Restitution of Indigenous human remains: the case of Argentine museums

Argentina has one of the most important and sensitive bioanthropological collections in Latin America. Most of the remains in museums come from Tehuelche and Mapuche victims of the so-called "Conquest of the Desert". However, in recent decades museums have begun to be more receptive to the claims of Indigenous communities and have even adopted active restitution policies, a trend that is steadily growing internationally. With more updated legislation, collective restitutions have been made, including: the return of the chiefs Modesto Inakayal and Mariano Rosas to their descendants; the return of a Toi moko (preserved head) to Aotearoa-New Zealand and of two Guanche mummies to the Canary Islands.

María Luz Endere – April 1st 2023

In Argentina, the debate over the human remains of Indigenous people that are part of museum collections was several decades ahead of the rest of the countries in the region and coincided with the beginning of the controversies that arose in other parts of the world.

During the 1970s, the first requests for the restitution of human remains to museums were made by both descendants of Indigenous people and by people with no ethnic affiliation. The claims were interrupted during the military dictatorship in the country (1976-1983) and restarted with the return of democracy. A series of circumstances contributed to this situation, including the way in which the collections were formed since the end of the 19th century and the social and political context generated by the end of the last military government.

Argentina has one of the most important and sensitive bioanthropological collections in Latin America, composed of skeletons and skulls of Tehuelches and Mapuches that were collected from battlefields and graves at the end of the 19th century. This collection was the result of the "Conquest of the Desert": an offensive war against the Indigenous
Peoples of the Pampean and Patagonian regions carried out by the government in 1879.
This military action was followed by the "Conquest of the Chaco" in the northeastern jungle beginning in 1884.

Therefore, most of these collections are made up of human remains from Argentina, primarily, but also from other South American countries. Unlike what happens in other countries, remains from other parts of the world are exceptional, and those that do exist arrived as part of exchange mechanisms between museums or by purchase.

Museums, exchanges and restitutions

At the end of the 19th century, Indigenous human remains from different parts of the world were exchanged between museums as if they were merchandise. Patagonian skulls were probably used by national museums as a means to strengthen relations with other overseas institutions with which researchers maintained academic networks.

Most of the remains came from research directly in the field, but there were also mechanisms for catalog purchases from international auction houses to provide the most sought-after pieces. Donations were also received, often anonymously, from benefactors who bought the remains for the museums. This is how these collections were formed at the end of the 19th century and the first decades of the 20th century, and often constitute an uncomfortable legacy for contemporary museums.

Two major Argentine museums, the Museum of La Plata and the Ethnographic Museum of the University of Buenos Aires, assembled the most important collections of Indigenous remains. The former became the focus of complaints for housing the remains belonging to the Indigenous caciques (chiefs) who led the fight against the Argentine Army.

For decades, the authorities of the La Plata Museum refused to return these human remains on legal grounds. According to their version, the remains were public property of the State according to the current regulations (which grants this status to archaeological heritage), while the claimant descendants lacked documentation to legally prove a blood relationship. Finally, in 1991 and 2000, two special laws for the
restitution of human remains of known identity were passed, which removed these human remains from the public domain of the State. The central argument of these new special regulations was that restitutions should be conducted for historical reparation.

Based on this new legal framework, in 1994, the return of the Tehuelche cacique Modesto Inakayal to his descendants in Tecka, in Chubut province, was carried out (as ordered by Law No. 23.940 of 1991). The cacique was buried in a mausoleum built after the remains received military honors and Indigenous rituals. Likewise, in 2001 the remains of the cacique Mariano Rosas were returned to the Rankülche community in the province of La Pampa (in accordance with the provisions of Law No. 25.276 of 2000).

**Regulatory changes after the return to democracy**

In 2001, the enactment of Law 25.517 removed the legal obstacle by establishing that museums must make the human remains that are part of their collections available to those "belonging to Indigenous Peoples and communities that claim them". It also requires that the human remains of Indigenous people must "be treated with the respect and consideration given to all human corpses" and that "any scientific undertaking involving aboriginal communities, including their historical and cultural heritage, must have the express consent of the communities concerned".

In 2010, Decree No. 701 granted the National Institute of Indigenous Affairs (INAI – by their acronym in Spanish) the power to coordinate, articulate and assist in the monitoring and compliance with Law 25.517. Consequently, the INAI must act in coordination and collaboration with other relevant bodies in this field, especially with the National Institute of Anthropology.

In addition, the INAI is responsible for participating in requests for the restitution of remains from Indigenous Peoples by means of an administrative act detailing the historical, ethnic, cultural and biological background, as well as legitimate interest. At the same time, it must issue an opinion in the event of conflicts of interest and obtain reports on scientific undertakings involving Indigenous communities. Finally, it also has
the power to evaluate compliance with the law and propose additional or corrective measures as necessary.

These normative changes took place within the framework of a process of affirmation of Indigenous rights initiated in 1985, which finally took shape in the constitutional reform of 1994 with the recognition of their existence as a peoples before the establishment of the colony and creation of the State. Additionally, this came at a time when the Argentinian society was already becoming sensitized to the concept of human rights violations due to the last military dictatorship, which perceived the stories of the bodies of the caciques jealously guarded in museums from the same violation viewpoint. Stories like those of Inakayal and some of his relatives, who lived their last years in the Museo de la Plata (where after his death they became part of its collection), continue to generate disbelief that such a model of science existed and is thankfully dying out, but is also one that continues to affect its public image.

**Skulls, mummies and collective restitutions**

In recent years, the restitution of human remains increased tremendously. The human remains come from a variety of places and interventions, including those that were part of old museum collections, those that have been excavated through archaeological research, or collected by bioanthropologists. In some cases, the process was originated by demands from Indigenous groups or communities, but in others, it was due to the initiative of museum curators or researchers.

The restitution of human remains of known identity, such as the skulls of Indigenous leaders in the La Plata Museum or the Museum of Patagonia, have been the ones that have captured the attention of the media. However, there have also been restitutions of human remains of unknown identity, some of a collective nature, such as the case of 50 individuals returned by the Tello Museum of Viedma to the Mapuche-Tehuelche community in the province of Río Negro in 2012.

In addition to the restitutions made by museums, there are also those made by research institutes. In 2013, the National Patagonian Center of the National Council for Scientific
and Technical Research (CONICET) returned 13 individuals to the Mapuche-Tehuelche people. Most of the returned remains were delivered or buried in Argentine territory, although there were also three restitutions to other countries. **In 2003, two Guanche mummies that had been acquired by a private collector in the early 20th century were returned to Tenerife, Canary Islands, by the municipality of Necochea.**

Similarly, **in 2004, the Ethnographic Museum “Juan Bautista Ambrosetti” of the University of Buenos Aires repatriated the mummified head of a warrior (toi moko) to the Maori communities of New Zealand;** while in 2010 the Museum of La Plata delivered **the body of Kryýgi (also known as Damiana) to the Kuêtuwyve community of Paraguay.** Later, in 2012, her skull was sent to Paraguay, after the Argentine Chancellery recovered it from Germany, where it had been sent for study decades earlier.

**The debate over a way of doing science**

The role of museums and archaeologists in relation to the human remains that were the object of study became a topic of debate in academia since the late 1980s. **An important part of the discussions took place within the World Archaeological Congress.** By the beginning of the 21st century, in line with the code of ethics of the International Council of Museums (ICOM), major museums had already made changes in their policies on the treatment of human remains.

Consequently, remains were removed from exhibitions, while museums began to be receptive to community demands. **At the same time, professionals in museology, archaeology and biological anthropology adopted codes of ethics in relation to human remains.**

In Argentina, the topic was the subject of a special declaration as a result of a **forum held between archaeologists and Indigenous Peoples in Rio Cuarto in 2005.** In recent years, voluntary restitutions by museums and scientific institutions have intensified. Within this framework, both the Museo de La Plata and the Ethnographic Museum have adopted policies to be proactive in human remains restitution.
Despite the magnitude of the transformation achieved, all these legal, museum and scientific-academic changes that have arisen around the issue of the restitution of human remains appropriated in the name of science have not been enough to heal the trauma it has generated in Indigenous communities. Laying the foundation for a more egalitarian and meaningful relationship between museums, researchers and Indigenous Peoples will undoubtedly set the agenda for the coming decades.

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