

# LAYING ANCESTORS TO REST

## POLICY BRIEF SUMMARY



***‘I found myself in a mix of freeze and fight immediately upon seeing my ancestors’ body parts, having the knowledge that they were Sudanese people who were buried in Omdurman in 1898 during the so-called Battle of Omdurman; to see that their graves had been robbed and that their heads were brought back as trophies and then the trophies were used for race science. It was so overwhelming.’***

Member of the Edinburgh Sudanese Community Partnership

**Front page picture:** Final dignified resting place of Sarah Bartmann. Grievously exhibited and abused in life, her remains were on display in the Musee de l’Homme until the 1970s. Her remains were returned to South Africa after an appeal by Nelson Mandela.

## Letter of welcome

Dear colleagues,

Welcome to this policy brief, *Laying Ancestors to Rest*, produced on behalf of the All-Party Parliamentary Group on Afrikan Reparations (APPG-AR) by AFFORD, one of the APPG-AR's co-secretariats.

*Laying Ancestors to Rest* addresses the ethical, cultural and historical concerns surrounding African ancestral remains – many of which were taken during colonial rule. The continued presence of these remains in British institutions causes profound distress to diaspora communities and countries of origin, particularly when they are displayed or sold at auction. In the context of ongoing debates about restitution and reparations, the need for decisive action has never been more urgent.

AFFORD has conducted extensive research into the retention, return, sale, public display and other uses of African ancestral remains in the UK. This research included a review of existing legislation, policies and best practices, as well as consultations with museum practitioners, legal experts, academics, activists and members of the African diasporic community in the UK.

From this research, a non-exhaustive list of key issues has been identified, leading to actionable policy recommendations. These recommendations will be presented in the accompanying policy brief, which will be launched at an APPG-AR meeting in Parliament on 12th March, 2025. The launch will coincide with the release of a second policy brief from an continental African perspective, produced by African Museums and Heritage Restitution (AFRIMUHERE), a network of African museum professionals, academics and civil society organisations engaged in museum and heritage practice.

I was recently alarmed and deeply distressed to learn that it is still possible to purchase African ancestral remains through auction houses. This underscores the urgent need to improve the legislative and regulatory framework governing the storage, display and sale of ancestral remains. This policy brief not only explores the reasons for the current situation but, more importantly, offers a series of robust recommendations for governments, museums, universities, cultural institutions and diaspora organisations to address these issues.

We are encouraged that the UK government shares some of the concerns outlined in this brief, particularly regarding the sale of ancestral remains. We look forward to engaging swiftly with the government, museums and other cultural institutions to implement these key recommendations.

Warm regards,

**Bell Ribeiro-Addy MP**

Chair, All-Party Parliamentary Group on Afrikan Reparations (APPG-AR)

## Executive summary

This summary policy brief addresses the ethical and legal challenges surrounding the retention and public display of African ancestral remains in British museums, universities and other cultural institutions. It examines existing legislation, notably the Human Tissue Act 2004, and draws upon best practices from other countries as well as insights from legal experts, academics, community activists and museum professionals to provide actionable recommendations.

The goal is to facilitate the respectful repatriation of these remains to their countries and communities of origin, end their sale or public display and other non-consensual uses, which are increasingly viewed as a legacy of colonialism and cultural insensitivity.

A more detailed report is available on request.

## Key issues

Following consultations with academics, legal experts, museum practitioners and community stakeholders, the following key issues have been identified by AFFORD:

- **Colonial legacy:** The retention and various uses of African ancestors in UK institutions raise profound ethical concerns considering the colonial and violent contexts in which many ancestral remains were acquired. The presence of African ancestral remains in UK institutions causes distress for members of the African diasporic community, who see their public display and other non-consensual uses as a reflection of an enduring colonial legacy in Britain.
- **Legislative vacuum:** There is a legislative vacuum in the area of ancestral remains. Though it was passed in response to public outcry over the scandalous treatment of human remains from Alder Hey Hospital in Liverpool, there were hopes the Human Tissue Act 2004 might also fully address the issues of ancestral remains in museums and other institutions. The act makes provision with respect to activities involving human tissue, such as the storage, transfer and public display of human remains. However, activities relating to the human remains of persons who passed away more than 100 years ago and before the act came into force are outside the remit of the act. The act is also silent on the sale of bodies, body parts and human tissue (excluding gametes and embryos) for purposes other than that of transplantation, so long as the remains are not publicly displayed while on sale. (See Afterword for further commentary on the Human Tissue Act 2004).
- **Absence of a national restitution policy:** There is no national restitution policy on ancestral remains in the UK, nor legislation that obligates the return of ancestral remains to their communities or countries of origin in the instances in which these can be identified.
- **Absence of an independent dispute resolution mechanism:** There is also no national, independent body charged with handling claims for the return of ancestral remains acquired overseas.
- **Community access to decision-making:** Museum and other institutional boards of trustees are granted significant power to determine the future of communities' ancestors. African diasporic and other communities from which ancestors have been taken should be represented on the boards of national museums to gain access to decision-making processes on matters that pertain to them.

- **Lack of transparency and informational certainty:** A considerable challenge to the return of ancestral remains is the lack of transparency and public access to museum and institutional inventories of ancestral remains in the UK. Informants from the museum sector also highlight barriers to provenance research, such as funding and the colonial violence exerted upon ancestors, as obstacles to the return of ancestral remains.

## Recommendations

This policy brief puts forward these recommendations to ensure the end of the sale, public display and non-consensual uses of African ancestral remains, as well as enable their repatriation from UK institutions to their communities or countries of origin.

### Government

1. All sales of human remains should be made illegal on the basis that they are not commercial objects but human beings.
2. The UK government should make these amendments to the Human Tissue Act 2004:
  - The act should be amended to govern activities relating to all human remains, without exceptions for the remains of persons who died before the act came into force and more than 100 years have elapsed since their death, imported human remains as well as 'existing holdings'<sup>1</sup>.
  - The act should be amended to expressly make an offence of the public display of human remains, except if appropriate consent is obtained or for religious or funerary purposes.
  - The license requirement in Section 16 should apply to all human remains, without exceptions for activities relating to the body of a person, or material which has come from the body of a person, who died more than 100 years ago and before the section came into force. Museums and other institutions that hold ancestral remains older than 100 years will thus be required to obtain a license from the Human Tissue Authority for the storage of such remains.
3. The UK Culture, Media & Sport Committee should undertake an inquiry on restitution, including as a prominent subject the presence and uses of ancestral remains in British museums and cultural institutions.
  - The inquiry's call for evidence should request recommendations on the implementation of a programme to map the collections of ancestral remains in the UK's national museums.
  - The inquiry should include a public consultation on the proposal to collectively bury and memorialise 'orphaned ancestors' in the UK, or those ancestral remains whose identities were destroyed by colonial violence.
4. The UK government should ensure that the board of trustees of national museums include representatives from diasporic civil society organisations.
5. The UK Department for Culture, Media & Sport should establish a national, independent Human Remains Advisory Panel, following the model of the UK Spoliation Advisory Panel

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<sup>1</sup> In the Human Tissue Act 2004, 'existing holding' means the body of a deceased person or relevant material that has come from a human body held immediately before 1st September 2006, the day on which the act came into force, for use for a purpose specified in Schedule 1 of the act.

charged with resolving claims from people or their heirs who lost possession of cultural material during the Nazi era.

## **Museums and cultural and educational institutions**

6. Museums and cultural and educational institutions should stop the public display of ancestral remains in their collections.

7. Museums should train individuals from UK civil society and community groups in museum cataloguing practices with the aim that representatives from the community can actively contribute to the management of museum collections of African ancestral remains.

8. Museums and cultural and educational institutions should revise their internal policies for the return of human remains, placing particular emphasis on:

- The removal of any distinctions between the return of human remains, modified human remains and cultural material. It should be up to source communities to determine what falls within the definition of ancestral remains.
- The removal of any requirements or recommendations that claims for return should be accompanied by evidence that the remains were originally subjected to a mortuary practice or were intended for such.
- The removal of any requirements or recommendations that claims for return should be made through a national government or government agency.

## **Funders**

9. Funders should dedicate resources to research projects that intend to map the ancestral remains inventory of UK museums and other cultural institutions.

10. Funders should finance legal test cases for the return of ancestral remains to their communities or countries of origin.

## **Civil society and community groups**

11. Civil society organisations should organise workshops that train individuals from the African diasporic community in museum and cultural institutional governance, to promote community participation in museum and other institutional boards.

12. The Black Studies Association with other stakeholders should advocate for a more comprehensive teaching of Britain's colonial past in schools and the history of the acquisition of cultural material and ancestral remains in developing the collections of British cultural institutions.

13. Seminars should be organised that gather community, academic, legal and museum stakeholders to take forward conversations around the key issues that were raised throughout the first phase of AFFORD's African Ancestral Remains Project.

14. African and African diasporic restitution organisations and movements should establish a common forum or informational hub in which best practices can be shared.

## Afterword

Just over two decades ago, a national debate about the treatment of the dead led to a change in the law. There had been a public outcry when the Alder Hey scandal brought to light how, from the early 1980s, the organs and body parts of thousands of infants had been retained in Liverpool and Bristol. Relatives of victims of the 1989 Marchioness riverboat disaster in London then discovered that body parts had been retained from those who died and stored for more than a decade.

Against the backdrop of these scandals, the Human Tissue Act 2004 established a statutory regulatory framework, with a new executive non-departmental public body (the Human Tissue Authority) overseeing record-keeping, transparency and ethical principles in the removal, storage, use and disposal of human bodies and body parts for teaching, research, transplantation and public display. The guiding principle was that of 'appropriate consent' – whether informed consent before death, or the consent of descendants or relatives after death.

Recalling that history of urgent reform and a fundamental shift in professional ethical practice, it would be easy to forget there were calls for the process not to be limited to the field of medicine, but to extend into all parts of science, culture and the arts.

In November 2003, the Working Group on Human Remains, appointed by the Select Committee of the Department of Culture, Media and Sport (DCMS), recommended the '*full disclosure*' of what was held in all repositories of human remains and that institutions with such collections should be licensed.

But when DCMS published its *Guidance for the Care of Human Remains in Museums* in 2005, those recommendations were not followed. Instead, the non-statutory guidance suggested merely that '*museums should have a policy to compile and make public an inventory of their holdings of human remains*'.

Many reflected at the time that such statements of aspiration set a low bar. But there was the sense it would take time for museums to put complex historical records in order. A sense everyone wanted the same thing, but these are complex questions. A sense the sector could be trusted to do this cataloguing work in due course.

In the 20 years that have since passed, austerity and swingeing cuts for the arts and culture have combined with a certain longstanding professional reticence towards making the inventories, archives and accessions registers of museums public. Even the richest and most powerful national museums do not have comprehensive databases of their collections, never mind smaller regional museums. It would be hard to argue that more is known today about the ancestral remains in UK collections than a generation ago.

Meanwhile, the international context of calls for transparency and returns could hardly be more different. Accountability and answers are being demanded by the audiences, communities, stakeholders and taxpayers that museums and university collections serve.

The idea of a two-tier ethical system (with transparency and respect in the case of people whose remains came non-consensually into collections through the NHS after 1948, but not in cases where it was through colonialism, looting and the fake racial 'science' in the previous century or more) is unsustainable.

In this context, the ***Laying Ancestors to Rest*** policy brief is an urgent document. If it is possible to ban the trade in ivory, then it is surely possible to ban the trafficking of ancestral remains. If

transparency and regulation around human remains in hospitals is possible, then it is possible in museums and university collections too.

Sometimes, there will be evidence through which descendants to whom ancestors might be returned can be identified. In other cases, the nature of the violence meant details of identity and provenance were removed from skulls and bodies, and different ethical questions arise.

Some cultures and nations do not demand returns. Many others do. And some see certain cultural objects as part of the ancestral presence too. There are questions about objects that contain parts of human bone as just one material among many. And issues of how to treat those human remains for whom no identity or provenance will ever be found.

It is complex, of course. It is case by case. But that does not mean these are intractable questions or that an inventory cannot be drawn up and made public.

With such transparency, a new kind of public conversation will doubtless begin – one that some in the past have tried to avoid. It is a question of memory and remembrance – facing up to institutional histories, showing respect for the dead and for the living.

This is a time of immense hope and optimism for British museums, galleries, art and culture, from returning stolen art to building new forms of public memory. The conversations can be hard, but trying to hide the past away for another generation, to keep things exactly as they have been, is no longer an option. The question of consent needs to be considered.

As this policy brief shows, the time is right to address the question of ancestral remains in new ways: with institutional openness, respect for the dead, reconciliation with descendants – and, yes, new forms of regulation.

## **Dan Hicks FSA MCIfA**

Professor of Contemporary Archaeology, University of Oxford and  
Curator of World Archaeology at the Pitt Rivers Museum



# **African Ancestral Remains Project partners**

## **The All-Party Parliamentary Group on Afrikan Reparations (APPG-AR)**

APPG-AR brings together parliamentarians, campaigners, communities and other stakeholders to examine issues of African reparations and the restitution of cultural artefacts and ancestral remains. APPG-AR explores policy proposals on reparations and development and how best to redress the legacies of African enslavement and colonialism.

## **AFFORD The African Foundation for Development (AFFORD)**

AFFORD is an international organisation established in 1994, with a mission to expand and enhance the contributions Africans in the diaspora make to African development.

## **The African Museums and Heritage Restitution (AFRIMUHERE)**

AFRIMUHERE was established by the African heritage community in response to calls for a continental heritage and museums association. AFRIMUHERE's mandate is to safeguard, promote and facilitate restitution of African heritage.

## **Decolonising the Archives (DTA)**

DTA is a Pan-African organisation facilitating heritage-based therapeutic interventions for people of African heritage rooted in our archives, cultural principles and technologies.

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