

A Review of Statutes and Administrative Jurisdictions on Graves, Burial Grounds and Human Remains in Botswana

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Abstract

In Botswana there is no legal protection of archaeological graves, burial grounds and associated human tissue. This is despite the increased interaction between burial grounds, graves, and infrastructural developments where grave relocations are becoming inevitable. Instead, the Department of National Museum and Monuments (DNMM) which is the institutional custodian of the heritage estate, operates on poorly articulated statutes borrowed from various disciplines and government ministries to guide grave relocations and studies on human tissue. This essay presents a discussion of the state of affairs with regards to statutes, administration and jurisdictions over archaeological graves, burial grounds and human tissue.

Introduction

The responsibility to protect and manage cultural and archaeological heritage of any country lies with government and people of that particular country. The protection is usually offered in the form of Acts, policies or other forms of statutes. Statutes are meant to serve as guiding tools in cases where developments or natural processes threaten the integrity and existence of heritage resources. They generally state procedures to be followed by developers, researchers and communities in the management of the resources. Furthermore, they also state what materials, physical or non-physical, new or old, are regarded as part of a nations' heritage collection or estate (Campbell 1998; Mmutle 2005; Nienaber and Steyn 2011). Statutes are usually made at government level but they may be supplemented with departmental guidelines or policies. In many countries national heritage includes graves, burial grounds, human remains, burial goods and sacred objects. For example, the National Heritage Resources Act of 1999 in South Africa lists certain burial grounds and graves as part of the national heritage estate in that country. These include burials older than 60 years, human tissue older than 100 years, victims of conflict, graves of royals and leaders (Nienaber and Steyn 2011). But, in Botswana, the national heritage estate listed in the 2001 Monuments and Relics Act does not include burials and human remains. As will be demonstrated in this paper, the exclusion of human remains and burials in the list of Botswana's heritage estate is increasingly becoming a concern to those involved, directly or indirectly, with the collection, management and disposal of human remains.

Human remains from the archaeological record are technically ecofacts but because they are associated with cultural, political, religious, emotional and ethical significance they need special and specific legal dispensation over and above the existing heritage laws (Alfonso and Powell 2007; Hutt and Riddle 2007; Sayer 2010; Nienaber and Steyn 2011). Even property ownership laws have special dispensations for human remains. According to Hutt and Riddle (2007) 'landowners in the USA have rights to all that is embedded in their land, all of the common law sources regard human remains as "quasi-property" that is, not subject to such ownership'. The special dispensations of the management of heritage in the form of burials and human remains are meant to enforce ethical and acceptable standards of work by developers, local communities, museum personnel, anthropologists

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and archaeologist. At the same time, the dispensation recognises and acknowledges the beliefs, wishes and rights of the dead and their descendants and the rights of the living over their ancestors (Alfonso and Powell 2007; Sayer 2010). Therefore, there is a need to have laws and guidelines for such projects in every country.

Over the past ten years grave relocations and collections of human remains from archaeological field work and accidental discoveries have become fairly common in Botswana. However, there are no specific laws that deal directly and specifically with such activities. The purpose of this paper is twofold. First, it assesses the heritage management statutes that exist in Botswana and evaluates their effectiveness or lack thereof in ensuring best international standards for the management and care of human remains and graves. Second, it assesses the treatment, handling and management of human remains by various government departments in Botswana. In order to achieve its purposes, the paper presents a brief examination of statutes set by international organisations in relation to specific institutional guidelines whose mandate includes the collection and management of human remains. It is hoped that the paper will contribute to the debate on the formulation of laws specific to issues on human remains and graves.

Review of International statutes for collection and Management of Human Remains

Professional organisations generally subscribe to the international standards and ethics set out in statutes provided by relevant international authorities. For example, in 1989 the World Archaeology Congress (WAC) endorsed the ‘Vermillion Accord on Human Remains’ (commonly referred to as the Vermillion Accord) which compels archaeologists to respect the mortal remains of the dead and the wishes of local communities, relatives and guardians of the dead who are being studied. The Accord is most effective in contexts where local communities can trace their ancestry to hundreds or thousands of years in which human remains are dated. There must be some form of evidence or oral traditions that the remains being studied form part of the ancestry of the local community. Unfortunately, in Botswana communities residing next to, or on, archaeological sites are usually not related to such sites. The application of the Vermillion Accord in Botswana is, therefore, limited to historical graves which often need to be relocated for purposes of developments such as dam constructions (Mosothwane 2009 and 2010) and excludes archaeological graves.

Principle No. 3 of the ‘First Code of Ethics’ passed at the 1990 WAC meeting in Venezuela emphasises that archaeologists must “acknowledge the special importance of indigenous ancestral human remains, and sites containing and/or associated with such remains to indigenous peoples”. Applying The First Code of Ethics has some challenges in the context of Botswana. As already noted, its main emphasis is on ‘indigenous’ people’ and ‘indigenous descendants’. The context and definition of the term ‘indigenous’ differs from place to place and from time to time (Béteille 1998; Cunningham and Stanley 2003) and is in most cases influenced by the socio-political climate of a particular country or region. Moreover, the political voice of the indigenous people may be loud in some countries and silent in others due to various factors. The concept of indigenous people, the Khoikhoi and San, in Southern Africa is not as strong as in some parts of the world.

The ‘Tamaki-rau Accord on the Display of Human Remains and Sacred Objects’ was passed by the WAC in 2006. Its main objective is to govern and ensure ethically acceptable standards in the display of human remains and sacred objects. The Accord also requires that where descendant communities exist, their consent must be sought before an institution can display their human remains or sacred objects. So far the only institution in Botswana that has displayed human remains in the past is the DNMM. The remains were taken off display following the passing of the Tamaki-rau Accord although the display was ethically acceptable in the first place because there were no descendant(s) from whom to seek consent. It appears that the DNMM interpreted this Accord as though it completely forbade display of human remains (and sacred objects), which is not the case.

The UNESCO 1970 Convention on the ‘Means of Prohibiting and Preventing the Illicit Import, Export and Transfer Ownership of Cultural Property’ does not specifically articulate ‘human remains’ in the list of materials protected by the Convention. Despite this, articles a) to c) of the Convention are universally accepted to be inclusive of the human remains (Hutt and Riddle 2007). The 2001 UNESCO ‘Convention on Underwater Cultural Heritage’ (UCH) gives special dispensation to human remains found in underwater sites such as shipwrecks and buried settlements. Rule 5 of the UCH general principles specifically calls for the protection of human remains and emphasises the point that scientific research on such remains must be conducted in ethically accepted standards. In Botswana there has not yet been need to apply this regulation because there are no underwater archaeological sites in the country. However, one has to bear in mind that future academic and infrastructural developments in places such as the Okavango Delta might produce sites. The Makgadikgadi and several other pans in the country are known to have archaeological sites (some with human burials) but because these sites are now dried up, they are not protected by the Convention.

In some cases, laws are formulated in response to demands by local descendant communities. Where local communities or indigenous people organise themselves into strong pressure groups, they may succeed in making a government develop statutes to protect their archaeological heritage. For instance, in the USA, the indigenous communities (American ‘Indians’) organised themselves and lobbied to have special dispensations for the protection and repatriation of Native American burial grounds and human remains. In 1990 the US Congress passed the ‘Native American Grave Protection and Repatriation Act’ (NAGPRA) which forced all agencies receiving federal funding to repatriate and stop collecting remains and sacred objects belonging to the Native Americans. The Act also made it immediately illegal to excavate and collect Native American graves in their reserves (Trope and Echo-Hawk 1992; Hutt and Riddle 2007; Sayer 2010). The various states in the USA have their own laws protecting human remains and graves but in addition NAGPRA offers special dispensation to the Native Americans. In Botswana, it might not be very effective for the Khoi and San communities to make similar calls because the extent to which their ancestral burials and remains have been unethically collected or disturbed is minimal compared to the American Indians.

Individual institutions can develop their own guidelines and standards of operation so long as such guidelines do not contradict the national laws of heritage. In the United Kingdom (UK), for instance, the ‘Guidance for the Care of Human Remains in Museums’ published by the Department for Culture Media and Sport (DCMS) in 2004, governs human remains collections in all of the UK institutions (Sayer 2010). In addition to the DCMS guidelines, individual institutions have policies specific to their collections. The Leverhulme Centre for Human Evolutionary Studies at the University of Cambridge, has a document titled *The Duckworth Laboratory Policy on Human Remains* which is a detailed outline of ethical guidelines on the acquisition, storage, management, display and de-accessioning of human remains at the Duckworth Museum. Likewise, the British Museum operates under its institutional policy named *The British Museum Policy on Human Remains* which was approved by the Trustees of the British Museum in October 2006. In Botswana, the DNMM has a collection of human remains (Mosothwane 2013) but has no management policy specifically aimed at this collection (Mosole 2014). Fortunately, there has not been any unethical incident so far but it would be appropriate to have preventative measures in advance.

Review of the Statutes in Botswana

This section presents an analysis of various laws that have some reference to heritage management, research on humans, burials and human remains in Botswana. Four Acts below are selected because of their relevance to the aims of this paper. These are (i) Monuments and Relics Act of 2001 (ii) Anthropological Research Act of 1967 (iii) Conveyance of Dead Bodies Act of 1977 and (iv) Public

health Act of 2001. Of these, the Monuments and Relics Act (2001) has the most direct implications on the collection of human remains.

Monuments and Relics Act (2001)

The Monuments and Relics Act (MRA) of 2001 generally protects cultural and natural features and artefacts older than 60 years with detailed procedures for protecting such heritage in the event of threat from developments (Campbell 1998 and Mmutle 2005). Furthermore, the Act provides guidelines and procedures for the conduct of academic research on archaeological sites and cultural heritage. The MRA is used in conjunction with a document titled Guidelines for Archaeological Impact Assessment which provides guidelines to all stakeholders dealing with heritage research or salvage. This Act gives the DNMM sole authority and jurisdiction over archaeological and cultural heritage. Research and heritage management permits are routed through and/or authorised by the DNMM. All field and laboratory reports emanating from any archaeological work or discovery are deposited at the museum library.

Despite its excellent articulation of the guidelines and procedures on how to manage archaeological and cultural heritage, the MRA is completely silent on human remains. This loophole can lead to misuse and mismanagement of human remains from archaeological sites/contexts. Discoveries of burials and their associated sacred objects have, of late, been common in the country but the statute has not been updated in order to cater for this development. Furthermore, there is no legal requirement on the part of the archaeologists to request special permission to excavate, relocate, study or handle archaeological human remains as is the case in some countries. Moreover, the MRA does not attempt to define or list custodians of such human remains. Therefore, human remains and burials from archaeological contexts are not explicitly protected by this Act. A revision of this Act needs to be done to add a special section for human remains and burials.

Anthropological Research Act (1967)

The 1967 Anthropological Research Act (ARA) was crafted as a tool to guide, monitor, protect and manage anthropological research on living subjects. The ARA addresses issues of ethical research on cultural, religious and linguistic anthropologies. At the time of passing this law in 1967, the disciplines of Physical and Forensic Anthropology were fairly new in the world but absent in Botswana and were not catered for. Physical and Forensic Anthropology's main subjects of study are human remains and hence it is necessary to update the ARA to include these two disciplines. The application of Physical and Forensic Anthropology in various settings has taken off (Murphy 2011 and Mosothwane 2013) and it would be of benefit to regulate them without delay.

Conveyance of Dead Bodies Act (1977)

The Conveyance of Dead Bodies Act of 1977 (CDBA) provides guidelines on the movement of recently dead bodies into and out of Botswana as well as within the country. Read carefully, this piece of legislation appears to be solely focused on the conveyance of bodies of people who died recently and is silent on the ancient dead. The application for conveyance permit must include the name, age, sex and race of the deceased. While demographic characteristics of sex, age and race can be estimated from skeletal and other remains, the name of the deceased from archaeological contexts will not be possible. Therefore, grave relocations in archaeological contexts do not meet the requirements of the Act. The CDBA authorises exhumations for medico-legal and public health reasons which can be conducted any time after interment.

Section 7(4) of the CDBA allows for the removal and reburial of remains from one side of the cemetery to the other under special circumstances. This section is now used to apply for grave relocation in the event of developments threatening burial grounds. However, in order for this Act to be

applicable to grave relocation, both an archaeologist and the Ministry of Health (MoH) have to ignore the fact that the relocation has to be within and not outside the cemetery.

Grave relocations for purposes of infrastructural developments involve the movement of cemeteries and other burials to completely new locations and hence the CDBA is not applicable to such grave relocations. In addition, the CDBA is restricted to exhumations for medico-legal purposes only and not for heritage management cases. Lack of this provision is not taken into account when relocating graves that are in areas earmarked for development. The provisions of CDBA are well articulated for forensic cases and would become very useful if they were to be adopted into the MRA for purposes of relocating graves from archaeological contexts. For example, the provisions could be adapted into the MRA and list professional archaeologists as potential exhumers, and remove the requirement for records of the identities of the deceased.

Public Health Act (2001)

The Public Health Act (PHA) provides guidelines on how to protect and prevent possible public health crises emanating from the handling of human tissue and human remains. It provides administrative procedures for the exhumation and subsequent reburial of human remains in medico-legal cases. The Act also identifies personnel legible to exhume recently dead bodies. Archaeological and historical graves are generally not a cause for concern in public health issues and are not provided for in the PHA.

The Act excludes Forensic Archaeologists from the list of professionals who can provide exhumation services. It is also limited in that it is silent on the discipline of Forensic Anthropology as a role player in medico-legal cases.

Managing human remains in institutions

There are institutions mandated with the responsibilities of issuing exhumation permits and ensuring compliance by archaeologists, developers and affected local communities. Depending on the administrative structures of the country, such a mandate can be given to a state or a national museum as is the case with the DNMM or to departments or organisations especially set up for that purpose. A case in point is that in South Africa where the South African Heritage Resources Agency (SAHRA) and various Provincial Heritage Agencies (PHAs) have been given responsibility of ensuring compliance on issues related to heritage management (Steyn and Nienaber 2011; Morris 2011). SAHRA is divided into several specialised units which assess compliance in their specific area of heritage.

Archaeological burials and human tissue fall under the Burial Grounds and Graves Unit within the SAHRA structure. Museums in South Africa, report to SAHRA and PHA, and apply for permits through these channels. Furthermore, in South Africa exhumations are regulated by the Graves and Dead Bodies Ordinance (1994) and the Exhumations Ordinance (1980) while collection and storage of human tissue are regulated by the Human Tissue Act (1983) and the 2003 National Health Act (Nienaber and Steyn 2011). At present, archaeological heritage managers in Botswana borrow from international codes of ethics and standards for treatment of human remains and burial grounds.

In Botswana, the DNMM does not report to a higher authority as it is the assessor of compliance. As will be seen in the following discussion, the situation in Botswana is not effective in managing human remains and burials because of various reasons.

Botswana is one of Africa's fastest developing countries with a boom in infrastructure, research and education activities. Below this layer of vibrant growth is a rooted layer of historical, archaeological and cultural remains. From as far back as the colonial period, there has been an inter-play between developments, archaeological research and all forms of heritage (Campbell 1998 and Mmutle 2005). This interaction between the past and the present was guided and governed by various heritage laws

(Campbell 1998 and Mmutle 2005) which were periodically reviewed to address the challenges of the times. However, these laws did not, and still do not, pay specific attention to heritage in the form of burials, burial grounds, human remains and sacred objects. This was probably a deliberate oversight by the legislators because there have been few cases (by comparison to other countries) where developments and research impacted on burial grounds and human remains. There are no known records of such cases during the colonial period and few cases have been reported since independence. In contrast, many examples of cases where developments and research had direct interference with burial grounds can be found in South Africa. These include among others the Prestwich Place case in Cape Town (Jonker 2005 and Morris 2011) where more than three thousand colonial graves were relocated to give way for the construction of high class residential flats. In King Williams Town, Eastern Cape Province, a section of a historic cemetery designated to black people was unlawfully unearthed during the construction of a high school basketball court (Mosothwane 2006). Likewise, many graves were removed purely for purposes of research. Examples include over 100 skeletons from K2 and Mapungubwe in South Africa (Nienaber and Steyn 2011).

The status quo in Botswana has changed in the last 10 years as more and more large scale developments in the form of dams and roads expansion projects, and village and town expansion fast encroach on formal and informal archaeological and historical burial grounds. Examples include the newly constructed dams at Dikgatlong, Thune and Lotsane where around 500 historic graves were relocated to new sites between 2006 and 2010 (Mosothwane 2009 and 2010). Despite these developments, there are still no attempts by legislators, and institutions to discuss and draft statutes that give human remains and burials a special dispensation under the broader heritage regulations. Instead, the DNMM and other stakeholders use Acts borrowed from other areas to try to direct, regulate and manage exhumations, osteological research, human tissue collection and reburials, but as already indicated, none of the borrowed Acts are explicitly applicable to archaeological contexts. As it has been demonstrated with the four Acts, it often becomes unclear and problematic to developers, researchers and administrators to have a clear understanding of the channels to follow when dealing with human remains, particularly from recent contexts. It appears that out of customary respect and fear for the dead, those involved have to a large extent, acted in an ethically and socially acceptable manner when handling various cases.

The DNMM has no policy on human remains (Mosole 2014). Until recently, there was no separate storage area for human remains (Mosothwane 2013) nor was there a comprehensive catalogue of what is included in its collection. Grave goods are usually separated from their associated human remains and there are no ethical guidelines on how to handle and treat these sacred objects (Mosothwane 2013 and Mosole 2014). This falls short of international practice as demonstrated by museums in other countries.

Challenges with Administrative and Managerial Departments

The DNMM is regarded as the “legal” custodian of human remains from archaeological contexts despite the fact that there is no provision for this mandate under the Monuments and Relics Act. By so doing, it is the first point of entry in the application for permits for exhumation and the study of human remains. It is also the storage centre for skeletal and other human tissue remains collected from archaeological contexts. This means that in future, should anyone challenge the museum’s authority and refuses to surrender human remains they exhumed; they have a chance of winning their case.

The museum was established in the late 1960s and housed under the Ministry of Labour and Home Affairs (MLHA) for many years. Therefore, the minister for Labour and Home Affairs was responsible for issuing and overseeing research in archaeology, including archaeological human remains. Following the revamping of the government structures in the early 2000s, the national museum

was then moved to the newly formed Ministry of Youth Sports and Culture (MYSC). After a short stint there, the department was moved to yet another new Ministry of Environment Tourism and Wildlife (METW) where it remains at present. The Art Gallery, which was initially part of the museum, remained at the MYSC while Archaeology and other divisions moved to METW. The minister of METW is now responsible for issuing research and salvage permits for all works related to archaeological sites and burials. Under the MLHA applications were routed to the museum for assessment and support or rejection and the minister's office only endorsed a decision taken by the museum. Under the new structures, applications are sent directly to the minister's office and the museum has been eliminated as a professional reviewer. The new arrangement has proved problematic as the new office has no archaeologists or anthropologists on board. Therefore, the new arrangement has caused discontent from professionals seeking research permits.

In 2010 an application for a research permit to catalogue and conduct basic osteological analysis of the burial collection at the museum (Mosothwane 2013) was presented to the new office. The project was an important component of a larger Southern African agenda whose focus was to audit all skeletal collections originating from the region. The application for research permit turned out to be the first of its nature to reach the permit issuing officer at the ministry. The permit issuing office at the METW felt that they were academically unqualified to assess the merits of the application let alone issue or decline the permit. They forwarded the application to their sister office at the Ministry of Health (MoH). The MoH, though academically the closest to being the relevant office to deal with such an application, does not have jurisdiction over the DNMM. Hence, it declined to assess the application because they had no mandate over archaeological remains. After several months of the applicant being tossed between the MoH and METW, the permit was finally issued by the latter against their will. This was one of the first signs of the problems and consequences of the new administrative arrangement between the museum and its mother ministry. Unless proper revision of the administration and MRA is done, there is a chance that the problem might escalate. As it stands, the situation makes things difficult for international researchers who must wait in their countries as their applications are tossed from one office to another.

The other challenge comes from accidental discoveries of human burials on construction and other sites where there is no archaeological monitoring. In such accidental discoveries of human remains made by workers or the public, the first point of reporting is to the police. Nevertheless, police officers in Botswana are not trained to the point where they can differentiate between a recently dead (tens of years ago) and an anciently dead person (hundreds of years ago). Under such circumstances, the investigating officer(s) opens a case for the incident and checks whether they have any reported missing persons in their patrol jurisdiction. If there are no missing persons who might be linked with the remains, the officer(s) can either send the remains to the nearest hospital for incineration or send them to their forensic investigation unit in Gaborone. Of these two options, the incineration seems to be the most frequently used option. The few cases sent to Gaborone are analysed by the forensic pathologists and forensic anthropologists before being incinerated. In the last few years, the author has been working with the police Forensic Unit and some steps have been taken to prevent unnecessary incineration of the archaeological heritage. It is in extremely rare cases that the investigating officer(s) sends the remains to the DNMM where they become part of the collection. Unfortunately, these undocumented remains are not academically very helpful because they never have any contextual information.

Discussion

Limitations of using statutes that are not intended to govern archaeological and historical human remains and burial grounds are becoming more obvious as the country progresses in education, research and developments. Large scale developments are impacting on burial grounds and human remains at a

rate that has not been experienced before in Botswana. At the same time, scientific research on human remains is gaining momentum, although at a slow pace (Mosothwane 2013). On the other hand, the statutes have remained ineffective and the governing institution, the DNMM, remains stagnant and less authoritative than it was before. There is no special dispensation for the management and regulation of work on burial grounds and human remains heritage. As seen from other countries, statutes can be developed and improved as a result of (i) pressure groups, (ii) government initiative, and (iii) intuitional initiatives.

In the early stages of anthropological research in Botswana, there was prejudice against local and indigenous communities (Mosothwane 2013) as it was the case in many countries including the UK, USA, Australia and South Africa (Sayer 2010; Morris 2011; Nienaber and Steyn 2011; Pearson et al 2011). The Kalahari San/Basarwa was the community of choice in cultural, religious and linguistic anthropology. These communities are traditionally de-centralised and live in small, highly mobile groups. Their lack of centralised leadership probably hindered their organising themselves into effective forces of resistance similar to those of the Native Americans, Tasmanians, and some Australian Aborigines (Sayer 2010). In addition, the extent of research on the Kalahari Khoisan was comparatively at a lower level than that on indigenous communities in other parts of the world. Expeditions into the interior of the Kalahari where the San communities are found were not as common as expeditions to South African coastal sites. Moreover, only a handful of colonial anthropologists lived (on long term basis) in the interior and collected some human remains from the Kalahari (Mosothwane 2013).

Thus, in comparison to other indigenous communities in various parts of the world, the Kalahari San in Botswana were exploited to a lesser degree and for a shorter period of time. Perhaps, this fact may be part of the reason why they took too long to develop organised pressure groups that would call for heritage laws that offered special dispensation to their human remains and burial grounds. Furthermore, Khoisan communities residing next to or directly on archaeological sites can seldom demonstrate strong connections to such sites as they would be recent arrivals to the sites. This leaves archaeologists free to excavate and collect human remains and other sacred objects with no interest, let alone resistance, from the local communities.

Historical graves have become increasingly important with the construction of developments affecting historical villages, farms and cattle posts. These are generally graves of known individuals whose first generation descendants are still alive and have to be relocated to give way for developments. One would think that given this new development, legislators would consider writing statutes to address the developments. Instead, it has been left to the discretion of the DNMM, developers, archaeologists and affected descendants to hold consultative meetings to plan for grave relocations.

Construction of Dikgatlong Dam at the confluence of Motloutse and Shashe Rivers in central Botswana, involved the relocation of two small villages (Robelela and Matlopi) and over 200 graves of known persons. The project was the first of its magnitude and took off at the time when Basarwa of Central Kalahari Game Reserve (CKGR) had just won their case against the government's plans to move them out of CKGR. The residents of Robelela are a mix of Basarwa, Bangwato among others and hence, the government of Botswana had to be extremely careful about how they approached the project. No statutes existed to guide the project but a lot of consultations and negotiations by government proved to be useful. After one-on-one consultation, family members were asked to sign consent letters indicating their approval of the relocation of graves of their beloved ones. The skeletonised remains were exhumed, studied and reburied in proper coffins. Each village held its mass reburial ceremony attended by dignitaries from parliament and high ranking government officials. The success of the Dikgatlong Dam grave relocations set the standard for subsequent similar projects at Thune and Lotsane dams (Mosothwane 2009, 2010) and other projects. Interestingly, it seems the successes of these projects, parliament does not seem to be under any pressure to consider instituting necessary revision of the statutes.

It is probably worth noting that the problems in Botswana cannot be solved by passing legislature only. A lot needs to be done in the area of relevant training of the police. So long as the police remain poorly educated about the value of archaeological human remains, they will continue to desecrate and incinerate skeletal remains. This is not only a challenge for the archaeological heritage but also a problem for the police as they may, in some instances, be destroying needed evidence in their own investigations.

Finally the DNMM needs to be decentralised and have a specialist natural history museum as is the case in some countries. At the moment, the DNMM has a Natural History Division in Gaborone which specialises on geological, botanical and animal remains but not humans. In many countries, human remains are kept by fully fledged natural history museums which have physical anthropologists on their staff compliment. They also have authority to issue permits for grave relocations and studies on human remains. There are many examples from which Botswana could benchmark. The government, together with archaeologists, forensic pathologists, forensic anthropologists and other specialists should corporate and develop an all-inclusive piece of legislature to guide future research, exhumation, reburial and collection of human tissue from archaeological, recent and forensic contexts. The various international statutes and administrative structures can be used for benchmarking. And some components of the ARA, and CDBA can be crafted and adapted into the MRA to have a specific and special dispensation for the treatment of human remains and burials in Botswana.

Conclusion

Having reviewed the laws that are used to guide the protection and collection of human remains and burial grounds in Botswana it is evident that there is a need to formulate better and more inclusive heritage laws. Some of the Acts are old and out dated, e.g. the Conveyance of Dead bodies Act of 1977. And the newer Acts such as the Monuments and Relics Act of 2001 have excluded the most sensitive of the country's heritage in the form of human remains. The four Acts reviewed in this paper do not include burials from archaeological contexts and grave relocations due to development projects. Moreover, there are no proper guidelines on how to handle and manage burials encountered in the archaeological record. In the event of misconduct by the developer or the archaeologist, it will be difficult to prosecute the wrongdoer since there are no specific laws to charge against. It therefore, necessary that laws be made to direct the handling of human remains in all contexts.

The need to relocate various burial grounds within the country could be taken as an opportunity to evaluate the effectiveness and efficiency of heritage laws by drafting special dispensations for human remains. The status quo at the moment is for archaeologists and forensic anthropologists to follow international codes of ethics and laws from neighbouring countries. This has worked out so far but perhaps time has come to be proactive and revise the laws rather than depending on the good discretions of individuals. In addition, there is need to strengthen the authority of the DNMM over human remains as well as empowering the in institution by having specialised human remains section or a natural history museum independent from the DNMM.

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