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Bowls, Bobbins and Bones. Resolving the Human Remains Crisis in British Archaeology: A Response

Duncan Sayer*

In 2010 and 2011 a series of articles appeared in *British Archaeology* describing a crisis surrounding the archaeological investigation of human remains. Behind these articles was a campaign to change the licensing conditions issued by the Ministry of Justice (MoJ) for the excavation of human remains. The campaign was covered in local, national and international media and resulted in questions in parliament and letters from select committees addressed to the MoJ. It was chiefly orchestrated by three archaeologists, Mike Parker Pearson, Mike Pitts and Duncan Sayer, but hundreds of others offered their support and time, and many individuals and organisations wrote directly to the minister to explain their dissatisfaction with the situation as it existed. The political, professional and media pressure, alongside the advice of several individuals in a closed meeting organised by the MoJ, resulted in a 'more flexible' interpretation of the licensing conditions from 2011 and a rewriting of the application procedure for permission to excavate.

In 'Resolving the Human Remains Crisis in British Archaeology' Mike Parker Pearson, Tim Schadla-Hall and Gabe Moshenska explain the background and the major events of the 2010-11 campaign and consider the situation within the context of two subtle but perceivable juxtapositions – law vs. practice and science vs. religion.

Law vs. Practice

Law is not culture, the law is a community-wide mechanism to administer society and maintain order by creating legislative boundaries. English law is based around case law administered by practising judges, laws are made by parliament but they are interpreted by legal professionals. This means that English law does not prejudge what is right or wrong until it is asked to evaluate it, except in the case of capital crimes like murder. Laws are also administered by civil servants, and it is this softer area where this archaeological crisis is situated. The 1857 Burial Act gave power to the Secretary of State to issue conditions on the granting of licences to remove human remains. To date no archaeologist has ever been issued with a fine or prosecuted by the Minister for breach of these conditions. In 2002 I wrote to the Home Office, then issuing the licences, and asked who was responsible for enforcing the licence conditions. I was referred to the local police. At the time I was based in Sheffield and so wrote to Barnsley and Sheffield constabulary to discover that it was their opinion that the Minister who was responsible (Sayer & Symonds, 2004).

Archaeology is a profession, a vocation and an obsession, and archaeologists are very good at communicating the resultant passion within the media or face-to-face with the pub-

* School of Forensic and Investigative Science, University of Central Lancashire

lic. We are not always good at understanding the law within its societal situation, because we are not trained to do so, and many professional people have expressed confusion, misunderstanding and distress when it comes to interpreting the antique Burial Acts. This is because the law is a grey area, not guidance or best practice; for example, does the discovery of a single Roman skull within a settlement constitute a burial ground? What if the Romans would not have thought of it as one? Is it covered by the law, and do you need a licence to excavate it? Under English law there are no definitive answers to these questions until someone is prosecuted and a decision is made. Indeed, for most of the 20th century, archaeologists have excavated whole cemeteries without licences, and were mostly oblivious to the need for them. It was not until the latter part of the century when archaeology was professionalised that archaeologists started to routinely apply for licences when they encountered historic and later prehistoric cemeteries. The law itself was not designed for such an eventuality; thus when the MoJ reinterpreted the conditions of the licence in 2007 they wrote out archaeology completely. However, because the licences had become entrenched in professional practice, this writing-out caused confusion and professional organisations sought to be reintegrated into a system they recognised (Sayer, 2010a). As Parker Pearson et al indicate, the MoJ sought legal guidance to help interpret the law and this advice concluded that all human remains of any antiquity should be reburied within two months. The first relaxation of the rules by MoJ officials was to extend that to two years to allow scientific enquiry.

Thus we entered a period of two years where a contradictory situation governed. To clarify - cremations found in an archaeological context require a licence to excavate as they are human remains, thus they would need reburial after two years. However, it is not a legal requirement to bury modern cremations. Archaeologists are unlikely to find Christian cremations because as a practice cremation went out of use by the 7th century and was not popular again until the 20th. Thus the situation dictated (and still does) that we have to treat ancient remains in a stricter and entirely dissimilar manner to the way we treat our own dead.

The results of the 2008-2011 crises, however, are more noticeable within a practical context. Even though, from the 1990s onwards, applying for a licence became routine, archaeologists may or may not have recognised the requirement to screen off human remains from the public when conducting excavation. Thus many later historic cemeteries were screened off and many prehistoric, Roman or early medieval ones were not. After the 2008 debate, the rules for issuing a licence were scrutinised and subject to legal advice, and we are now required to screen all projects involving human remains to conform to that interpretation of the law, or risk prosecution to test it in court. This is a profoundly more troubling situation than an academic discussion of cremation. If the public cannot see their dead or participate in understanding our past, they are separated from the process and will quite naturally become suspicious about what is going on behind the screens – as they have already become with crematoria and autopsies (Sayer 2010b). This distance will result in questions about the ethics of excavation and the situation will escalate. If people cannot see the benefits of archaeology, the rules that govern archaeological work will naturally become more restrictive.

This threat is not cerebral, nor is it hypothetical; the point of this section has been to highlight the slow creep of law, and legal interpretation within society. It is not a question of one vs. the other because they are interconnected. This is how legislation is born, by the relationship between law, culture and practice, especially in a society where our laws are created as a reaction to and interpretation of a particular situation. One hundred years ago archaeologists exca-

vated human remains and did not require a licence to do so because no one considered that they should. Today, as a result of the reconsideration of the laws that govern all burial in Britain, and the increasing professionalisation of archaeology, we have to obey a strict series of rules that govern our practice (Sayer 2010a).

Science vs. Religion

Parker Pearson et al. describe a religious influence which may have underpinned the legal advice received by the MoJ in 2008. Indeed the 2010-2011 campaign created a situation in which the MoJ could seek further advice or clarification and so relax their interpretation. However, seeking to separate science and religion is a double-edged sword; Moshenska's maiden venture into this topic was a thoughtful critique of Pagan religious group's requests to rebury human remains (Moshenska, 2009). And some of the energy that steered Parker Pearson and Pitts into the 2010-11 campaign was generated by their own personal encounters with King Arthur or his associates before and during the Stonehenge riverside project. Absurd though it may seem, given that Arthur himself campaigned against us in 2011 and petitioned the MoJ to continue its insistence on reburial, the Pagan presence as an interested party in this dialogue has actively galvanised the archaeological community to act to the unrelated legal threat.

There is sometimes confusion about the nature of the crisis we have encountered. In 2009 I described two situations, the legal and the Pagan issue (Sayer, 2009). They are unrelated although they do overlap. The request to rebury human remains which was targeted at the Alexander Keller Museum in Avebury is unrelated to the MoJs reinterpretations, although some Pagan groups did try and claim victory in 2008 when reburial was insisted upon. However, a law court recently rejected King Arthur's request to review the MoJs decision to extend Parker Pearson's licence for the Stonehenge cremations. Indeed, the Pagan situation has created more concern within archaeology than it has actually fuelled a crisis outside of it. Because of this it must be considered separately from the evangelical Christian position. As we know, thanks to groups like Pagans for Archaeology, organisations like HAD and the Druid Orders are independent minority groups who do not represent *the* Pagan view, but *a* Pagan view. By focusing on this issue to the exclusion of other, more pressing, topics, we may be in danger of creating legitimacy for minority groups (Sayer, 2010a). Nonetheless, debate is healthy and the scrutiny of the outside world can only force us to remain professional and constantly question our own research agenda and personal motivations.

Religious interpretations are unavoidable, they are not new and they must be managed carefully as was the Avebury consultation. Both religion and science are part of culture; the Queen is both Head of State and Head of the Church and the Lords Spirituals still sit in the House of Lords. However, Parker Pearson et al. are spot on when they describe that it is religiosity not religion that presents a problem, specifically because it is religious individuals not religions which seek to extend their personal influence over others. This distinction is important because archaeology, religion and science are all part of European culture, and although the incorporation of science into archaeology is arguably one of the most valuable aspects of the discipline it can carry with it a divorce from the humanities that many other sciences have struggled to bridge (Gould, 2003), and one we should avoid if possible. Indeed it is because archaeology combines both the humanities and sciences that it has the potential to impact most positively on society; the difficulty is in realising archaeology's potential for social impact.

This process works both ways: the more we separate ourselves from mainstream culture through our actions, the more we are in turn separated from it. For example, it has often been said by archaeologists that death

is taboo in the modern West. However, this is simply not the case – people talk about death, they read about it and they deal with it differently according to their own social positions, but they also enjoy visiting museums and exhibitions which focus on the corpse (Sayer, 2010b). By contrast, the term 'morbid curiosity' has become a way for the archaeological literature to describe a sinister voyeurism in those uninitiated into the archaeological arts (Simpson & Sayer, forthcoming), but as an expression all it actually means is 'interest in death' so why do we use it in this way? Part of this must be because, even removed from the on-going crisis, dealing with the dead can be a detailed, difficult or emotional experience (Kirk & Start, 2004). It is perhaps easer to sit behind screens and hide from the howling hordes of interested people than it is to confront them head on with interpretations and discourse.

The development of a subject specific dialect is part of the scientific rationalisation and professional development of archaeology. Professional practice is a good thing; it defines us as a lawful activity and divorces us from looters and grave robbers. But with it comes responsibility; it is our place as professionals to protect our industry and our academic pursuit and to question the appropriateness of our rules, and those of others, alongside an explicit understanding of the culture within which we operate. We may argue whether archaeologists excavate or exhume the dead or if they store or curate human bones, but such discussion is a distraction that restricts our vocabulary and creates a 'special' language which, just like the physical barriers provided by screens, can separate us from public understanding. Religion, culture and science are not separate by default, and to divorce them too far from each other may lead to further problems. Some scientific pursuits, for example astronomy, embrace their spirituality, and there is no reason why archaeology cannot do the same while remaining rigorous and scientific.

Discussion

Archaeology and the excavation of cemeteries has been going on for over 300 years. It is deeply rooted in European culture because for much of that time it has been inclusively pursued by amateurs and professionals alike. Secluding sites from public gaze and using an ethical argument to rationalise this position – i.e. 'protecting' skeletons from the morbidly inquisitive - cannot operate in the interests of archaeology. Indeed, we should not simply engage the public in archaeology when it's convenient or sanitised; we need to incorporate them into it - bowls, bobbins and bones alike. The slow creep of legal transformation can also work in our favour. If every excavator of prehistoric, Roman and early medieval burials applied for permission to excavate without a screen because their project included a 'scientific outreach element' then it could again become acceptable to excavate without screens.

In their title, Parker Pearson et al. suggest we have resolved some part of the crisis facing British burial archaeology, but they point out that this crisis is an on-going situation from which we need to build a robust discipline for the future and "engender a spirit of assertiveness and identity within the archaeological community". I cannot agree more with this statement. Part of presenting a coherent public face is how we activity engage with the world around us. For example, Jenkins (2010) argued that the collective repatriation of human remains from British institutions was because of our post-colonial situation, but she also pointed out that the crisis of identity and purpose that exists within those same institutions was a major underlying force that motivated this repatriation. As interpreters we must be pluralistic when considering our circumstance; it is not just one set of religious beliefs or one confusing legislative situation which has created the current crisis. Rather it is a crisis rooted in the context of our own situation and has as much to do with our relationship to the public, legislators and the professional

development of the industry as it does to any particular circumstance. It is only armed with this awareness that we may engender assertiveness and project specific or discipline wide strategies that strengthen archaeology and its long term future within British and European culture.

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