
Chapter 15

Repatriation and Bioarchaeology: Challenges and Opportunities

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I. NATIVE AMERICANS, BURIALS, AND COLLECTIONS BEFORE 1989

The latter half of the 20th century witnessed not only increased visibility of bioarchaeological research but also enhanced concern by Native Americans/First Nations¹ about excavation of ancient burial sites and collections of archaeologically recovered remains and associated funerary items held in museums and universities. Such concerns excited public support and led to state and federal repatriation legislation in the United States. At the federal level, the National Museum of the American Indian Act (NMAIA) was passed by Congress in 1989² and the Native American Graves Protection and Repatriation Act (NAGPRA) in 1990.³ State laws vary widely (Ubelaker and Grant, 1989), as discussed later. Similarly variable laws have been promulgated in Canada at corporate, municipal, and provincial/territorial levels, although there was no encompassing federal legislation in place by the end of 2004 (Burley, 1994; Ferris, 2003; Nicholas and Andrews, 1997; Watkins, 2003).

¹In this chapter, “Native American” will be used to refer to Indians, Native Alaskans, and Native Hawaiians. “First Nations” are the indigenous people of Canada.

²Public Law 101-185; 20 U.S.C. §§80q–80q-15.

³Public Law 101-601; 25 U.S.C. §§3001 et seq.

satisfied with the quality of curation and seclusion (Michael O'Brien, personal communication, November 18, 2004).

There are several important points raised by these collaborations. First is that there is no global solution. Walker's collaboration works because it is based in Chumash culture history. The issue of diabetes and warfare were of interest to the Omaha, but may not be relevant to many other Indian peoples. The Omaha desire that more young Indian people embark on science careers, which may not be the vocation of preference among other groups. The Hopi are concerned about migrations, which might not interest other tribes. Those visiting the University of Missouri facility are satisfied with the security of the mausoleum and the level of respect accorded the human remains stored there. This may not be an ideal solution in other regions. However, the need for openness, for communication, for mutual respect, and for initiatives that are of interest to all collaborating parties *is* global.

III. CANADA: COLLABORATION AND COMMUNITY CONTROL

Canada has no federal legislation comparative to NMAIA and NAGPRA. Some find this situation undesirable in that national heritage legislation could provide uniform policy for federal lands and it is perceived that funding levels would increase (Syms, 1997). Yet, as emphasized by Watkins (2003), relationships between First Nations and archaeologists are strong and becoming stronger. He attributes this to "archaeologists directly taking into consideration the wishes of the indigenous populations in the research arena rather than performing through a regulatory or legal framework" (Watkins, 2003:277). It would appear that relationships between First Nations and physical anthropologists/bioarchaeologists are also quite strong and to be envied by many colleagues in the United States. Why might this be?

One factor may lie in divergent historical paths taken by archaeologists and physical anthropologists working in Canada and in the United States. One clear difference is the timing in which the leadership in both professions began voicing sympathy with concerns expressed by First Nations about burial excavations and the curation of remains and funerary items.¹⁴

In 1976, The Royal Society of Canada sponsored a symposium on New Perspectives in Canadian Archaeology. One of five sessions was entitled "Archaeology: New Motivations and Attitudes." The introductory paper, by William Taylor, then director of the National Museum of Man (NMM, now the National

¹⁴While it is tempting to trace the history of liberal attitudes to Sir Daniel Wilson's attitude toward Native Americans, Wilson left no direct anthropological legacy (Trigger, 1966).

Museum of Civilization, NMC) in Ottawa, emphasized the growing engagement of indigenous people.

Another major consideration in new motivations and attitudes in Canadian archaeology is, of course, the rapidly developing involvement of Canadian native groups, based on a long and lasting concern in Canadian archaeology. It is generally recognized now that it is no longer sufficient to explain that white archaeologists also dig up the bones of white men and put them on display. The profession seems to be adjusting with reasonable comfort to a very different situation as native peoples of Canada become more involved at both the local and national level. We have yet a considerable distance to travel. . . . It seems that we have not, in fact, seriously attempted to provide, by popular publication or museum display or by local teaching, the kind of direct return to the Indians and the Inuit of Canada to which they are entitled — and which we are capable of providing. (Taylor, 1976:154)

Speaking from his experience with Native peoples of Quebec, Laurent Girouard also emphasized the need for engagement.

These days, whether we like it or not, the archaeologist who studies the ancestors of the Amerindians must bear the burden of the colonial past which was forced upon this continent's first inhabitants by the whites. He must choose one of two alternatives. Either he continues to study the Amerindians' past as something which has no political meaning, no relationship with the present and therefore with the life of the Indian and Inuit communities today, or he can study this past by consciously placing it in a historical continuum. If he does this, he must take into account the situation of the Amerindian today. (Girouard, 1976:159)

Two additional papers spoke of the need to engage communities as equal partners (Swinton, 1976) and the dissatisfaction of Indians over the excavation and display of burials (Johnston, 1976). Next, Jerome Cybulski, a leading physical anthropologist, located at the NMM spoke about skeletal analyses. Cybulski (1976) emphasized that in response to First Nations concerns, *in situ* analyses had occurred in Canada during the 1970s and that reburials were occurring in the course of truly collaborative efforts in British Columbia, projects initiated by the tribes. These interactions appeared to lack the antagonisms seen during the 1970s in Iowa, for example.

Other evidence of sensitivity to First Nations concerns is evident in Cybulski, Ossenberg, and Wade's "Committee Report: Statement on the Excavation, Treatment, Analysis and Disposition of Human Skeletal Remains from Archaeological Sites in Canada" (1979). Prepared for the Canadian Association of Physical Anthropologists, the report was a response to public concern over the "nature and purposes of scientific study of human skeletal remains from archaeological sites in Canada" (Cybulski *et al.*, 1979:32). A significant portion of the report is dedicated to "the concerns of living native peoples in that certain archaeological sites, particularly those of the late prehistoric period and those of the protohistoric period, have direct bearing on their cultural and biological heritage" (Cybulski *et al.*, 1979:32).

In response to such concerns, the committee emphasized that there were many close working relationships among archaeologists, physical anthropologists, and local native groups. Their recommendations included increased interaction and collaborations with local communities where biological and cultural heritage is demonstrated in archaeological initiative.

It is recommended, therefore, that communication and consultation with local communities, on the part of both individual researchers and the provincial or federal agencies responsible for archaeological sites, becoming a working rule uniformly applied throughout the country. The Canadian Association for Physical Anthropology urges individual researchers — archaeologists and physical anthropologists — to consult with local native band councils about their projects and to keep local communities informed of the progress of those projects. The Association also encourages individual researchers to return information to the communities in the form of unpublished and published reports, and by means of formal lectures and informal presentations before, during and after field work. (Cybulski *et al.*, 1979:35)

The authors close with an emphasis on equal treatment of all human remains, no matter what the heritage, including pioneer graves (Cybulski *et al.*, 1979). This statement contrasts markedly with the stand taken by the AJPA in 1982.

Thus, it appears that the Canadian bioarchaeologists were developing a pattern of community partnership and consultation that would visibly appear in the United States over a decade later and usually only after consultations were legally mandated. The longer history of collaboration with First Nations has yielded a number of exemplary collaborative case studies, including several projects by Cybulski (1978, 1992; Cybulski *et al.*, 2004), who speaks of his 35 year career in the following terms: “I’ve done field and laboratory osteology in several different regions of the British Columbia portion, ever with the co-operation and active participation of First Nations and their members” (Cybulski, 2001).

Another impressive project is represented in Williamson and Pfeiffer’s *Bones of the Ancestors: The Archaeology and Osteobiography of the Moatfield Ossuary* (2003), developed in collaboration with the Six Nations Council of Oshweken, Ontario. Multivocal in presentation, it includes indigenous intellectual, physical anthropological, and archaeological perspectives. Destructive analyses to estimate diet were conducted, authorized by the Six Nations Council.

Two additional recent studies of ancient individuals also illustrate close collaborations between communities and bioarchaeologists. In August of 1999, hunters discovered the remains of an ancient body in the mountains of north-western British Columbia, not far from the Alaska border. After 550–600 years, it was eroding from a glacier. At the request of the local Indian community — the Champagne and Aishihik First Nations (CAFN) — the remains, termed Kwäday Dän Ts’inchí or “Long Ago Person Found,” were carefully recovered, kept in a relatively sterile and chilled condition, flown to Whitehorse, Yukon Territory, and studied prior to reburial. Portions of the associated hat and cloak

were radiocarbon dated. The collaborative agreement developed between the Province and the local First Nation emphasized, among other points, the need for respectful treatment and a desire for state-of-the-art analyses of both the body and the artifacts. Thus, destructive analyses for various determinations, including diet, were approved (Beattie *et al.*, 2000). Such studies were informative in that they indicated that this young man had lived near the sea most of his life. Following scientific study and the recovery of samples, the ashed remains were buried near the site of discovery (Beattie *et al.*, 2000; Dickson *et al.*, 2004; Lundberg, 2001).

Another recent collaboration developed as a result of a burial eroding from the shoreline of Southern Indian Lake on the Churchill River, Manitoba, first noted during June 1993. Due to fluctuating lake levels, full recovery did not occur until the summer of 1994. These remains of a young woman were considered an ancestor of local Cree and were referred to as *kayasochi kikawenow* or “our mother from long ago.” The elders concluded that she had permitted herself to be recovered so that she could share her knowledge with present and future generations. Her remains were studied in nondestructive ways, including X-rays of the tibia. Artifacts were photographed, cast, and the originals united with the remains, reburied near the original gravesite. A few artifacts were sacrificed for radiocarbon dating, indicating that she died approximately 330 years ago. In addition to the technical studies, Cree archaeologist Kevin Brownlee authored a book for general audiences in collaboration with Leigh Syms (Brownlee and Syms, 1999). Brownlee also created a permanent interpretative display for the community school at South Indian Lake.

These Canadian examples both show differences and similarities to those reported for the United States. The Kwäday Dän Ts’inchí project promoted state-of-the-art study, including destructive analyses. Many of the other cases also included destructive analyses within their research designs, usually directed toward research questions of mutual interest to the physical anthropologists, archaeologists, and the First Nation community. While Reinhard and colleagues also engaged in destructive bone chemistry analysis to investigate diet, many Native American communities in the United States are against destructive analyses, some including X-ray analysis in this category. The advantage of long-term commitment to community engagement is well illustrated in the work of Cybulski, as it has been for Walker in the United States. All the Canadian examples, however, specified reburial rather than curation for future generations of researchers. As in the United States, each approach reflects the cultural and geographic contexts in which the collaboration developed.

At the level of the national museum, even without a federal mandate, the NMC stopped accessioning aboriginal human remains in the early 1970s. Remains are repatriated according to a policy informed by the 1992 task force document promulgated by the Assembly of First Nations and the Canadian Museum Association. A case-by-case approach has been implemented, with validation

requiring demonstration of ancestral–descendant relationship or historical connections. Prior to deaccessioning materials, the NMC reserved the right to inventory and study, for both scientific and heritage preservation purposes. The present director of the Archaeology and History Division of the NMC emphasizes that nearly all the collections are vulnerable to repatriation (Morrison, 2004).

The NMC and First Nations, such as the Inuit Heritage Trust (IHT), have, however, reached agreements that may ensure the long-term availability of existing collections. The NMC's agreement with the IHT, finalized in 1998, affects the Nunavut Territory human bones, approximately one-fourth of the NMC's human remains collection. Destructive analyses must receive explicit consent of the IHT; other studies require notification. By the end of 2004, two requests for destructive analyses had been received by the IHT and both were approved. Proposals submitted to the IHT must include not only clear statements concerning research design and analytical methods, but also must explain potential benefits to the community. As Cybulski, curator of physical anthropology at the NMC states, such practices “make our work more accessible and less mysterious to the public” (Cybulski, personal communication, Dec. 15, 2004).

In general, Canadian museums, physical anthropologists, and archaeologists appear to favor mediation over litigation in addressing repatriation issues (Ferris, 2003). Pressure from First Nations for additional repatriations continue, however, including activist rhetoric: “Kitigan Zibi, like all other First Nations across Canada, in our relationship with the federal government has been, and still is, impacted by a hierarchy of institutional racism” (Odjick, 2004; Whiteduck, 2004). It remains to be seen whether such pressure will lead to a federal mandate. As emphasized by Watkins (2003), collaborations in Canada appear to be proceeding without the necessity of federal legislation. Such laws of necessity gloss vast differences in cultural perspectives and risk creating a situation in which one size fits none.

IV. BIOARCHAEOLOGY IN THE 21ST CENTURY: CONSEQUENCES OF NAGPRA/NMAIA

Clearly, one of the intended consequences of federal repatriation legislation was increased communication between and active collaboration with Indian communities and those who excavate and study mortuary sites. For archaeologists, this has obviously occurred, especially in regions with large Native American resident populations. An unintended impact, however, appears to be the isolation of most skeletal biologists/bioarchaeologists from Indian people, from archaeologists, and from archaeological contexts.