

## Chapter 2

# An Indigenous Anthropologist's Perspective on Archaeological Ethics

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Archaeology in America has struggled with defining its ethical structure since the establishment of the Society for American Archaeology (SAA) in 1934. Its initial Constitution and By-laws set forth prohibitions against “securing, hoarding, exchanging, buying, or selling of archaeological objects...” for personal satisfaction or profit (Article I, Section 2). Article III, Section 10, gives the Society the right to drop from the rolls of the Society anyone who habitually commercializes archaeological objects or sites (Society for American Archaeology 1977:308–312). Additional statements provided by the SAA (Champe et al. 1961:137–138) offered SAA members ideas regarding accepted standards in delineating the field of archaeology, the methods of archaeology, ethics for archaeology, and recommendations for training in what may be considered right and wrong, at least in the eyes of the SAA, and provided guidelines to the Executive Committee relating to the expulsion of a member.

In 1977, the Society of Professional Archaeologists (SOPA) developed out of an ad hoc committee on standards appointed by the SAA to pursue the concept of certifying archaeologists (McGimsey and Davis 1977:97–105). SOPA allowed only those archaeologists meeting certain criteria to be admitted, required applicants to sign a Code of Ethics and Standards of Research Performance (Society of Professional Archaeologists 1976), and provided a detailed procedure for review of alleged violations. SOPA morphed into the Register of Professional Archaeologists (RPA) in 1998 with support of the major archaeological organizations (the Society for American Archaeology, the Archaeological Institute of America, the Society for Historical Archaeology, and the Society of Underwater Archaeologists). The RPA hopes to be the professional archaeological licensing organization in America, with the goal of establishing, supporting, and maintaining professional and ethical standards in all aspects of archaeological work. It offers a certification process

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whereby professional archaeologists, students, teachers, amateur archaeologists, and all those interested in archaeological education and research can become registered archaeologists. In doing so, members agree to abide by a set of ethical codes and research standards. Registration allows the use of the distinction “RPA”, much in the manner that Public Engineers are required to abide by certain rules and guidelines to gain the status of a Registered Public Engineer.

Since the 1990s, however, ethics in North American archaeology has revolved primarily around the Principles of Archaeological Ethics produced and adopted by the Society for American Archaeology in 1996 (Lynott 1997; Lynott and Wylie 2000), although the journey that the Society followed prior to the Code’s establishment continues to have meaning as well.

This is the process the SAA went through as it developed its body of ethical guidance, but the code should by no means be considered to have embraced “multi-cultural ethics”, and the discipline (at least within the SAA) has only recently begun opening up or sharing some aspect of the disciplinary practice with local actors (in research-related activities and in decision-making). Only the SAA’s Principle 2 (dealing with “Accountability”) acknowledges that archaeologists have any sort of obligation to the public, to consultation (which theoretically includes notifying and working with the “public”, and (implicitly) the people whose cultures are under study “with the goal of establishing a working relationship that can be beneficial to all parties involved”). While the SAA’s Principle 4 deals with public education and outreach, encouraging archaeologists to “reach out to, and participate in cooperative efforts with others interested in the archaeological record with the aim of improving the preservation, protection, and interpretation of the record”, it does not in reality deal with particular aspects or cultural groups, but, rather, the general public, which can be interpreted to be broadly “American” but perhaps not really as multi-cultural as one might expect. In some ways, while the Principle suggests archaeologists should reach out to all cultures, in practice archaeologists reach out primarily to those who are educated or interested enough to grasp the effort.

As numerous authors have noted (cf. Colwell-Chanthaphonh 2010; Colwell-Chanthaphonh et al. 2010; McGhee 2008; Nicholas and Bannister 2004; Nicholas 2008; Zimmerman 2008), archaeologists in North America have been hesitant to relinquish control over contested topics, especially those topics that require sharing or handing over power to “marginalized” groups. The SAA encourages archaeologists to work towards increased dissemination of the results of their research “in accessible form (through publication or other means) to as wide a range of interested publics as possible” in its Principle 6, but this should not be confused with calling for increased involvement of marginalized groups in the process. While dissemination of information is important, it does little more than reinforce the archaeologist’s opinion of what he or she believes to be “true”. Nowhere does this principle create an ethical *requirement* to work with multiple publics rather than to publish in publically accepted form or format.

The Principles are either mute or somewhat antagonistic in relation to the sharing or relinquishing of control over contested topics and the inclusion or use of non-Western historical interpretations into archaeological hermeneutics. Rather than

relinquishing control over such topics, the SAA's Principles are notably silent on repatriation or shared control of key biological and cultural remains. Its Principle 7 says only that "(a)rchaeologists should work actively for the preservation of, and long term access to, archaeological collections, records, and reports". This statement implicitly argues that it is the archaeologist's *obligation* to oppose actions which might result in lack of access to "archaeological collections, records and reports". Since repatriation of "key biological and cultural remains" affects "archaeological collections", support of repatriation might be seen to be somehow "unethical" and, therefore, against the principles to which archaeologists are responsible. Remarkably, the continued definition of human skeletal remains as "archaeological resources" included within "archaeological collections" creates a regulatory situation that can be openly antagonistic to the communities whose ancestral relations lie buried within museum collections.

Finally, further in relation to the inclusion or use of non-Western historical interpretations into archaeological hermeneutics, the formation and expansion of "Indigenous archaeology" has been influenced more fully by the codes of ethics proposed by the World Archaeological Congress (WAC): its First Code of Ethics; its Vermillion Accord; and the Tamaki Makau-rau Accord on the Display of Human Remains and Sacred Objects (each available online at [http://www.worldarchaeologicalcongress.org/site/about\\_ethi.php#code1](http://www.worldarchaeologicalcongress.org/site/about_ethi.php#code1)) than by any other codes of ethical responsibility. In many ways, WAC has been influential in trying to redistribute the power over Indigenous archaeologies in direct and indirect ways by providing alternative means of conducting and presenting archaeology to large numbers of Indigenous practitioners and by providing venues outside of more common Western locales where a wider variety of interested people can attend and interact with each other.

This Indigenous perspective on ethics cannot be explicitly labeled "public", rather the discipline as practiced (and espoused) by the SAA privileges the archaeologist rather than other groups who might have an active or intellectual interest in the practice and interpretation of the archaeological record as it relates to cultural heritage. While it is the "responsibility" of the archaeologist to include the public to some extent, the primary responsibility as implicit within the code is *to* the archaeological record and not to any living group or contemporary population other than the academic or discipline. Proceeding from the "prime directive" (Principle 1) that "(i)t is the responsibility of all archaeologists to work for the long-term conservation and protection of the archaeological record by practicing and promoting stewardship," the professional archaeologist is not only given control over the ways that "conservation and protection" is defined, practiced, and enforced, but is also required to do so in order to be considered "ethical". Only when that prime ethical responsibility has been met can such an archaeologist stoop to involve "interested publics" in the process.

This is where North American archaeology falls short. Praxis—putting theoretical knowledge to work—should be part of the active cycle in the development of ethics in North American archaeology, but it has not been so. Perhaps there has not been an active movement to exclude Indigenous or "minority" populations from an active

involvement with archaeology, but there has also not been an active welcoming of archaeology to those populations other than on individual cases until recently. Colwell-Chanthaphonh (2010), Colwell-Chanthaphonh and Ferguson (2008), Silliman (2008), and Swidler et al. (1997), to name but a few, have actively written about and supported strengthening the voices and authority of under-represented minorities within archaeology to work within the existing structure to help modify the trajectory of archaeology. However, the ability to change the ethical structures of North American practitioners seems unlikely.

There has been a move by some individuals within archaeology to more fully address the concerns about the inequity between practitioners of archaeology and the descendant and interested communities involved with the archaeological heritages under examination. In October 2008, 12 archaeologists of diverse backgrounds, interests, and ages met at Indiana University, Bloomington, to discuss the Principles of Archaeological Ethics and their implications for archaeological practice in today's society. Proceeding from the position that collaborative practice is essential for quality archaeology, the group reviewed the Principles for possible revision and expansion. They also began developing ideas to improve interactions between archaeologists and affected groups, particularly Native American and Indigenous communities. The group solicited comments from archaeologists via an open letter published in the March 2009 edition of the *Record* (online at <http://www.archaeology-ce.info/letter.html>) as well as through other social media (Facebook). The group identified five major areas for discussion: consultation, reciprocity and partnership; collaborative stewardship; research practice and integrity; public engagement and responsiveness; and the global contexts of local collaborations.

However, only a handful of responses were received by the organizers. Such a lack of response can be interpreted in too many ways to be useful—it might be that a very small minority sees the need for revision of the Principles, that the majority of the SAA membership does not support the idea of sharing the enterprise with Native American and descendant communities, or that no one cares about the ethical practice of archaeology outside of the purely academic aspects of the discipline. But the action did serve as an impetus for the SAA to call for reflection.

In November 2010, the Board of Directors of the Society for American Archaeology charged the SAA's Committee on Ethics "to review the SAA Principles of Archaeological Ethics and recommend whether there are areas that may be in need of revision and further discussion, and report back to the Board by September 1, 2011". The Committee recommended that the SAA poll its members concerning the revision or visitation of the SAA Principles during the summer of 2012, especially in relation to the idea of stewardship and the role of the archaeologist to assume the primary role of "steward" to the apparent exclusion of others whose interests lie within the archaeological record.

While these might be seen to be positive steps in relation to the opening of archaeology to its many publics, including Indigenous and other "ethnic" groups described in the Principles as "interested parties", in reality those "interested parties" will still have a minority position of power when it comes to the interpretation and implementation of the various aspects of the archaeological enterprise. In the

Principles, “interested publics” are considered to have relatively equal interest in the archaeological record, but in reality that interest does not equate to power, control, or ownership. It is highly unlikely that the members of the Society for American Archaeology who are currently privileged in the process will freely turn over control to non-academic communities, regardless of the intentions of those communities. Those whose financial and professional livelihood depends on the practice archaeology as a profession are unlikely to turn over control to Indigenous groups and stakeholder communities without recognizing the changing face of archaeology as it is tied to social and political aspects of the cultures around it. WAC’s strength lies in its wide reaching reliance on Indigenous practitioners to stay involved; it falls short, however, of having the true political power within the profession to initiate and create change rather than influencing the perspectives of a small subset of archaeologists within the United States. Still, it does continue to influence the writings and actions of people who are active members of the Society for American Archaeology at the Committee and Board levels of organizational governance.

External events in the broader American social and political spheres have had impact on archaeology in the United States. The passage of national legislation such as the National Museum of the American Indian Act in 1989 and the Native American Graves Protection and Repatriation Act of 1990 and the 1992 amendments to the National Historic Preservation Act reflect a growing awareness of the need for the discipline to work more fully with multiple stakeholders. But there continues to be legal challenges to the legislation—the court case over the Ancient One (Kennewick Man) and concerns over the 2012 passage of the regulations concerning the disposition of cultural unidentifiable human remains—that seem to indicate a growing movement towards more limited sharing of the past with contemporary cultures.

At this point in time it is uncertain what direction archaeological ethics in the United States will turn in the near future. There are very real consequences if the discipline chooses to focus more on the academic and business practices of archaeology than it does on the social aspects of archaeology’s responsibilities to the people it studies. The discipline can choose to revert to the way it was before it became aware of its responsibilities to living contemporary cultures, or it can choose to move forward towards a more humanistic discipline that not only is aware of its responsibilities to living cultures but also embraces the opportunity to learn from and with those cultures. The choice is looming.

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