

# Chip Colwell-Chanthaphonh's Commentary on "Ethical Considerations with Archaeology and Community Conflict"

Commentary On

Ethical Considerations with Archaeology and Community Conflict

The question of whether archaeologists can and should seek informed consent is provocative and worth asking. Many cultural anthropologists have been reluctant to accept the need for formal informed consent procedures, arguing that the practice should apply only to biological, psychological, and medical research. Anthropology, the argument goes, is its own creature whereby informed consent is tacit in its very being. If cultural anthropologists have been reluctant to come to the idea of informed consent, then archaeologists have been downright hostile. Archaeologists, after all, deal with *dead* things. Yet, as this stimulating case study illustrates, questions about informed consent relate to the many practical and ethical choices archaeologists must make. The question often boils down to this: who has the moral authority to grant archaeological research? Is it the professional archaeologist, trained in heritage management and the self-appointed steward of the past? Is it the local community whose members often are inevitably impacted by research? Or, is it the lineal or group descendents who often lack legal control over their ancestors' remains but still have strong emotional ties to their ancestral past?

Informed consent is defined variably, but a good, broad definition is used by the Human Genome Project: it is when an individual willingly agrees to participate in an activity after first being advised of the risks and benefits. The "informed" part of the equation is thus fairly straightforward, as it requires researchers to provide a full disclosure of all the facts necessary to make an intelligent decision. It is the ethical obligation of archaeologists to provide this information, not only because they are the ones conducting the research, but also, because of their unique anthropological training, they are in the best position to understand the risks and benefits of a given

archaeological research project.

But who can give consent? The argument that archaeologists cannot get consent because they deal with inert objects or deceased individuals is spurious. Every day in the United States, we recognize the legal and moral authority of deceased individuals. Through wills, most notably, people actively carry out the demands of the dead. Property is divided as requested. Ashes are scattered at the deceased's favorite spot. Organs are donated or not donated. A husband is buried next to his wife. A cynic and disbeliever in the afterlife might say that the dead would not know any of the things, so there should be no obligation for such acts. But the obligations we feel to carry out such wishes is incredibly powerful in the Western world — indeed, in just about every society on earth.

The kings and queens of Egypt spent their lifetimes building monuments to ensure their remains were housed in a sacred place, guaranteeing their well-being beyond this world. The desecration of their remains, these ancient Egyptians believed, would obliterate their soul. We know this not only from the survival of ancient texts, but also the material evidence, which illustrates the lengths at which the Egyptians went to hide themselves from vandals and thieves. These ancient Egyptians, however, did not anticipate the tenacity of archaeologists. Egyptian archaeologists, then, by virtue of their work that disturbs the tombs of kings and queens contravene the will of the dead. The Egyptians did not want their remains disturbed — and yet they are.

An argument could be made, perhaps, that time has a moral dimension here. The great antiquity of the Egyptian leaders does seem to lessen their immediacy. Think of your own family. Imagine having to move (for some reason) the grave of your mother buried just two years ago who you know wanted to be buried where she currently rests. This would be more traumatic than having to move the grave of your grandmother buried 60 years ago, or your great-grandmother buried more than a century before today. The wishes of those long dead intuitively seem less potent. (However, I would also hazard to say that the ancient Egyptians, who seemed to have a firm grasp on infinity, would disagree with this claim.) Another possible argument relates to that of necessity. Suppose that your mother did not want her grave to be moved, but that a new highway going through her cemetery would utterly destroy her headstone and casket. The lesser of two evils in this case would be to move her remains, as it would be easy to imagine her wanting if she had been faced with this choice.

There is little doubt, then, that the dead do or do not tell us what they want done with their bodies and their possessions. They tell us in both specific and general ways. But what about cases where it is not as clear, where the individuals left no will or sign of their desires? Who then can give consent? While archaeologists may be tempted to raise their hands and offer consent, they cannot and should not. Although archaeological researchers are experts in studying the past and managing heritage in the present they also have conflicting interests. The very fact that they are the researchers with their own agendas, their own reasons always to study, does not give their consent any substance. Imagine the Tuskegee doctors — clearly the medical experts and fully informed — giving their consent for research on their African-American patients.

The public, local communities, often feel the immediate impacts of research or the lack thereof. In a real sense, if the mall is built in this case study, it is the local community that will have easy access to Wal-Mart and The Gap. Conversely, if the mall is built elsewhere, they will have a heritage resource to learn about their region's history and a possible source of tourism dollars. However, the general public often feels less direct personal connection to other people's past. If an heirloom in your family is accidentally destroyed, I may be upset on your behalf, but you are likely to be utterly devastated; I can empathize with the object's importance to you, but you are the one who will no longer have the artifact to connect yourself to the past. Thus, while the public does have some stake in archaeological resources, they are often focused more immediately on present social and economic forces. We recognize the public's distance from such decisions already, for example, in the case of organ donation. The individual and family choice is predominant, while considerations about the broader public good are secondary. In such ways, the public's moral authority is somewhat limited on such questions.

Of all the stakeholders lineal descendants almost always feel most acutely about their ancestors. In medical terms, a family member is most often the "responsible proxy" for an individual who cannot make her or his own choices. This makes sense because the family is most likely to understand the incapacitated person's wishes, their dreams and desires. The family is most likely to be distraught by the death of a loved one. When a lineal descendant cannot be tracked, the individual's ethnic or religious identity becomes relevant because of the shared worldview among members of a given community. A Mennonite community would surely know better what to do with a deceased person of Mennonite heritage than I, as I am not familiar

with Mennonite beliefs. Clearly some individuals and histories go beyond any single family or community. All Americans are the progeny of George Washington; all Americans are connected to Gettysburg; all Americans are vested in the remains of the World Trade Center. In these cases, full consent for research or memorial making may be impossible — at least in practical terms.

Because many people have many stakes in questions of heritage, the best way to approach decisions about informed consent should be through a metaphor of nested relationships. Once the stakeholders are fully informed, decisions about consent should proceed from those most connected to the material past in question to those who are only tangentially connected. As distraught as I was about 9/11 living in Arizona, I was probably less distressed than someone who lived in downtown Manhattan. All stakeholders, by definition, have some stake — but some stakes are bigger than others.