin with birth and do not wind up with death, but hence extend over the undefined and unforeseeable timeframe (13).

The density and complexity of network meanings and moral, spiritual, and identity values embedded in various manners of corpse burial constitute a clear legitimisation of the need to conduct in-depth reflections on managing human remains (14).

Additional reasons that may elicit ethical issues stem from the failure to meet the will of the deceased, such as the employment of a different site for the preservation of the remains rather than the one initially designated by the *de cuius*, or a discrepancy that might arise even in the form of divergence from adherence to the custom of the time (cemetery, church, sacred place...). If the remains were to become, without prior consent, part of museum collections, anatomical institutes or even research institutes, which duties would ensue on living individuals toward the deceased? In

some cultures, for instance, violating the sepulchre or seizing funeral goods and human remains to exhibit thereof in contexts wholly divorced from traditional ones, which are appropriately destined to their conservation as much as their worship, is deemed to be in detriment to the individual human dignity and community sensitivity (15).

In addressing these issues, the moral significance of the dead human body and its remains is strictly connected to a 'subjectivity' strongly compromised ab origine because it pertains to the deceased, namely, to a subject who is no longer a person. Nevertheless, one should not disregard the fact that a deceased remains a projection of what, beyond life, that specific individual was (dissimilar to any other). Furthermore, it cannot be disregarded that even after death, the will of the deceased still exerts its effects in some fields. Reaffirmation of this is offered by various international laws conferring legal force on wills previously manifested by the person for the time after death as well. Individuals, via a will, can freely dispose of their assets and make non-patrimonial dispositions, such as recognising a child or individuating a specific type of interment. Furthermore, other safeguards still endure upon the termination of life despite personal rights vested in the person being extinguished. For instance, compliance with data protection discipline demands balancing the deceased interests against the claims of the bereaved seeking access to data (16-18).

Furthermore, several States' legislation laid down a special treatment of the deceased by singling out the violation of the sentiment of *pietas* – a lexeme with a substantial nexus to the emotional lexicon – as a legitimisation ground for its legal safeguard.

The *Pietas* toward the deceased's body identify a sentiment that has been intended universal since it recalls a sense of solidarity with the species and its fragility and caducity characteristics. The objective of criminal protection, to quote the famous Italian jurist and academic Vincenzo Manzini, is constituted by 'the needs of that individual and collective sentiment that is explicated with the quasi-religious reverence for the deceased and mortal things, a sentiment that is considered as an ethical-social force, conservative and promoter of civilisation, and is thus deemed by the State as a political and legal asset to be protected personally' (19).

Beyond death: the symbolic value of the body

At the root of the moral questions surrounding human remains is the truly crucial issue of the meanings that corporeality takes on for the individual, even after his or her death, as well as for his or her affective and community references.

The considerations expressed by the **Italian National Bioethics Committee** (CNB) on post-mortem body donation for study, training and scientific research purposes could also benefit this analysis.

According to the opinion expressed in 2013, the CNB, after underlining the high ethical value of this type of 'gift' for the advancement of research and also for the possibility of curtailing animal experimentation, has emphasised the necessity that this altruistic act must be the expression of a free and conscious decision of the subject, thereby rejecting silence-consent as implied given consent in such procedures (20-22).

More specifically, the CNB has severely censured the rule (Royal Decree No 1592 of 31 August 1933 bearing the Consolidated Text of Laws on Higher Education), which set forth the option of reserving 'corpses whose transport was not at the expense of relatives of the family unit (up to the sixth degree) or of confraternities and associations, as well as those from coroner's examinations that were not solicited by relatives in the same family group' for teaching and scientific investigations. This rule, recently repealed by the Italian legislator, legitimised, in fact, a morally unacceptable logic of exploitation by the community of the corpses of people who were utterly unknown or whose family and friendship relationships dissolved.

This concern of the CNB on the post-mortem body donation theme is not devoid of significance since, although it does not directly affect ancient remains, it nevertheless extends the area of moral reflection to the treatment of the human body after death issue, confirming the symbolic value of the body and the bond it maintains with the person from whom it came even after death.

Whilst recognising that the dead body is not a person, the CNB excludes that it can be simply assimilated to an object, establishing the duty to preserve an attitude of respect regarding the dignity of the person who lived the body.

It is furthermore interesting to notice that some research shows that it is precisely the fear of a lack of attention and respect for the body of a deceased person that deters people from donating *post-mortem* (23).

For some years now, the policies of numerous scientific associations have been developing a different sensitivity towards these subject matters, promoting information and training campaigns on the importance of using solely voluntarily donated bodies for anatomical teaching and research conducted in universities and research centres. Even the recent Italian law regulations on the disposition of one's own body and post-mortem tissues for purposes of study, training and scientific research (2020) confirm a new approach to the subject, rejecting the traditional recourse to the unrestricted use of unclaimed bodies and centralising the respect of the person's self-determination and, thus, their prior consent (24).

Under this approach, recognising value and respect for a person does not cease with his or her death because dignity knows no boundaries, independent of any external event, including the end of life.

The body, in fact, not only represents a physical and biological element but is closely connected to the person to whom it used to belong while alive, and it expresses his existence, history and values (25).

The continuity criterion governing the continuity between the living human body and the corpse, or in any case, its remains -even the ancient ones- demands dignity and respect to be considered as guiding principles for any procedure concerning their preservation and management. In reality, even assuming that human remains are considered a *res per se*, they are generally considered to be a *res sui generis* precisely by virtue of their bond with the person to whom they refer and the trace of humanity that every human imprinting on his or her remains despite determined and finite boundaries of life (26).

Such a consideration can also be stretched to ancient artefacts, the holding, preservation, and use of which takes place in a totally different location from that which could have been envisaged during the lifetime of the people to whom these remains belonged.

On the other hand, the distinctiveness of their nature is recognised by the 2004 Code of Ethics of the International Council of Museums (ICOM), which,

after having defined human remains as ‘sensitive goods’, regulates their preservation and the standards to ensure their respect. By virtue of their peculiarity, this Code states (Art. §2.5) that “collections of human remains or objects that hold a sacred significance shall only be acquired if they can be safely located and treated with respect. This must be done per professional standards, the beliefs and interests, if known, of community members, and of ethnic or religious groups from which the objects hail’ (27).

Recently, the National Committee for Ethics in Research on Human Remains in Norway issued a fourth version of guidelines (2022) which expressly underlined how ethics should be the driving force behind the research on human remains and established that this competence shall be present at all stages of the research through a continuous balance and consideration of all principles at stake (28).

The ethical training

The aforementioned reasons underscore how human remains possess a unique status that distinguishes them from other artefacts, whether of significant scientific, cultural or even economic value, and that places them in the domain of specific moral consideration.

Consequently, the management (holding, processing, display) of human remains cannot overlook a system of ethical principles intended to guide the activities of the various professionals involved (researchers, bioarchaeologists, anthropologists, museum curators...) and to ensure both high technical standards of governance and accountability, as well as the utmost consideration for the individual and his or her community.

Therefore, professionalism, rigour and also ethical competence are certain preconditions for researchers and museum institutions when tackling all the issues that may arise around the management of human remains, whether in relation to requests for repatriation or for various types of an investigation conducted by researchers, including those of an invasive nature or concerning the choices inherent to a way of exhibiting the remains that are in accordance with their significance and respectful thereof, and of the community

that receives the latter (29).

Specifically about the complex issues surrounding the possession and display of these artefacts, ethical competence is paramount in the identification of those holding a legitimate interest in the maintenance and development of relations with the relevant community and in recognition of the possibility of gaining access to biographical and personal data (30).

As a matter of fact, ethical competence entails the ability to identify and critically analyse the moral and ethical-professional conflicts at hand, both at a theoretical and a practical level and to explicit the moral reasons for choices, proposing solutions that can adequately take into account the various instances and interests involved in the decision-making processes.

The ethical training required in this domain can intersect with the other disciplines to represent all the different instances underlying the multiplicity of forms of utilisation of the artefact in question.

It is, therefore, essential that even at the university level, specific training should be incorporated into the curricula of archaeologists, anthropologists, doctors, museum curators and all those working in the cultural heritage sector by introducing a specific teaching of ‘archaeological or archaeo-anthropological ethics’.

Unfortunately, hitherto, dissimilarly from many other countries in Italy, the ethical dimension within this domain remains limited in its recognition. Educational deficiencies and the reduced availability of solid, constructive, and sufficiently shared orientation criteria such as coordinates affect the possibility of identifying forms of mediation other than those provided by the judicial authorities as a way of preventing the risk of alienability, exchange, commercial use of human remains (31, 32). Exemplifying to this end is the judicial controversy that characterised the management of the skull of the brigand Giuseppe Villella, which is preserved and exhibited at the ‘Cesare Lombroso’ Museum of Criminal Anthropology of Turin University.

Beyond the 2013 opinion mentioned above on post-mortem body donation, the Italian National Bioethics Committee has never addressed the issue of the detention, handling and treatment of human remains and the underlying ethical implications. Even the literature on this topic in Italy is not widespread and often confined to specific individual cases (27).

The Commission for Ethics and Integrity in Research of the CNR (National Research Council) recently drafted a Code as an instrument of guidance and self-regulation for researchers working on cultural heritage and activities, also in their capacity as consultants or experts (33).

The Code expressly lays down that “in conducting researches on human remains, on materials or places that are considered sacred - or that have as their objective or that come into relation with human remains, materials, and places considered sacred even accidentally - researchers shall act for the interests and convictions of the related communities and the ethnic or religious groups involved, with the utmost diligence and transparency. In any case, studies on human remains or biological materials of human origin shall never have discriminatory, racist or detrimental purposes to the dignity of human life, which endures post-mortem, nor shall they be used for political claims or instrumental use, including ritual purposes. The Code also establishes that biological materials of human origin, whether discovered or in custody, shall not, in principle, be regarded as private property and treated with due care and respect during all stages of research. In the event of a request for the return of biological materials and/or human remains or the removal of their public display, the researcher shall act promptly and with due care in view of the sacred or symbolic value of such remains and materials.

Moreover, in Italy, there have been recent initiatives aimed at investigating these concerns, as shown by recent conferences that have addressed the issue of ethics in handling ancient human remains, highlighting the need for an interdisciplinary and shared approach (e.g. Human Remains). Ethics, Conservation, Display (Naples-Pompeii 20-21 May 2019, Turin 30 September-1 October 2019) promoted by the Archaeological Park of Pompeii and the Egyptian Museum of Turin; Ethically Sapiens. From excavation to the valorisation of human remains (Bari, 17-18 June 2020) is the responsibility of the Superintendence of Archaeology of fine arts and Landscape for the metropolitan city of Bari and the University of Bari; Ethics and human remains in the archaeological field. Guidelines and codes of conduct between research, documentation, protection, and valorisation (Webinar, 1011 November) by CNR Ethics).

Conclusions

The Human remains depict precious biological testimonies of past eras' populations, the value of which compels a particular ethical reflection.

Against this context firmly emerges a clear need to endorse ethical principles that consider the ongoing cultural changes in today's societies and offer valuable contributions to propose solutions for mediation and settlement of possible disputes.

Such ethical standards should be the foundation of the professional identity of those who work in the field of cultural heritage and are entrusted with an important moral responsibility both towards the material they deal with and the different cultural conceptions to which they bear witness. Not only does this responsibility imply the urge to promote an open dialogue amongst the different disciplinary domains, but also a path of education for the populations that benefit from these bio-cultural heritages regarding the value that this patrimony holds for the whole of humanity (34, 35).

Such an approach is, however, consistent with the recent (2020) ratification operated by Italy of the 2005 Faro Convention, which, by reversing the traditional definition of cultural heritage as framed according to rules and canons (historical/artistic/landscape) identified by institutions, recognises an active and responsible role of the community that ultimately retains the ultimate right to shape its cultural heritage with which identifies itself (36).

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