

# REQUIEM FOR THE SILENT

🌀 The Ethics of Exhibiting Human Remains 🌀

By Graham Chandler



THE ANATOMY LESSON OF DOCTOR VELPEAU BY FRANÇOIS NICOLAS AUGUSTIN FEYEN-PERRIN, MUSÉE DE L'ASSISTANCE PUBLIQUE, HÔPITAUX DE PARIS, FRANCE/GIRAUDON/ BRIDGEMAN ART LIBRARY

One Wednesday morning last January, an Algonquin man named Gilbert Whiteduck walked through the front door of the Canadian Museum of Civilization in Gatineau, Quebec, and handed archaeology and history director David Morrison a beaver pelt. Donations are a normal part of museum business, but this was the reverse—the pelt was a note demanding the return of all human remains taken from traditional Algonquin territory.

A few weeks earlier, the same museum launched an exhibit called *The Mysterious Bog People: Rituals and Sacrifice in Ancient Europe*, which features 2,000-year-old cadavers exhumed from the moors of northern Europe, some with strangling cords still cinched around their necks. Although some criticized the show for its gruesome subject matter, public response was overwhelmingly enthusiastic. Queues snaked out the door and the show quickly became one of the CMC's most popular.

The seeming incongruity between these two events points to a dilemma that's been gnawing at Canadian museums for the past decade: what is ethical when it comes to the treatment and display of human remains? Born of archaeologists' and anthropologists' nascent respect for First Nations beliefs about the treatment of their dead, the question is being faced with increasing regularity as new generations of shows like *Bog People* hit the country.

"With *Bog People*, you're seeing the first importation into Canada of the European model with respect to display of human bodies," says Michael Robinson, President and C.E.O. of Calgary's Glenbow Museum, which will host *The Mysterious Bog People* this fall. "It has long been a tradition in Europe, where the display of human remains was basically a Victorian curiosity." Indeed, Europeans have never been queasy about the dead. Witness the Capuchin cemetery in Rome or the Paris Catacombs, or chapels and cathedrals that routinely place saints' remains in glass cases for worshippers to venerate. Or University College London's annual dinner in honour of its founder, Jeremy Bentham, whose preserved and formally attired body joins revellers at the table.

But North Americans hold different views. "We live in a society where the whole process of death is hidden, sanitized, guarded," says Robinson. "It's quite possible for people to be born, grow up

and die without ever having seen a body. So there's kind of a taboo about the display of human remains that has grown in force and in power, certainly in the last 50 years. If you think about the traditions of wakes and the European attitudes and traditions about death that predate this century, the involvement of the family and the village with the corpse at the wake was an accepted, standard and important part of closing off the process."

As well as reconnecting North Americans with the dead, Robinson says exhibitions like *Bog People* play an important educational role. For instance, *The Mysterious Bog People* demonstrates how ritualistic sacrifice was part of Mesolithic Europe's coping with crises in subsistence. "I think it's important to understand the kind of risk that people had to evaluate and act upon in the move from hunting and gathering to sedentary living," he says. "So it gives you a chance to think about people who have the same brain case and the same grey matter as us, how they dealt with the wrenching shift in subsistence. It's the kind of shift the world is undertaking right now. How have we as a species reconciled that before?"

## SCIENCE OR SPECTACLE?

But are those lining up for *The Mysterious Bog People* anxious for an education, or are they simply interested in a macabre spectacle? Clouding the education argument are shows like Professor Gunther von Hagens' *Body Worlds: the Anatomical Exhibition of Real Human Bodies*. Von Hagens, a German physician, presents 32 human bodies and 200 organs that have been impregnated with polymers, preserving them in vivid, life-like states (all the remains were obtained from donors). Currently on display in Munich and Pusan, South Korea, the show has attracted over 11 million visitors worldwide and is defended on the basis of education, according to its Web site ([www.bodyworlds.com](http://www.bodyworlds.com)): "The aim of the exhibition is to inform visitors and to open up the opportunity particularly to medical laymen to better understand their body and its functions." Von Hagens is also quoted as saying that "the high number of visitors proves the general population's need to learn more about the structure and functions of their bodies."

However, the show's detractors claim it's just sensationalism in

the name of education. The British Government and Munich's town council tried unsuccessfully to ban the exhibition; if passed, the British Department of Health's *Draft Code on the Import and Export of Human Body Parts* would categorically outlaw the return of Body Worlds or similar displays. (Britain also tried to ban the world's first televised live public autopsy, performed by Von Hagens in November as part of the exhibition.)

"It's irreverence," says Robinson. "My personal view is that without a context of reverence for death in a specific culture, it's a shocking display. To me, that really pursues the kind of geekish, freakish side show circus displays of the 20s and 30s to their logical conclusion in 2003, rather than any attempt at formal education."

Sensational or not, how ethical is it to publicly display human remains? Professor Margaret Somerville, Founding Director of the McGill Centre for Medicine, Ethics and Law in Montreal, is emphatic. "We must have respect for human remains," she says. "It's a deep and profound human belief. There's an inherent respect simply because they're human." In the Von Hagens case, Somerville says that because informed consent was given, the display may be initially justified.

She then poses a question that adds to the murkiness surrounding public display of human remains out of the context of reverence. "Is it wrong *societally* to have bodies on display like this?" she asks. "You can argue both ways about that. Does it denigrate the body? You could make analogies to donating bodies for anatomy classes. And as art, it serves a very important purpose for us, bringing meaning to our lives. It all depends on how it is handled. Carving up a body in a public display is, to me, unacceptable."

"If it's a human fossil, most people don't object," she continues. "With an actual body, some people object. If it's a recently deceased person, more people object. It's a grey world in between. Often in ethics, we work in grey areas. In a continuum of ethical concerns, you draw a line where you think it's justified."

## DIGNITY AND RESPECT

That line can appear even fuzzier when the feelings of First Nations are considered. On the one hand, the long-overdue respect for Native American traditions and beliefs has prompted museums to remove any aboriginal remains that may have been exhibited. On the other hand, First Nations appear to have no general objections to the display of remains from other cultures. "Our (First Nations Advisory) Council doesn't mind the *Bog People* exhibit at all," notes Robinson.

Eldon Yellowhorn, Assistant Professor of Archaeology at Simon Fraser University in British Columbia and a member of the Peigan Nation, has no quarrel with the *Body Worlds* exhibit. "If people signed consent to have their bodies used, it's fine," he says. "After all, people sign over their bodies for medical research." Yellowhorn, who is the first Native person to earn a Ph.D in archaeology in Canada, explains that what is really important is respecting the wishes of the departed, whether individually or collectively as a culture.

"It's a matter of treating them respectfully, the same way you'd treat your colleagues. If you don't conduct your research in a dignified manner, then you don't respect anybody. It comes down to a fundamental part of our humanity." Yellowhorn explains how this extends to respect for First Nations traditions. "Part of it is that most North American native cultures have strict taboos associated with their dead, for example not mentioning their names. Anything owned by them was contaminated by spirit power that would bring bad luck. Any handling of their remains or their possessions would need a purifying ceremony."

Growing respect for these beliefs and traditions is driving the move towards repatriation of native remains in Canada and the U.S. And therein lies another aspect of the human remains dilemma for museums: some anthropologists decry the loss of valuable research material.

"The repatriation of human remains has undoubtedly made the study of ancient populations more difficult," says David Morrison, Director of Archaeology and History at the Canadian Museum of Civilization. "It consumes the limited time, money and other resources which museums have, while removing some of the most important objects of study beyond the reach of research."

## IRRETRIEVABLE LOSSES

However, Morrison adds that in nearly all cases where important human remains have been discovered in the past decade or so, archaeologists and Aboriginal communities have established positive working relationships. "In the end, the remains are invariably reburied, but at least they have been able to tell their story," he says. "But we are losing long-term access to collections which [would] allow us to investigate new hypotheses or to use new analytical techniques." This is the concern with the current case involving

the Algonquin Nation. Gilbert Whiteduck and elders from the Kitigan Zibi Band in western Quebec have said they are opposed to any testing or research on the remains in the CMC's collection, some of which are 6,000 years old and pre-date Algonquin settlements. (At press time, a compromise had not yet been reached.)

The loss to science is echoed south of the border. In a November 2002 news release, the Society for American Archaeology stated that in the past 12 years, "the balance between scientific and Native interests provided for in the law has been badly eroded through administrative decisions that have, in practice, distorted the statutory definition of cultural affiliation in order to accommodate the interests of Native American groups at the expense of scholars' ability to expand our knowledge of the past through study of the affected remains and objects."

Bill Belleck, head of the Smithsonian's Repatriation Office, agrees. "The law is very clear that decisions about the disposition and reburial of human remains and objects are to be made by tribal representatives that are culturally affiliated with the remains and objects," he says. "[But] there is an undeniable loss of cultural information when human remains and objects are returned and reburied."

Native American activist and retired history professor Vine Deloria Jr., author of *Custer Died for your Sins*, was once quoted as saying that if you interfere with European human remains you get arrested and charged, but interfere with native remains and you get a Ph.D. It may be an extreme viewpoint, but it does make museums aware of the need to pay attention to all parties' concerns.

## WHO OWNS THE DEAD?

"With respect to the law as it applies to anthropologists, the Criminal Code makes it an offence to improperly or indecently interfere with human remains," notes University of Alberta law professor Catherine Bell. "As with any criminal act, there must be an intent to offer indignities. 'Indignities' is not defined, but courts have described them as disrespectful, dishonourable, callous, and wanting in dignity or honour."

Most anthropologists agree that human remains shouldn't be treated as if they were objects whose value lies more in their research potential than in what they mean to descendants. But, legally, who *really* owns the dead, anyway?

"This area is complex and uncharted legal territory," says Bell, who specializes in Aboriginal Peoples and the law, as well as property law and dispute resolution. "As a general rule, there is no property in a dead body. Although skeletal remains are not property *per se*, one might argue ancient remains in the possession of a museum or other custodian for a significant period of time have taken on the nature of 'quasi-property', meaning that they can not be fully owned but some property rights may be exercised in relation to them."

Bell believes that most museums in Canada are willing to return

human remains no longer used for scientific study if there is an ancestral connection and agreement among the community. "[Museums] view themselves as custodians and not owners of this material," she says. "However, a problem in the repatriation process is disagreement on the nature of proof to establish ancestral connection and the lack of staff or financial resources to establish ancestral connection using scientific means."

The question of proving ancestral connection lies at the heart of nearly all contested cases, most notably that of Kennewick Man, a 9,000-year-old body discovered in Washington State in 1996. In that high-profile U.S. case, the body could not be demonstrably connected with local tribes who were demanding control of the remains, which in fact shared characteristics with Caucasoid populations. A six-year lawsuit was settled last fall when a federal court allowed a group of prominent scientists to study Kennewick Man. The American Association of Physical Anthropologists (AAPA) fully supported the scientists. "Our support stems from the fundamental belief that cultural affiliation is what provides the moral and ethical basis for repatriation," the AAPA wrote in an October 2000 news release, "but where cultural affiliation is absent, repatriation claims have no moral foundation."

For now, contested cases remain the exception. According to Randall Kremer, Director of Public Affairs at the National Museum of Natural History in Washington, D.C., the Smithsonian has to date repatriated over 4,000 sets of human remains.

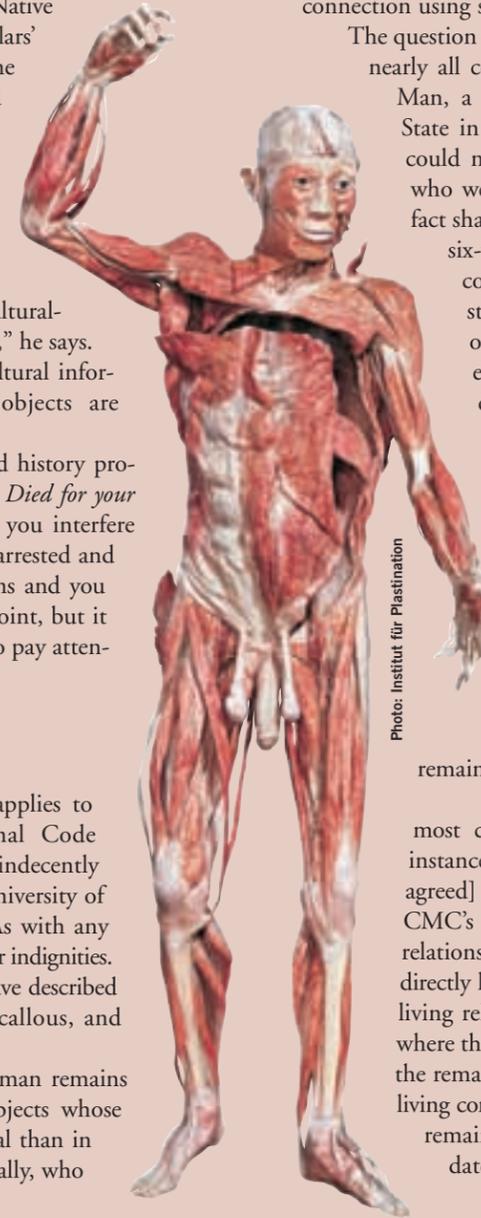
In Canada, philosophies are similar. "We are most comfortable with a direct affiliation, where for instance the Aboriginal community is Haida, and [it's agreed] the human remains are also Haida," says the CMC's David Morrison. "We also accept a more general relationship, where the remains in question cannot be directly linked with any [specific] community, but do have living relatives. We have the most difficulty in situations where there is no verifiable information of any sort linking the remains and the requesting community, or indeed any living community. This is usually the case with very ancient remains, and we have had only one such request to date."

## A DYNAMIC DIALOGUE

Canada lacks the benefit of NAGPRA-style federal legislation. NAGPRA is the U.S. Native American Graves Protection and Repatriation Act under which Native American human remains are repatriated. "There is no consistent legislation or policy across the provinces concerning protection and desecration of newly discovered burial sites on private or provincial land," says the University of Alberta's Catherine Bell. "With respect to repatriation legislation, Canadian museums resist law and prefer case-by-case community



ABOVE: A DISPLAY FROM THE CMC'S BOG PEOPLE EXHIBIT



ABOVE: BODY WORLDS DISPLAYS REAL HUMAN BODIES IN ELABORATE POSES

Photo: CMC

Photo: Institut für Plastination



Photo: Steven Darby, CMC

ABOVE: GILBERT WHITE DUCK AND ALGONQUIN ELDERS AT A PRESS CONFERENCE IN JANUARY

negotiation.”

Some standard practices have been established. The Canadian Museums Association devotes a section of its 1999 Ethics Guidelines to the question of repatriation of Native remains and artefacts. In addition, several museums, including the Royal Ontario Museum, have formally addressed the issue in their policies. The Glenbow has a First Nations Advisory Council that works with local aboriginal communities on repatriation and exhibition issues. The Glenbow has even contacted Calgary’s Egyptian-Canadian community to comment on its Egyptian exhibits.

But would it be easier if Canada had federal legislation similar to NAGPRA? “Legislation could address issues of ownership,” Bell says. “[It could] incorporate Aboriginal rights and traditions, provide mechanisms for notice and return, balance the interests of the scientific and Aboriginal community, create statutory presumptions to help establish connection to the remains, address issues of potential museum liability for return, and provide non-litigious dispute resolution mechanisms.”

“However,” she continues, “one thing we have learned from NAGPRA is that such legislation can impose undue hardship on museums without providing sufficient financial resources to comply

with statutory obligations. So to be fair and effective, access to funding should also be available under any legislated scheme. Further, the question of which government should pass the legislation is complicated given that provinces have jurisdiction over property and provincial lands, but the federal government has jurisdiction over Indians, lands reserved for Indians, and federal lands.”

Legislation or no, museums will continue to grapple with issues surrounding the treatment and exhibition of human remains, particularly in cases where display has the potential to offend some public morals. Eldon Yellowhorn offers some guidance.

“I agree with Dorothy Lippert, a Choctaw physical anthropologist,” he says. “She says that no matter what we may think about human remains, they do represent one last way [people] have to tell us about their lives. We can see a dialogue between them and the spirit world. It’s a dynamic dialogue. They can’t tell us directly, but through the archaeological record they can. Anthropological work approached in this way is respectful.”

*Graham Chandler is a Calgary-based freelance writer. He holds a Ph.D. in archaeology from the University of London and has written for Equinox, Canadian Geographic, Air & Space/Smithsonian, National Geographic World and others.*