

# UNIVERSITY OF CALIFORNIA, BERKELEY

BERKELEY DAVIS IRVINE LOS ANGELES RIVERSIDE SAN DIEGO SAN FRANCISCO



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Paul Fine, Chair  
Building Name Review Committee  
University of California, Berkeley

Dear Dr. Fine and review committee members,

I write in regards to the submitted proposal to unname Kroeber Hall. Along with several campus colleagues, I added my signature to endorse the proposal submitted on July 1, 2020. I am a Professor of Anthropology on our campus, and also serve as the Chair of the UC Berkeley Native American Graves Protection and Repatriation Act Advisory Committee. I write here to further contextualize my endorsement not only from my position in these roles, but also as a bioarchaeologist<sup>1</sup>.

First, I wish to clarify that I did not write the submitted proposal to unname Kroeber Hall, nor did it originate from the Department of Anthropology. It is my understanding that this proposal was crafted with input from various campus and local community constituents<sup>2</sup>, highlighting specifically the historical actions and cumulative impacts of Alfred Kroeber that cause him to be a hostile and painful symbol to many Native Americans particularly in the state of California. The proposal is a critique of A.L. Kroeber, and I am aware that the proposal overlooks his enduring contributions such as the documentation of Native American oral histories and memories, his later efforts to support Indigenous land claims, and his anti-racist contributions in the anthropological tradition of his mentor Franz Boas that took sustained aim at those promulgating scientific racism during his time. I will not elaborate here on these contributions as I know many of my colleagues, who have more meaningful engagement with these aspects of his legacy in their own research and expertise than do I, will do so in their own public comments. The proposal instead privileges the truth and experiences of living Indigenous peoples. In supporting this proposal with this narrative, our campus demonstrates our commitment to include and prioritize the voices of Native Americans. Doing so does not erase or cancel the scholarly contributions of Alfred Kroeber. Since the posting of the proposal I have

<sup>1</sup> Bioarchaeologists study human skeletal remains together with the use of archaeological historical, archival, and ethnographic data.

<sup>2</sup> The proposal submitted is not signed/authored, but notes that it "relies on inspiration and advice from Native American scholars and on the advocacy and research of staff and students, many of whom are Indigenous, Black, or Brown".

had spirited conversations and heartfelt emails with anthropological colleagues, linguists, historians and even a descendant of Alfred Kroeber. The proposal is the type of seed for substantive and inclusive dialogue that can begin the reparative process across our campus and nation.

Second, this proposal to unname Kroeber Hall also draws attention to the wider role that our campus continues to play in the systemic violence to Native American peoples. One of the key arguments in the proposal for why Alfred Kroeber's name does not represent the values of UC Berkeley is his role in the research practice of the collection of the remains and sacred funerary objects of Native American ancestors. Kroeber did not personally excavate sites in the U.S. and he was not an archaeologist trained in the study of human remains. However, he did support and oversee the collection of thousands of Native American human ancestors and cultural belongings from across California. Like all archaeologists/anthropologists of his day, Kroeber did not recognize the bioethics of taking the remains of Native American ancestors without consent versus those excavated with consent in other parts of the world. However, the pain and unease felt by living Native Americans today is not triggered alone by the historic practices of Alfred Kroeber, but by the fact that the Berkeley campus *continues* to hold the majority of these Native American ancestors and cultural belongings in the Hearst Museum located today in Kroeber Hall.

As a bioarchaeologist my life's work has been dedicated to examination of skeletal human remains from around the globe to better understand the interaction between biology and social behavior. The study, excavation, and preservation of human remains is not morally or universally wrong. The work that myself and my students have conducted with archaeological remains from the Neolithic to the end of Middle Ages, to the remains of present-day migrants on the US-Mexico border, has sought to answer questions related to gender, age, inequality, disability and violence that would otherwise go unanswered. It is not paradoxical that bioarchaeologists (and all anthropologists) reflexively engage with the bioethics of their practice. The majority of contemporary bioarchaeologists, even those trained historically in human osteological anatomy with the bodies of Native American and First Nation ancestors, no longer support research or teaching with the human remains of any peoples without consent<sup>3</sup> of living descendants. We realize that the study and curation of ancestors that have been taken from sacred burial sites or those that were victims of genocide is wrong, and there have been laws (NAGPRA) passed in the U.S. to allow Native American tribes and their lineal descendants to obtain repatriation of these ancestors and belongings from federal agencies and museums<sup>4</sup>.

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<sup>3</sup> Consent is obviously complicated, and who gives consent, who are considered living descendants, and who "owns the past" is an ethical and legal dilemma that continues to be discussed and evolve in the (bio)archaeological practice. I refer here specifically to North America. Prior to NAGPRA law there was essentially no law that prevented or questioned the looting and/or academic excavation of Native American ancestors and sacred sites in North America. Post -NAGPRA bioarchaeologists realize the legal and ethical obligation to consult and collaborate with Native American peoples as living descendants, but this actually increasingly applies to bioarchaeologists working globally in various parts of the world and time periods.

<sup>4</sup> The Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3001-3013, 43 CFR Part 10 was passed on November 16, 1990, to resolve the disposition of Native American cultural items and human remains under the control of Federal agencies and institutions that receive Federal funding ("museums"), as well as the ownership or control of cultural items and human remains discovered on Federal or tribal lands after November 16, 1990. NAGPRA gives lineal descendants (regardless of whether or not they are Native American), Indian tribes, and Native Hawaiian organizations (NHOs) a process for transfer to them of ancestors and cultural items.

So why does the campus still hold thousands of Native American ancestors? Under NAGPRA law tribes can only make successful claim to ancestors and belongings if cultural affiliation (a relationship) can be shown between the ancestors or cultural belongings being kept and present-day groups<sup>5</sup>. The largest number of Californian ancestors and cultural belongings that were collected during and after the tenure of Alfred Kroeber on the Berkeley campus have been classified as “culturally unidentifiable (CUI)”<sup>6</sup>. Despite a newly added proposed rule in 2007 for the disposition and return of these “unidentifiable” human ancestors and cultural belongings<sup>7</sup>, the passing of a specific California Act on NAGPRA (CaINAGPRA) in 2001<sup>8</sup>, and California Assembly Bill No. 2836 in 2018 aimed to specifically improve the University of California’s repatriation procedures<sup>9</sup>, this classification has provided a basis for denying repatriation of these human remains. The UC Berkeley campus has continued to use the most conservative interpretation possible under the law of what constitutes the relationship of shared group identity that can be traced (historically or prehistorically) between present-day Indian tribes and an identifiable earlier group, an interpretation that is not much different from Kroeber’s view that cultures that are transformed by biological and/or cultural hybridization are no longer the same or cease to exist<sup>10</sup>. In the case of the “culturally unidentifiable” ancestors still being held on the Berkeley campus this has resulted in the discounting of traditional tribal knowledge on cultural affiliation, at a time when other institutions nationally, and even other institutions within the UC system, have used more reasonable interpretation of the evidence. Instead we have for decades given humiliating and dehumanizing treatment to Native American peoples that have sought repatriation. This was the result of a lack oversight and complacency by our past campus administration that allowed and supported a handful of museum staff and curators to determine campus repatriation policy and process, despite decades of complaints, protests and advocacy efforts from Native American communities, students, scholars, and several of the Anthropology faculty.

If this proposal calls us to judge the actions of Alfred Kroeber a century ago, we should also take this opportunity to reflect on our own more recent (in)actions that perpetuate pain and create more significant damage to our relationship with living Native American peoples than historic actors. The proposal is an acknowledgment of the painful symbol that Kroeber represents to

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<sup>5</sup> Cultural affiliation, as defined in NAGPRA [25 USC 3001 (2)], is a relationship of shared group identity that may be reasonably traced historically or prehistorically between a present-day Indian tribe or NHO and an identifiable earlier group.

<sup>6</sup> When, after following the requirements of the NAGPRA, including consultation with Indian tribes and NHOs, the totality of information shared does not reasonably permit a relationship of shared group identity to be traced, the human remains of ancestors and their belongings determined to be culturally unidentifiable (CUI).

<sup>7</sup> In 2007 a mandatory process was added to NAGPRA for resolution of the disposition of human remains of said to culturally unidentifiable. In addition, NAGPRA provides a discretionary process for the disposition of CUI without a "tribal land" or "aboriginal land" provenience.

<sup>8</sup> California Native American Graves Protection and Repatriation Act (California act) was enacted in state law in 2001 following a concerted legislative advocacy effort led by California Native tribes. It requires all agencies and museums that receive state funding that have possession or control over collections of California Native American human remains or cultural items, as defined, to inventory those remains and items for the identification and repatriation of the items to the appropriate Indian tribes.

<sup>9</sup> The Assembly Bill 2836 now incorporated into CaINAGPRA will create a systemwide repatriation oversight committee, require greater consultation of the Native American Heritage Commission and implement two future audits to ensure compliance.

<sup>10</sup> Jordan Jacobs (2009) (the Head of Cultural Policy at the Phoebe A. Hearst Museum of Anthropology) on describing shortcomings of the 43 CFR 10.11 rule for the Disposition of Culturally Unidentifiable Human Remains and complexities of determining cultural affiliation between descendant communities and human remains, states that “the complexities of human society – with its constant merging, shifting, and dividing – increasingly confuse links between archaeological material and cultural identities to the point where no intrinsic connection can be determined”.

many. The building should be unnamed on this reason alone. But we should view this as one of the first of many steps that our campus is now undertaking to not only support diversity and create a more inclusive campus space, but also a forge a dramatically new policy<sup>11</sup> and process on repatriation<sup>12</sup>, and to support Native community interests and improve our campus climate through a dialogue of truths and listening<sup>13</sup>.

Respectfully,



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Professor  
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University of California at Berkeley  
Co-Founding Editor, *Bioarchaeology International*

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<sup>11</sup> The Office of the President has revised [UC's Native American Cultural Affiliation and Repatriation Policy](#) with the goal to strengthen practices and procedures, consistently across the UC system, and to facilitate the repatriation of Native American and Native Hawaiian human remains and cultural items in accordance with both NAGPRA and CalNAGPRA.

<sup>12</sup> The campus Vice Chancellor for Research, under the strong commitment of Chancellor Christ, recently reconstituted the Berkeley NAGPRA Advisory Committee that supports the intent of Executive Order N-15-19 of the State of California, and recognizes and commits to implementing the rights of Indigenous Peoples articulated in Article 12 of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). The Committee upholds the campus renewed commitment to repatriation made in conjunction with meaningful consultation with indigenous Peoples. The Committee continues to review claims for cultural affiliation and requests for repatriation/disposition, make recommendations to the Campus NAGPRA Official (Chancellor's designee), and ensure campus compliance with NAGPRA and CalNAGPRA to the greatest extent possible through active community outreach. Review of traditional knowledge, in a format amiable to individual Tribes, is now been a critical part of the decision-making process. <https://vcresearch.berkeley.edu/research-policies/nagpra>

<sup>13</sup> Under the UC Berkeley Division of Equity and Inclusion, the Native American Advisory Council (composed of faculty, staff, graduate students) was formed to support efforts to inform and educate the campus community about Native issues and improve tribal community outreach and communications, support Native community interests, and improve campus climate and campus experiences for Native people. <https://diversity.berkeley.edu/native-american-advisory-board>