

The Commission for the Ethical Treatment of Human Remains ONLINE REPORT, December 2023

This interim draft report provides context for the commission, our process, a list of the listening sessions we have conducted to date, and our first set of principles that have emerged from these sessions. This draft report was presented at the **November 2023** AAA meeting in Toronto. Our final policy recommendations and report will be given in May of 2024.

CONTEXT

Anthropology has its roots in settler colonialism, overseas imperialism, slavery, and white supremacy. These roots have structured the discipline's approaches to knowledge production in many ways. Missionaries, colonial administrators, physicians, traders, and others produced copious volumes of data about the peoples they were encountering worldwide as the result of European colonial expansion. They also developed extensive collections of the ancestral remains and cultural products of these peoples, bringing them back to their metropolises for display and research, and developing hierarchies of humanity that divided the world's populations into ranked categories and evolutionary schema in which white (Christian) manhood was the epitome of civilization. People and places were grouped and represented according to patterns of place and race, a method that denied individuality to those being studied even as it presumed a self-possessed individual researcher and writer. Colonization, thus, was foundational, not merely to the dominance of the West, but to the disciplines that would legitimate these evolutionary hierarchies. These processes were also central to the modes of representation that became dominant within anthropology and within ethnographic museums, modes that sought to make the non-West transparently legible to Western observers.

While anthropologists and museum workers enacted forms of violence grounded in Enlightenment coloniality, evolutionary progress, White supremacy, and eugenics, it is also the case that from the very beginnings of the discipline in the 18th and 19th centuries, the White supremacist assumptions of anthropology were contested by the vindicationist intellectuals of "the Other." This was true not only in the United States, where Frederick Douglass responded critically to Samuel G. Morton and other proponents of polygenism, but also further afield, such as when Haitian diplomat and anthropologist Anténor Firmin countered Arthur de Gobineau's *Essay on the Inequality of the Human Races* with his own text, *The Equality of the Human Races*. As more and more Black, Indigenous, and other scholars of color entered the discipline of anthropology, or became museum practitioners, there has been a concerted effort to grapple with what Amy Lonetree has called the "legacies of historical unresolved grief by speaking the hard truths of colonialism and thereby creating spaces for healing and understanding" (2012:5). This has entailed processes of rethinking not only our theoretical frameworks but also our methodologies. Volumes such as *Decolonizing Anthropology: Moving Further toward an Anthropology for Liberation*, which was published in 1990 by the Association of Black Anthropologists, and Linda Tuhiwai Smith's *Decolonizing Methodologies: Research and Indigenous People*, published in 1999, encouraged all anthropologists to interrogate the relationships of power and the forms of representation that are embedded in our practice. These

scholars were urging anthropologists and museum practitioners alike to think anew about who “owns” research, and whose interests are served by it.

Despite these public moves toward decolonizing, we are also experiencing a new phase of the so-called “culture wars,” with some scholars calling for redress and abolition while others defend an older view of anthropology, one that imagines itself to be objective, and objectively rigorous, thus recycling an unself-conscious privileging of Eurocentric modes of knowing, a glorification of future scientific potential over present-day community well-being, and a resistance to the forces of responsibility and accountability. Currently, museums and educational institutions continue to hold extensive collections of ancestral remains, collections that were developed through practices of both criminal and archaeological grave-robbing across North America and globally, as well as through other extractive and exploitative measures. While federal legislation has been passed to facilitate the repatriation of these ancestors to federally recognized Native American tribes, codified measures to address the thousands of Indigenous ancestors who remain in institutions are limited. Moreover, no such legislation exists for tribes that are not federally recognized or other marginalized groups within the United States, nor have over-arching global protocols been developed and accepted. Researchers, curators, and educators thus continue to collect, teach with, exhibit, and perform research on these ancestors and their associated materials without consent.

THE COMMISSION

In establishing the Commission for the Ethical Treatment of Human Remains, the American Anthropological Association (AAA) responded to an urgent call across the field of anthropology for institutional and professional accountability related to human remains in education and research collections, with special attention to standards and guidelines concerning the respectful care for all human remains (including osteological and genetic), as well as funerary objects and belongings. This specifically includes, but is not limited to, African Americans and Native Americans that are housed in research collections at museums and academic institutions. Our members’ affiliations span bioarchaeology, forensics, archaeology, anatomy, linguistic anthropology, museology and cultural anthropology (see Appendix I for list of Commission Members). The Commission was charged with reviewing and assessing the current status of legislative, policy, and professional society standards and guidelines. It also conducted listening sessions globally in order to understand the ethical, legal, social, and scientific issues related to human remains and cultural materials around the world in order to eliminate the gap between the current status and model standards of institutional and professional accountability.

Members of the Commission recognize that the treatment of human remains by scientists and educators is troubled by a dilemma which might be described as a conflict between the human need to know and the human need for dignity. On one hand, the human body has been explored anatomically, certainly since the European Renaissance. Modern medicine would not exist without knowledge obtained by human dissection; anthropological understandings of our common origins and biological diversity have required the observation of biological evidence. At the same time, this research has always depended on access to colonial, disenfranchised, and unprotected populations.

On the other hand, funerary rites including sacred burials of the dead have characterized humanity since the dawn of our species. The marking of human dignity through the memorialization of ancestors is a highly diverse and specific human behavior that is practiced by literally all human cultures. Religious systems and family observances everywhere demonstrate the deep care all people have for the stewardship of the dead and objection to its neglect. Therefore, the ill-treatment of the dead, as descendants and others define it, bears the possibility of social and psychological harm.

The Commission's mission was to draft an AAA policy to guide anthropologists, museums, and other institutions in how to ethically and respectfully care for and attend to human remains, burial places and belongings from burials by engaging with lineal descendants, ancestral communities, descendant communities, and communities of care (understanding that not all communities of care have the same relationships to ancestors). Underlying this policy are the Commission's values: care, ancestor respect and dignity, justice, restoration, reciprocity, collaboration, autonomy, beneficence, nonmaleficence, and accountability. These values informed the Commission's vision that all anthropologists treat all ancestral remains with respect. While we focused on ancestral remains, other cultural materials were also part of our conversations, including but not limited to burial grounds, sacred objects, burial accoutrements, hair samples, soil, recordings, drawings, 3D scans, and anything yielded from these materials.

Being an AAA Commission, our focus is on anthropologists in the United States, but our global listening sessions also raised important questions that help us to address broader contexts. Our Global Listening sessions were hosted by local colleagues with long histories of work with Indigenous people and the question of repatriation in their countries. We asked them to invite the broadest spectrum of representatives, whether or not they agreed with them regarding the treatment of human remains. It was always likely that these anthropologists' selection criteria would have an influence on the representatives they could identify and we asked them to reach out to organizations that could select their own voices. We learned both about the extent to which Indigenous and marginalized communities worldwide shared similar experiences and concerns, and about the important issues specific to particular places and times.

The Commission acknowledges that there is no "solution" that will "fix" this historical legacy. We recognize that accountability, cooperation, and ethical anthropological practice are practices that must be ongoing, relational, and dynamic. We also recognize that the ideologies that were used to justify past plunders of ancestral remains support contemporary processes of dispossession and extraction with which many of the representatives of descendant communities with whom we spoke are experiencing, such as mining, gentrification, and war. That is, we recognize that these processes are also part of the legacy of colonization, imperialism, slavery and white supremacy.

Here, we offer details about our process as well as a set of principles that have emerged in and through our dialogues with colleagues and descendant communities across the world. These principles shaped our approach to questions of research, education, and representation, which in turn, will shape our developing recommendations that will be given in our final report in 2024. **We believe there is no reconciliation without truth, and that part of truth is the acknowledgement of, and apology for, harm. Engagement must follow such an apology.**

Our principles and final recommendations will also take into account guidelines from a number of professional associations, but most particularly The Vermillion Accord on Human Remains, the Tamaki Makau-rau Accord on the Display of Human Remains and Sacred Objects, the Society for American Archaeology 2021 Statement Concerning the Treatment of Human Remains, the American Association for Anatomy “Recommendations for Good Practice around Human Tissue Image Acquisition and Use in Anatomy Education and Research,” the Code of Ethics of the American Association of Physical [now Biological] Anthropologists, and the Code of Ethics of the American Anthropological Association.

PROCESS

The idea for a Commission or Task Force that would create a policy regarding the ethical treatment of ancestral remains was presented to the AAA leadership in the fall of 2021, following the release of the Tucker Law Group’s report on the “Demonstrative Display of MOVE Remains at the Penn Museum and Princeton University.” The AAA Executive Board voted to move forward with such a Commission during the 2021 annual meetings, and in May 2022, Commission members were appointed for a two-year term that would result in the submission of a final report with recommendations in May 2024.

Commission members were invited based on a consultative process among the AAA President, the Commission Co-Chairs, and leadership within the Association of Black Anthropologists, the Association of Indigenous Anthropologists, the Biological Anthropology Section, the Archaeology Division, the Council of Museum Anthropologists, and the Ethics seat-holders on AAA’s Members Programmatic Advocacy and Advisory Committee. The co-chairs drew from candidates recommended by the Executive Board and others who the co-chairs identified as having 1) the necessary sub-disciplinary expertise (especially in biological anthropology, archaeology, and anatomy), 2) experience in ethics and the issue of the ethical treatment of human remains, and 3) whose ethnic and disciplinary vantages were diverse. Our emphasis on African American participation was inspired by the subjects of the treatment of MOVE remains, with the idea that Black people were in need of standards like NAGPRA Native Americans, Hawaiians, and Alaskans had long achieved. In time we became more aware of the remaining problems for Indigenous people, not only in the United States, but globally.

Initially, the commissioners invited Dorothy Lippert (Choctaw Nation of Oklahoma), Tribal Liaison, Repatriation Office, NMNH, Smithsonian Institution to serve on the Commission. Dr. Lippert has long experience and great depth of knowledge of the legal and cultural sides of repatriation. When Dr. Lippert was found to be so heavily committed to other projects that she could not join us, we moved forward with only Dr. Kisha Supernant (Métis, University of Alberta, Canada) as a native representative on the Commission. Questioned for not having a U.S. Native representative by Dr. Courtney Lewis (Cherokee Nation, Duke University) at a AAA forum in the Research Triangle in Raleigh-Durham, we began selection of a Native American advisory group. By her continued advice, we agreed that this was inadequate because it did not constitute equal representation. We then relied upon Drs. Lippert, Supernant, and other Commissioners’ networks to generate a list of potential Native American scholars with tribal affiliations across the country with related expertise. A total of eight potential Native American scholars were contacted to potentially join the commission. From this search, linguistic

anthropologist Dr. Jenny Davis (Chicasaw Nation), Associate Professor of Anthropology, American Indian Studies, and Gender & Women's Studies, and Director of the American Indian Studies Program at the University of Illinois at Urbana–Champaign was able to serve and was appointed.

During the summer of 2022 while Commission members reviewed policies, Commission Co-Chairs wrote proposals to and received support from the Wenner-Gren Foundation for Anthropological Research for the Commission's Listening Sessions globally, and for a North American summit for representatives of African-American and Native American descendant communities. We also received a donation from the Burroughs-Wellcome Fund that supported our domestic listening session at Howard University. These funds, together with modest funds set aside by the AAA, sustained our work across the two years. Commission member Kisha Supernant also received funding to support our Listening Session in Canada from the University of Alberta. Professor Ciraj Rassool of the University of the Western Cape received the resources of his institution and the Iziko Museums that, along with Wenner-Gren funding, allowed our Listening Session in Cape Town. Professor Yoshinobu Ota of Kyushu University and his team hosted Listening Sessions with Indigenous people throughout Japan with additional funding by the Ministry of Education, Culture, Sports, Science and Technology (MEXT KAKENHI JP20H00048). Professor Michael Westaway hosted a Listening Session with Indigenous Australians with the material support of his institution, the University of Queensland. Dean Rubin Patterson of Howard University provided its institutional setting for our Domestic Listening Session in Washington, DC without cost to the Commission. Staff support was also given to the Commission; Natalie Konopinski, and later Caitlyn Kolhoff, facilitated our work by setting up an online clearinghouse, taking notes, establishing our meetings, and otherwise providing logistical support. Ezra Chan, a student at the University of Pennsylvania, was also enlisted to compile and summarize existing ethics statements and policy guidelines, and two graduate students each from William & Mary (Victoria Gum and Maia Wilson) and American University (Delande Justinville and Paige Magrogan) took notes at our domestic listening session in Washington DC.

In addition to our Listening Sessions, Commission members met monthly over zoom, beginning at the end of **May 2022** while also working through email to coordinate documents and drafts of listening session notes. The 2022 summer months were devoted to beginning to accumulate and review the fullest range of ethical statements, policies, and standards of sister societies and disciplines regarding the treatment of cemeteries, human remains, and sacred objects

During our early meetings, we established an openness among ourselves to the idea that an ethos for our work should be consistent with new ethical standards involving the principle of **informed consent**. This included being open to building new relationships between our disciplines, descendant communities, culturally affiliated groups, and the public at-large. The Commission determined to meet directly with descendant communities and culturally affiliated groups as the appropriate means of addressing community-based ethical concerns, initiatives, and institutional/community collaborations. As an ethical approach to ethical solutions, the Commission chose to meet with representatives of those most affected by anthropological work with ancestral remains in order to learn their assessments of how they might be harmed or protected from harm when research is considered. We also met with colleagues globally – in

most cases colleagues who were also members of descendant communities – to obtain their assessments of ethical concerns and their understanding of the value of their research. We felt that conversations among these parties would be beneficial for community capacity-building and for our colleagues’ awareness of public concerns about modes of practice. The Commission also discussed the possibility of field trips abroad as a means of learning from these experiences. We recognize that our engagements were never going to be comprehensive or represent all perspectives, but we wanted to listen to a diversity of voices.

During our **September 2022** meeting, we began to debrief on our individual evaluations of the ethical principles of sister societies, disciplinary organizations and relevant institutions. We also engaged LTG Associates (Niel Tashima and Cathleen Crain), the oldest and largest practicing anthropological firm, to help us design our listening sessions. They are experienced with difficult conversations toward mutually-respectful solutions, and we decided to make them advisors to the Commission. We continued to develop the questions we would ask at each Listening Session, and we began to draft a schedule for this global travel.

Our **October 2022** meeting was devoted to a training session with Niel Tashima and Cathleen Crain (LTG Associates) who worked with our research questions, their experience, and standard protocols regarding values, vision, and mission. They helped us to revise our original questions. **We asked the following initial questions of both colleagues and descendant communities around the world:**

What do human remains mean to you?

What concerns do you have regarding the treatment of human remains and related materials?

How should researchers, curators, and educators engage with descendant communities? What is your understanding of who is part of descendant communities?

What does collaboration with communities mean? What kinds of collaborations seem possible to you?

What are the contexts in which research could be performed on human remains, or with samples of tissue and blood? What are the contexts in which research should not (or never) be performed on human remains, or with samples of tissue and blood? What is the appropriate body for making these decisions?

What other concerns do you have regarding the ethical treatment of human remains?

During the **open AAA Listening Session** at the annual meetings in **November 2022**, we asked these questions and received feedback from those gathered (approximately 25 persons). One important question that was raised had to do with aDNA (Ancient DNA), and how to center what descendant communities would like to know from this kind of data. This last point was echoed by several present, all of whom emphasized the importance of establishing consent from descendant communities prior to any kind of research. Questions were also raised about how to identify “descendant communities,” especially since many people who belong to descendant

communities are in the scholarly fold, and how to use language that doesn't presuppose that "descendant communities" are always immediately identifiable and coherent standing organizations. We also responded that definitions of and protocols for the convening of descendant communities have been effective, for example, in a 2018 rubric "Engaging with Descendant Communities for the Interpretation of Slavery at Historic Sites and Museums" of the National Trust for Historic Preservation. Some recommended that descendant accountability and communication continue throughout the research process in order to allow for the possibility of changing guidelines. Others emphasized the importance of creativity as a form of collaboration, the need to think beyond Western epistemological practices, and the difficulties of giving decision-making authority to the very institutions that have violated the rights of the humans they've studied. One participant asked: How will we fund students to learn how to do this work to correct these problems?

Our **December 2022 Commission meeting** was focused on debriefing about the AAA Listening Session. Based on participants' curiosity about how we are defining descendants and descendant communities, we determined that we need to provide some practical direction regarding how we are thinking about these terms. It was decided that in our final report, we might highlight some case studies that demonstrate different ideas for what "**descendant community**" means and the histories that inform these meanings. We also discussed an issue that was raised by Ed Liebow on behalf of the Board, that we might add a molecular geneticist to the Commission. We decided that we had already "gelled" as a Commission, but that we would invite several geneticists to be "Advisors" to the Commission: Jada Benn Torres (Vanderbilt University), Ripan Malhi (University of Illinois), Kelly Blevins (Durham University), and Krystal Tsosie (Navajo Nation, Arizona State University). They all accepted an invitation to join us for our April Commission meeting.

We have conducted several listening sessions. Dependent on availability and funding, typically 2-3 commissioners attended global sessions, while as many commissioners as possible attended the AAA and domestic listening sessions. Our goal has been to engage as much as possible with descendant communities, mindful of the selection and representation in our listening sessions including regional diversity (especially in the US) as much as possible given availability of communities. We affirmed the need to provide honoraria for descendant consultations and others, in recognition of our respect and gratitude for the wisdom and knowledge they were sharing with us. We have also discussed [new guidelines in 2022](#) that had emerged from colleagues from the Arizona State Museum (ASM) at the University of Arizona (UA) regarding respectful terminology for the discussion of ancestral human remains and belongings, which recognizes that in forcing Indigenous communities to use our language we are perpetuating Western science and racism. We feel it will be important in our final report to create a glossary, and hyperlinks to relevant articles, especially since some participants in the AAA listening session said they would appreciate a "how-to" guide. Finally, we have discussed our aim to have a section of our report on education (which would also cover casts and unprovenanced remains), and the use of images in textbooks.

LIST OF LISTENING SESSIONS TO DATE (full summaries will be part of the final report)

Cape Town, South Africa (December 19, 2022; Attended by Commissioners Blakey, Watkins, and Thomas): This session was generously organized by Ciraj Rassool (UWC), and we were hosted by colleagues at University of the Western Cape at the Iziko Museums of South Africa. Those present included representatives from the Iziko Museums, the Department of History at University of the Western Cape, and from the Museological Services at the Western Cape Department of Cultural Affairs and Sport.

Museum Directors (February 2023): The Commission was joined by Laura van Broekhoven (Director, Pitt Rivers Museum) and Wayne Modest (Director of Content for the National Museum of World Cultures (a museum group comprising the Tropenmuseum, Museum Volkenkunde, the Africa Museum, and the Wereldmuseum Rotterdam).

Advisory Council of Geneticists (April 2023): The commission hosted the first preliminary meeting with geneticists who agreed to be part of an advisory council for the Commission. Present were Kelly Blevin, Ripan Malhi, and Krystal Tsosie. We asked this group the questions we asked our colleagues at AAA (with revisions as suggested by colleagues).

Huron-Wendat Nation (May 2023): We met with Mélanie Vincent, Huron-Wendat Nations, Consultant to the Huron-Wendat Nation Council.

Japan (June-July 2023, attended by Commissioners Blakey and Agarwal):

In Japan, Blakey and Agarwal met with both colleagues and representatives of descendant communities. Professor Yoshinobu Ota was principal of the team of colleagues who hosted us at facilities of the Center for Ainu and Indigenous Studies, Hokkaido University, Osaka University, and Ryukyu University. Our Japanese hosts included (first name, surname) Yoshinobu Ota (Professor Emeritus, Kyushu U), Mitsuho Ikeda (Professor Emeritus, Osaka U), Noriko Seguchi (Professor Kyushu U), Yasuo Tsuji (Professor of Political Theory, Hokkaido Law School), Mokottunas Kitahara (Professor, Hokkaido U), Mirofumi Kato (Professor of Archaeology, Center for Ainu Studies, Hokkaido U), Yasukatsu Matushima (Professor of Economics, Ryukoku U), and Ichirou Tomiyama.

Australia (August 2023; Attended by Commissioners Blakey, Watkins, and Supernant).

In Australia, the listening session was conducted over two days, hosted by Professor Michael Westaway and sponsored by the University of Queensland on whose campus it took place. The first day included a series of presentations by Indigenous people (two of whom were archaeologists) who have been directly involved in issues related to ancestral remains or who are playing leadership roles in these areas. The second day was the listening session itself, also with Australian Aboriginal and Torres Strait Islanders representatives.

Senegal (September 2023:) The Commission met with Ibrahima Thiaw and colleagues and other interested persons from the University Cheik Anta Diop and the West African Research Center.

Edmonton, Canada (September 2023): The Commission came together in Edmonton for two days of conversations with colleagues from institutions that hold Indigenous ancestors (day one) and representatives of First Nation communities across Canada (day two). Participants included individuals and groups from Atlantic Canada, Ontario, Quebec, the Prairies, British Columbia, and the North, and involved First Nations, Métis, and Inuit.

Domestic Listening Session, Washington DC (October 2023): Our domestic listening session in **Washington DC**, was held October 27-28 with representatives from African-American and Native American communities at Howard University. We initially thought this session would take place at the Smithsonian Institution, home of both the National Museum of the American Indian (NMAI) and the National Museum of African American History and Culture (NMAAHC). While we had support for this from the Undersecretary of the Smithsonian and NMAAHC, their fee was beyond our budgetary capabilities, so we moved the session to Howard University, which generously hosted us gratis. The Burroughs-Wellcome Fund provided necessary support to ensure the participation of a broad group of Native American and African American participants.

We were grateful for the support of Dean Rubin Patterson (Arts and Sciences) and his staff, who helped us with space and logistics during the moment of transition within the AAA (Natalie Konopinski's departure).

Native representatives were identified by Native American and Hawai'ian advisors of TCETHR and Native organizations associated with the AAA. Participants were members of tribes from the Southeast, Great Lakes, Southwest, California, Hawaii. These representatives participated as individuals with expertise with their tribes, but did not speak for their tribes. African American representatives were drawn from lists of the most active organizations defending burial grounds known to three commission members who had worked with them in recent years. These overlapped with the list of descendant communities assembled by the Smith Center of the NMAAHC. All representatives were selected for their regional diversity.

PRINCIPLES

The following draft principles were forged from our ongoing listening sessions. Our final policy recommendations and report will be given in 2024

- 1) Anthropologists and institutions do not own ancestral remains. Any research, conservation, protection, or exhibition of ancestral remains should only be done with informed consent.
- 2) All those who handle and engage with ancestral remains must think in terms of *collaboration* or *cooperation*, not *consultation*. Collaboration with descendants (whether full partners or clients) for purposes of research design and interpretation may be valuable to them as well as to scholarship concerning their sites, remains, or samples. False collaboration (superficial involvement of descendant voices in projects wholly determined by others) is unethical if it is misleading and/or defeats informed consent.

Descendant organizations tend to be the most likely to retain the integrity of their community's voice; only they can determine their members and leadership.

- 3) Both lineal descendants (known family members) and social communities (culturally affiliated groups and descendant communities) have ethical rights to the stewardship of their ancestral remains, cultural materials, and DNA and tissue samples. The rights of the family are primary and those of community are secondary only to family. Family and community are defined by their members and will vary by social and cultural context. Identities and familial relationships rendered through DNA should not take precedence over how families and communities socially/culturally define themselves.
- 4) Academic freedom is not synonymous with "unrestricted access." Scholars must be responsible to descendants' concerns for the dignified treatment of their dead. Rights do not exist without responsibility and ethical treatment of descendants may weigh toward the latter. Anthropologists are not required to conduct research where ethical responsibilities to descendants are put at risk.
- 5) Human anatomical remains can only be ethically acquired by donation of the individual whose remains these are, or by permission of that person's family (primary) or community (secondary) upon a person's death. Curation and research on historical collections require such permission if they are to become part of ethical practice.
- 6) Ethical postmortem treatment of the deceased and ancestors should be a basic human right.