A COMPREHENSIVE EXAMINATION OF HISTORICAL EVENTS LEADING TO DISINTERMENT PRACTICES AND REPATRIATION DELAYS INVOLVING THE MUSCOGEE (CREEK) NATION AND ETOWAH MOUNDS, WITH AN ANALYSIS OF THE VERMILLION ACCORD AS A FRAMEWORK FOR ASSESSING HOW REPATRIATION IS HINDERED WHEN INSTITUTIONS REJECT INDIGENOUS ‘RESPECT’ IDEOLOGIES THAT HONOR ANCESTRAL REMAINS

Wendy Butts

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A COMPREHENSIVE EXAMINATION OF HISTORICAL EVENTS LEADING TO
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MUSCOGEE (CREEK) NATION AND ETOWAH MOUNDS, WITH AN ANALYSIS
OF THE VERMILLION ACCORD AS A FRAMEWORK FOR ASSESSING HOW
REPATRIATION IS HINDERED WHEN INSTITUTIONS REJECT INDIGENOUS
‘RESPECT’ IDEOLOGIES THAT HONOR ANCESTRAL REMAINS

By

Wendy Y. Butts

A Dissertation
Submitted in Partial Fulfillment of the
Requirements for the Degree of
Doctor of Liberal Studies

Major: Liberal Studies

The University of Memphis

May 2024
Dedication

To The Muscogee (Creek) Nation.

My goal was not to speak on behalf of the Tribe, but to add my voice in support of your long-standing quest to reclaim all belongings disinterred from the Etowah Mounds site. It is my hope that this dissertation ignites a grassroots movement that results in the expeditious return of your ancestral grandparents so they can be laid to rest.
Acknowledgements

I truly thank God for His grace and for leading me throughout the entire doctoral process.

To my husband: You put your own dreams on hold so I could follow mine. Thank you for the many times that you tirelessly reread my dissertation drafts with me. Your unwavering encouragement and support helped me to achieve this amazing outcome.

To my wonderful son, daughter, and son-in-law: I appreciate you for understanding when I had to miss family time throughout the doctoral process.

To my Doctoral Committee - Dr. Jeremey Killian (Chair), Dr. Leslie Luebbers, and Dr. Edward Maclin: Thank you most sincerely for giving of your time and expertise which helped me to write a dissertation that challenged me to move beyond my comfort zone. Attaining a DSL degree at UM would not have been possible had you not made the decision to support my research. Because of your willingness to support my work, I am going forth feeling empowered. My experience at UM has been amazing because I was provided with the opportunity to work with each of you.

To Professor Savage: I thank you for being an unofficial advisor during the final stages of my dissertation draft. Your support was paramount and helped me to produce a dissertation that I am extremely proud of.

To Dr. Alima Anderson: You remained a consistent source of support as I flushed out details of my research early in the process. I thank you for making yourself available as a doctoral mentor and for being a constant source of encouragement to the very end.

Finally, to my very long list of encouragers who cheered me onward as I worked through the dissertation process: I thank you for your invaluable support of my dream.
Abstract

The impetus for this dissertation was a meeting with several subject matter experts belonging to the Muscogee (Creek) Nation, who shared their interest in garnering enough public support to pressure eleven institutions into returning burial belongings disinterred from the Etowah Mounds. As such, the objective of this historical research was to support the Tribe’s goal by raising public awareness of their decades-long repatriation challenges. In order to accomplish that objective, as a backdrop, this dissertation undertook a comprehensive examination of pertinent pre- and post- contact events surrounding Muskogean-speaking people of the Southeast region, which provided context for why present-day descendants remained unsuccessful at reclaiming their ancestral belongings. That interpretive research was further strengthened by the seven subject matter experts who expounded on the Tribe’s repatriation experiences and the significance of reburying ancestral belongings on original homelands. Also conducted as part of the historical focus of this dissertation was an evaluation of repatriation law, barriers hindering the repatriation process, and proposed strategies for removing barriers. Because biased proclivities toward Native Americans negatively impacted repatriation, also examined were strategies for strengthening relations between Indigenous groups and institutions, along with a review of updated policies implemented by the eleven institutions that sought to correct culturally inappropriate practices. Finally, to provide a philosophical explanation for why repatriations were hindered, *The Vermillion Accord On Human Remains* ethical code was used as a framework to support the suggestion that when institutions reject Indigenous ‘respect’ ideologies that honor ancestral remains, their Eurocentric beliefs could hinder the repatriation process. Throughout the dissertation, scholarly Indigenous sources were cited which ensured that an evenhanded accounting of Muscogee (Creek) history was achieved.
### Definition of Terms

<table>
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<tr>
<td>Ancestral Belongings, Ancestral Grandparents, Ancestral Remains,</td>
<td>Includes human bone fragments, full human skeletal remains, biological human remains, and/or objects interred as part of burial practices.</td>
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<tr>
<td>or Burial Inventories, Burial Belongings, Burial Remains,</td>
<td></td>
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<tr>
<td>Funerary Objects.</td>
<td></td>
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<tr>
<td>Eurocentrism/Eurocentric</td>
<td>“An ideology…that interprets the world from the point of view of Western, especially European lenses…an inherent belief in the pre-eminence of European culture, knowledge, and values…seeing Western civilization as the pinnacle of human progress…Eurocentrism simultaneously ignores or marginalizes the philosophy, knowledge, contributions, science, culture, and civilization” of non-European groups which represents half the globe.</td>
</tr>
<tr>
<td>Institution(s)</td>
<td>For purposes of this dissertation, the term refers to agency staff responsible for making decisions about broad topics surrounding repatriation.</td>
</tr>
<tr>
<td>References To Members Of Indigenous Groups</td>
<td>Following were preferences shared by the Muscogee subject matter experts for referring to their community in this dissertation: Muscogee, Creek, Muscogee Creek, Muscogee (Creek), Muscogee (Creek) Nation, Muscogee Nation, Muscogee Confederacy, Muscogee (Creek) Confederacy, Native Americans, American Indians, Muskogean-Language Speakers. Also accepted were Indigenous or Aboriginal, although typically when used for research. The term “Indigenous Peoples” was not preferred by the subject matter experts, who stated that the term implied that Tribes did not belong to a cultural group.</td>
</tr>
<tr>
<td>Repatriation</td>
<td>The return of human remains and sacred funerary objects to their affiliated group, most</td>
</tr>
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3 MCN Historic and Cultural Dept, Zoom meeting with the author, 2023.
particularly when those belongings were deliberately or unintentionally disinterred from places of internment.\(^4\)

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Introduction

Across American history, indigenous cemeteries, unofficial burial sites, and mass graves (such as earthen mounds) were either intentionally or accidentally disturbed, resulting in the removal of interred decedents and funerary objects that were also buried within graves. Equally as disturbing was that oftentimes disinterred Indigenous human remains were not returned to affiliated custodians, but instead were either used in research without consent or were exhibited in museums to satisfy public interest.\(^1\) While it is important to stress that Native Americans are not members of one homogenous cultural group sharing the same opinions about how disinterred ancestral remains should be handled, there is still strong consensus among many Tribes that burial belongings should be returned to Tribes for reburial.\(^2\) As such, this dissertation comprehensively examines key historical events that led to disinterment practices involving the Muscogee (Creek) Nation and the Etowah Mounds, as well as repatriation challenges that continue to plague the Tribe today. In short, for over three decades, the Muscogee (Creek) Nation has been unsuccessful at acquiring the belongings excavated from the Etowah site, and it is their expressed interest to raise public awareness of their plight in order to apply pressure to the eleven institutions in possession of the ancestral remains.\(^3\) Also essential is the Tribe’s quest to acquire a parcel of land in Georgia so that ancestral grandparents can be reburied at a place most associated with their early traditions.\(^4\) Thus, it is the overarching goal of this dissertation to

\(^1\) Office of the Law Revision Counsel.


\(^3\) MCN Historic and Cultural Dept, Zoom meeting.

\(^4\) MCN Historic and Cultural Dept, Zoom meeting.
provide an accurate accounting of disinterment and repatriation challenges experienced by the Muscogee people which could raise public awareness, increase advocacy around those issues, and ultimately pressure institutions to comply with repatriation law.

As a backdrop, this dissertation comprehensively examines the history of Muskogean-speaking inhabitants within the Southeastern region, which will shed light on how their traditions (such as burial ceremonies) became interconnected with established homelands. That dynamic underscores why the present-day Tribe insists on reburying reclaimed belongings on lands most associated with ancestral decedents. Moreover, conducting a detailed examination of Muscogee history also adds context to the rise of disinterment activities, the demand for repatriation law, and the failure of institutions to return burial belongings to this day.

Additionally, germane to this dissertation is input from seven Muscogee (Creek) subject matter experts whose scholarship includes the fields of archaeology, preservation, repatriation law, academia, and Tribal government. The experts shared insights about the Tribe’s recent repatriation challenges, and they also named eleven institutions still in possession of burial belongings removed from the Etowah Mounds site. Because those institutions have not complied with repatriation law for over thirty years, the research being undertaken suggests that prolonged delays may be caused by Eurocentric beliefs that conflict with Indigenous ‘respect’ values assigned to ancestral remains. Thus, using The Vermillion Accord On Human Remains ethical code as its framework, an evaluation will be undertaken to support the suggestion that when institutions reject Indigenous ‘respect’ ideologies that honor ancestral remains, their Eurocentric perspectives may play a role in why eleven institutions have hindered repatriation of their Etowah inventories. Following is an overview of topics researched in each chapter:

Chapter One examines the development of several cultural traditions among early
inhabitants of the Woodland and Mississippian Periods, which ultimately led to the establishment of homelands in the Southeastern region. Understanding how cultural traditions and homelands became interconnected is important for providing context for why descendants across generations were adversely affected by disinterment activities at burial sites such as the Etowah Mounds. Moreover, understanding those connections also highlights why Tribes across post-contact history were willing to fight and die for custodial lands. Additionally, by drawing connections between Tribal customs and homelands, one may better understand the Muscogee Nation’s adamance for reburying the Etowah belongings in Georgia where ancestral descendants were most connected. Chapter One will also include an examination of burial practices common to the Muscogee and other Tribes, which will support why interment places were meant to be permanent and why disinterment activities posed spiritual and ethical dilemmas for some Native Americans. The research covered in Chapter One is a precursor to the comprehensive examination covered in Chapter Two, which investigates major historical events occurring across colonial periods that marked an increase in disinterment activities aimed at research.

Early disinterment activities eventually led to the desecration of the Etowah Mounds burial site, which was ultimately affiliated to present-day Muscogee (Creek) people. In that regard, Chapter Two examines dark periods across Muscogee colonial history, which will shed light on how Southeastern Tribes went from permitting early settlers to share their homelands, to Tribes being forcibly resettled onto Indian Territory in Oklahoma by way of the Trail of Tears. Lastly, Chapter Two ends with a summarization of the 2022 Address To The Nation presented by Principal Chief Hill of the Muscogee (Creek) Nation, which highlights the Tribe’s resiliency.

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(after enduring many years of hardship as its members struggled to resettle on unfamiliar reservation lands, and overcome policies that negatively impacted Indigenous groups at that time). In his address, along with touting the Tribe’s impressive milestones, Principal Chief Hill emphasized their unwavering commitment to reclaim all burial belongings affiliated with the Muscogee Nation.⁶

Next, Chapter Three begins with an examination of current repatriation law which was established over three decades ago. Unfortunately, in many cases, when institutions earnestly attempted to comply with the law, oftentimes barriers were responsible for hindering the return of ancestral remains. Thus, relevant to that topic will be an examination of several major barriers that continue to plague the repatriation process. Chapter Three will also examine events that led to disinterment activities for entertainment and profit. In addition, the Chapter will include a summarization of an exclusive discussion held with seven subject matter experts from the Muscogee (Creek) Nation who provided insights about current repatriation experiences involving the Etowah Mounds. During that discussion, the members also expressed appreciation for this dissertation’s commitment to research the Tribe’s repatriation challenges, which could help raise public awareness and increase advocacy around pressuring institutions to expedite the return of Etowah’s belongings.

Subsequently, Chapter Four will examine relevant strategies for removing barriers from current repatriation law, as well as examine key strategies for strengthening relations between Tribes and institutions that historically engaged in harmful curating and exhibiting practices. Examples of harmful practices that museums levied against Native Americans will be emphasized as a way to highlight how deeply institutions engaged in culturally inappropriate

⁶ David Hill, Principal Chief, 2022 State of the Nation.
practices. The examples will also emphasize why mending relationships with Indigenous groups is paramount for the future success of many museums. Consequently, in an attempt to ensure positive changes take place, the chapter ends with an update of current policies enacted by the eleven institutions, which address historical inequities that continue to negatively impact Native Americans today. Thus, correcting barriers to repatriation law and working on ways to strengthen relationships with Tribes can help improve the repatriation process immensely.

Lastly, Chapter Five will utilize The Vermillion Accord On Human Remains (also referred to as The Vermillion Accord) ethical code as the framework for investigating whether repatriation is hindered when institutions are unwilling or unable to accept Indigenous ‘respect’ ideologies that honor ancestral remains. As part of that philosophical examination, Indigenous epistemologies about the notion of ‘respect’ will be discussed to show how they differ from Eurocentric perspectives that are foundationally engrained in some institutions. Thus, the suggestion being made in Chapter Five is that since institutionalized perspectives are oftentimes fundamentally opposed to Indigenous ‘respect’ ideologies, failure of the eleven institutions to repatriate Etowah’s belongings may be the unfortunate result.

Overall, the research undertaken in this dissertation is especially timely because in 2021, the Biden administration appointed the first Native American to the position of U.S. Secretary of the Interior, and one of her chief goals is to remove barriers to current repatriation law so that belongings can be returned to affiliated claimants more expeditiously. Additionally, the research is timely because in 2022, a three-to-five year repatriation plan was created between the Etowah Archaeological Museum (which is located on the Etowah Mounds site), Georgia’s Department

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Of Natural Resources, and the Muscogee (Creek) Nation. Subsequently, as an act of good will, a few weeks after the plan was publicly announced, the Etowah Archaeological Museum successfully removed its Indigenous exhibits to comply with repatriation law and to honor the Tribe’s multi-generational requests for the belongings to be handled with respect. However, to date, none of the burial belongings once housed at the Etowah Archaeological Museum have been returned to the Muscogee Nation. Still, the Etowah Archaeological Museum announced their eagerness to begin consulting with the Tribe on how best to reimagine Indigenous exhibits so they are culturally sensitive to the Muscogee people. Finally, this research is also timely because it contains exclusive insights provided by the Muscogee (Creek) subject matter experts who acknowledged its importance for raising public awareness, which could lead to expeditious repatriation outcomes so that ancestral grandparents can finally be reburied on original homelands.

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9 Georgia Department of Natural Resources, *Georgia Begins Repatriation*.

10 MCN Historic and Cultural Dept., Zoom meeting.

11 Georgia Department of Natural Resources, *Georgia Begins Repatriation*. 
The Backdrop:  
Early Indigenous Inhabitants: Establishing Southeastern Homelands

The purpose of this chapter is to provide a backdrop for supporting the overall theme of this dissertation, which is to comprehensively examine major events that led to disinterment practices and repatriation challenges involving burial belongings affiliated with the Muscogee (Creek) Nation and Etowah Mounds. Thus, as a backdrop, this chapter begins with an overview of mound building and other traditions within the Woodland and Mississippian Periods, which is a precursor to examining how Indigenous inhabitants of the Southeast region became interconnected with their environments. The goal of exploring pre-contact history as a backdrop will add context to why present-day descendants of early Muskogean-speaking inhabitants are negatively affected by disinterment activities that occurred across post-contact history. Additionally, understanding how homelands were important to many Tribes underscores why some were willing to fight and die to retain custodianship of their lands. In particular, with regard to the Muscogee (Creek) Nation, understanding the value placed on land custodianship helps to convey their inherent desire to reclaim ancestral belongings in order to return them to original homelands. Also important to the overall backdrop is an overview of burial practices common to the Muscogee and other Indigenous groups which supports that interment places were meant to be permanent, and disinterment activities were an affront to spiritual and ethical beliefs of some Tribes.

The Woodland Period: Mound Builders

Although the dates are not static, the Woodland Period ranges from approximately ca. 1200 B.C. to around A.D. 1,000 (adjusted in calendar years), and is commonly divided into
Early, Middle, and Late subperiods.\footnote{David G. Anderson and Robert C. Mainfort, Jr., “An Introduction to Woodland Archaeology in the Southeast,” in \textit{The Woodland Southeast}, eds. David G. Anderson and Robert C. Mainfort, Jr. (Alabama: University of Alabama Press, 2002), 1.} Across the Southeast region, the Woodland Period is oftentimes marked by:

[T]he first widespread use of pottery…the rise and then decline of a vast panregional ceremonially based interaction network…a period of political fragmentation, increasing agricultural intensification, and population growth in many areas, out of which the complex agricultural chiefdoms that characterized the ensuing Mississippian era arose.\footnote{Anderson and Mainfort, 1.}

Moreover, Indigenous inhabitants of the Southeast were noted for their ability to manipulate and grind ceramic pieces for designing pottery that was stamped with engravings unique to specific groups.\footnote{Neil J. Wallis, Matthew T. Boulanger, Jeffrey R. Ferguson, Michael D. Glascock, “Woodland period ceramic provenance and the exchange of Swift Creek Complicated Stamped vessels in the southeastern United States,” \textit{Journal of Archaeological Science} 3 (2010), 2601, 10.1016/j.jas.2010.05.020.} Also, archeological excavations determined that copper artifacts originating in present-day Georgia during the Woodland Period was shared with groups as far away as Michigan.\footnote{Anderson and Mainfort, 1.}

Notable of the Southeast region during the Woodland Period was the prevalence of hunter-fisher-gatherer cultures that impacted the environment in positive ways.\footnote{Charles R. Cobb and Michael S. Nassaney, “Domesticating Self and Society in the Woodland Southeast,” in \textit{The Woodland Southeast}, eds. David G. Anderson and Robert C. Mainfort, Jr. (Alabama: University of Alabama Press, 2002), 526-27.} For instance, fires were intentionally set to clear woodlands in order to support farming in that region, and inhabitants also developed innovations such as “irrigation canals, agricultural tools, ridged fields, and similar technologies…to raise the threshold of food production.”\footnote{Cobb and Nassaney, “Domesticating,” 526-27.} Although societies were primarily mobile, archaeological evidence shows that sedentary inhabitants lived along the outer
Southeastern region at various points across the Woodland Period.\(^7\) Moreover, it was also during that time when Indigenous inhabitants began to store seeds that were collected in the fall and replanted where forests were cleared to support farming efforts.\(^8\) The ability to master land through forestation, sowing seeds, and harvesting, ensured that food supplies were sufficient when small groups later merged into larger Tribes and villages.\(^9\)

While the development of agricultural traditions connected Indigenous people to their environment during the Woodland Period, mound building (which increased from around 200 B.C. to A.D. 400)\(^10\) also established connections between cultural traditions and the environment. However, the increase in earthen mounds was not due to communities becoming larger at that time, since small groups continued to live near constructed land structures midway through the Woodland Period.\(^11\) With regard to mounds specific to the Southeast, they varied by “form and configuration,” increased in size between the Middle and Late subperiods,\(^12\) and new constructions seemed to wax and wane throughout the Woodland Period.\(^13\) Moreover, with regard to burial mounds in particular, while increased quantities were built across the Midwestern region during the Middle subperiod, no notable increase of burial mounds was documented in the Southeast.\(^14\) However, as the Woodland Period began transitioning into the


\(^8\) Wright., 43.

\(^9\) Wright, 43.


\(^11\) Anderson and Mainfort, 10.

\(^12\) Anderson and Mainfort, 10.

\(^13\) Cobb and Nassaney, “Domesticating,” 527.

Mississippian Period, it was believed that land mounds in the Southeast region were built to accommodate ceremonial activities such as burial practices.¹⁵ Later in this chapter, research will center around burial customs of early Indigenous mound builders that inhabited the Southeast, and will include research involving the Etowah Mounds located in Georgia.

Altering landscapes through developing innovative methods and technologies such as “irrigation canals, agricultural tools, [and] ridged fields” not only allowed for the increase in food production to support the growing populace, but it also required inhabitants to become invested in the land.¹⁶ Consequently, interconnections were established between traditions of early Indigenous inhabitants and the environments in which they lived, which supports why the Muscogee (Creek) Nation (whose members are culturally affiliated to the early Muskogean-speaking decedents disinterred from the Etowah Mounds) are unwavering in their commitment to reclaim their ancestral grandparents in order to rebury them exclusively on original homelands. Moving forward, this chapter will examine interconnections between Muskogean-speaking traditions and the environment during the Mississippian Period, as large sedentary communities became commonplace and deep connections with homelands were essential for ensuring survival.

*The Mississippian Period: An Examination of Early Muskogean Culture In The Southeast*

Because this dissertation involves events regarding the Muscogee (Creek) people in particular, this section examines Muskogean culture during the Mississippian period when large Indigenous


groups settled across the Southeastern, Midwestern, and Eastern regions.¹⁷ Many scholars date the Mississippian Period from approximately ca. 900 to 1,600 A.D.¹⁸ During that time, as Indigenous groups settled along the Mississippi River, inhabitants formed large communities.¹⁹ Additionally, settlements along the Mississippi River were successful as inhabitants mastered farming and hunting in their new environment.²⁰ Subsequently, as inhabitants moved inland from the Mississippi River, they developed innovations from natural resources that addressed food demands and protected their settlements.²¹ For example, palisade structures made of tall wooden planks were used to surround settlements, along with wide moat-like ditches that were dug to add protection to outer circumferences.²² As innovations advanced, inhabitants found ways to fortify the insides of palisade structures by applying wattle and daub, which was a mixture that contained wood and clay.²³ Wattle and daub was also used to fortify houses so they withstood the elements for longer periods of time.²⁴ As Muskogean-speaking groups within the Mississippian Period expanded across the Southeastern region, they became skilled at building

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²¹ Cobb, “Mississippi,” 70.

²² Cobb, 10.


²⁴ Harris, 13.
large earthen mounds in the center of settlements which oftentimes served as ceremonial structures for their communities.\textsuperscript{25} That practice was not unique to Southeastern Tribes because evidence shows that ancient Indigenous groups across the Americas built their cities around large land mounds.\textsuperscript{26} Also common to many Mississippian settlements were “a central plaza, residential zone, and defensive structures.”\textsuperscript{27} Additionally, common to many early Indigenous groups were massive earthen structures that were frequently used as entombments for burying the dead, and some likely housed temples or government structures at plateau levels.\textsuperscript{28}

From approximately A.D. 1000 through 1550, several thousand Indigenous groups settled along the Etowah River which included present-day Georgia.\textsuperscript{29} Subsequently, early Muskogean-speaking people living on the 54-acre Etowah Mounds site were culturally affiliated to present-day Muscogee (Creek) people.\textsuperscript{30} Cultural affiliation refers to “a relationship of shared group identity that can be reasonably traced between a present-day Indian Tribe and an identifiable earlier group.”\textsuperscript{31} In all, the Mississippian settlements located along the Etowah River region were


\textsuperscript{27} Peach State Archaeological Society.

\textsuperscript{28} Harris, “Respect,” 199.

\textsuperscript{29} Georgia Department of Natural Resources, State Parks.

\textsuperscript{30} Georgia Department of Natural Resources, State Parks.

believed to consist of “six earthen mounds, a plaza, village site, borrow pits and defensive dish.”

With regard to the social structure of Muskogeans during the Mississippian Period, it was commonly theorized that they were governed by “a specific kind of human social organization with social ranking as a fundamental part of their structure...[where] people belonged to one of two groupings, elites or commoners.” Similarly, it was also theorized that as chiefdom societies, elites held an advanced social status over members belonging to lower castes. However, recent research shows that Muskogeans had an inclusive government where citizens took part in decision-making practices, as all were valued members of the group.

While a more comprehensive examination of the Etowah Mounds will be undertaken next, it is important to note here that earthen mounds still exist at Etowah which remains the “most intact Mississippian Culture site in the Southeast today.” The purpose of providing a brief overview of the Etowah Mounds site at this point was to stress critical connections between early Indigenous traditions and the environment, which became extremely critical for survival and intimately connected inhabitants to the land. However, moving forward, research involving the Etowah Mounds will explore it as a place of interment for Muskogean groups. The remainder

32 Georgia Department of Natural Resources, State Parks.

33 Peach State Archaeological Society.

34 Peach State Archaeological Society.


36 Georgia Department of Natural Resources, State Parks.
of this chapter will also examine common burial traditions of the Muscogee and other Tribes to underscore why disinterment activities led to public outrage that increased advocacy and ultimately resulted in the passing of repatriation law, which was meant to ensure that Indigenous groups could reclaim disinterred ancestral belongings.

**The Etowah Burial Mounds Site**

Generally speaking, ancient burial mounds, also known as “kurgans, barrows, or tumuli,” are considered common forms of archaeological funerary structures. Characteristically, most earthen mounds are easily identified landforms that range in size and construction, depending on where they are located and when built. Interestingly, modern technology and sensing methods allow for burial mounds to be identified, recorded, and analyzed remotely.

While such technologies and methods are not easily able to determine physical contents interred inside mounds, advanced technologies are helpful for determining whether landforms were shared by different groups across early Indigenous history. As discussed earlier in this chapter, ancient Indigenous Tribes that migrated into the Southeastern region began constructing large land structures during the Mississippian Era. Some mounds measured 700 feet around the base, which oftentimes was the result of the structures being reconstructed over many years, allowing them to increase in height over time. Also, as mentioned earlier, research on the functionality

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38 Hegyi et al., 1.

39 Hegyi et al., 1.

40 Hegyi et al., 15.


42 Lindauer and Blitz, 174.
of mounds suggested that some structures were built to accommodate religious gatherings, house Tribal chiefs, and support varied community activities.\textsuperscript{43} However, it bears repeating that current research shows that for ancestral Muskogean societies in particular, mounds were likely built as places where citizens actively engaged in inclusive political decision-making, rather than being used to house an elite ruler that had exclusive governing power.\textsuperscript{44} As such, mounds were most often located in the center of large communities where they were easily visible to those engaged in communal life.\textsuperscript{45}

What is most important to the themes of this dissertation is that burial mounds were sacred places for Muskogean groups, where deceased members were interred ceremonially across generations. Subsequently, as a result of excavation practices by early European settlers, thousands of ancient land mounds located across the Eastern Woodlands were plundered for irreplaceable artifacts that revealed how sophisticated early Indigenous civilizations were.\textsuperscript{46} In addition to highlighting the exquisite craftsmanship of pottery and other artifacts, evidence gleaned from entering land mounds shows that Mississippian Tribes were developers of vast trading networks that connected groups across hundreds of miles throughout the Americas.\textsuperscript{47} Additionally, while sophisticated items removed from earthen mounds confirmed that their creators were highly cultured and belonged to civilized societies, early European settlers refused to believe that Native Americans of their day were descendants of the highly intelligent mound

\textsuperscript{43} Lindauer and Blitz, “Higher Ground,” 174.
\textsuperscript{44} Thompson et al., “The Early Materialization,” 711-12.
\textsuperscript{45} Lindauer and Blitz, “Higher Ground,” 187.
\textsuperscript{47} King, “Over a Century,” 293.
builders. In fact, rather than give credit to Indigenous groups that they encountered, early European settlers preferred to believe that land mounds were built by ancient Welch Tribes or by members of the Lost Tribe of Israel. Strangely, some European settlers also floated the misnomer that earthen mounds were built by inhabitants of the legendary City of Atlantis. For many settlers, those scenarios seemed more palatable than conceding that Indigenous Tribes were the brilliant builders of earthen mounds, who also created intricate burial artifacts and developed thriving civilizations. However, as a result of advanced technologies, earthen mounds were indisputably attributed to early Indigenous inhabitants who found innovative ways to manipulate environments that became interconnected with many of their cultural traditions.

As previously mentioned, the Etowah Mounds were affiliated with Tribes that spoke Muskogean languages and who settled near the Etowah River, located in the area of present-day Cartersville, Georgia. Also, as a reminder, the mounds at Etowah were built from around 1,000 to 1,550 years ago by Indigenous inhabitants of the South Appalachian Mississippian region.

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50 Mann, 1.


Still in existence today, of the six mounds located on the Etowah site, three are considered platform mounds due to their flattened apexes. The tallest of the Etowah Mounds (Mound A) which is known as the Temple Mound, reaches just over 62 feet high and spans three acres across its base. The number of inhabitants living in communities located at the 54 acre site grew to approximately 28,000 residents. Also, as a reminder, in addition to the six land mounds, the location also housed “a plaza, village site, borrow pits and defensive ditch.”

Today, in the Southeastern region, Etowah remains the most intact earthen mound affiliated to Mississippian Tribes. Moreover, researchers theorized that Tribes in that area had a strong focus on religious traditions since ornate clothing and burial objects were found in one of the smaller mounds, which indicated that the items might be needed in the afterlife.

Interestingly, with regard to how mounds might have been constructed, it is estimated that Monks Mound which is the largest in the Western Hemisphere at a height of approximately 98 thousand feet “was constructed of 730,000 m³ of earth excavated from the surrounding landscape.” Moreover, in addition to the enormous manpower and resources needed to accomplish such a tremendous undertaking, an intricate schedule had to be followed with

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57 Georgia Department of Natural Resources, State Parks.

58 Georgia Department of Natural Resources, State Parks.

59 Georgia Department of Natural Resources, State Parks.

60 Georgia Department of Natural Resources, State Parks.

precision, because constructing earthen mounds was likely done in stages across generations. Thus, research shows that for some Tribal societies as rulers died, old structures were torn down and replaced by newer ones, which increased the size of land mounds over time. Unfortunately, precise details about earthen mound societies of that time are not fully known, since many irreplaceable belongings buried in ancient mounds disintegrated, and some Indigenous scholars have called into question the accounts of Hernando DeSoto (the Spanish explorer who arrived in the Southeastern region in 1539, and wrote about his encounters with mound building societies). Over his four years of exploring the region, DeSoto came in contact with the last earthen mound settlements of the Mississippian Period which included Muskogean-speaking Tribes. Although DeSoto chronicled his experiences in that regard, present-day researchers refute much of his writings about Tribal communities, citing that his accounts contained biased misinterpretations. Consequently, by the time early waves of Europeans began settling in America, mound building communities within the Southeast region were no longer in existence. Unfortunately, what would ultimately emerge was the disturbing practice of intentionally excavating ancestral remains that were ceremonially laid to rest within burial mound tombs.

64 Browne, “Mound Sites,” 158.
Examination Of Burial Customs: Why Disinterment Practices Cause Harm

Before undertaking an examination of events leading to disinterment activities involving the Muscogee (Creek) people and Etowah Mounds, research involving Indigenous burial customs will be explored. The purpose for doing so is to provide context for why exhuming ancestral decedents and burial objects adversely impacted Muscogee (Creek) people across generations. While Native American groups and members are diverse, there are burial customs common to some Tribes. For instance, research shows that some early Indigenous groups and descendants believed that once ancestors were buried, living descendants were responsible for ensuring that graves remained undisturbed.69 Additionally, common to many Tribes was the belief that exhuming bodies disturbed peaceful journeying of the deceased in various ways, and as such, reverence for burying the dead was essential to many Tribal groups.70 Consequently, some Tribes today adamantly believe that living descendants are responsible for reburying disinterred ancestral belongings.71 As such, the act of disinterring ancestral decedents remained such an affront to many Native Americans, their collective outrage became the catalyst that eventually led to the passing of repatriation law.

Unfortunately, scholarly research involving bereavement and burial traditions of the Muscogee people is relatively sparse.72 However, based on research conducted by Walker and Balk, once Mississippian cultures dissipated and burial mounds were no longer used, by the 18th century some Muskogean groups began placing decedents in covered logs before torching the

69 Harris, “Respect,” 199.

70 Harris, 199.

71 Harris, 199.

entombments. Then, in the early 1900s, many Muscogee members preferred burying loved ones close to home, which resembled customs that were also attributed to Muskogean mound building communities. Interestingly, as part of interment customs that evolved, family and friends honored loved ones by using their hands to dig graves, and then built structural coverings that were placed over permanent burial sites. The act of digging graves with one’s hands was indicative of how some Tribal members viewed relationships between themselves and the earth, which many believed represented a continuation of the life cycle. Additionally, some Muscogee members believed that death was not to be feared because dying was simply a permanent stage in the circular transition of life. Moreover, research shows that some Muscogee people believed in an afterlife where those who lived honorably were rewarded after death. Many also believed that there was comfort in dying because upon death one reunited with deceased loved ones. Some also held onto the belief that spirits of the decedent could remain on earth and visit living Tribal members on occasion. Another traditional belief was the decedent’s body should never be left alone before the burial took place because the decedent’s

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73 A. C. Walker and David Balk, “Bereavement rituals in the Muscogee Creek Tribe,” Death Studies 32, no. 7 (2007): 635, 10.1080/07481180701405188. This source included information that came directly from Muscogee (Creek) members who shared memories of Tribal burial and bereavement traditions, with some participants obtaining their information from memories of oral traditions. Unfortunately, additional research on this topic is sparse, which is why this source is being used extensively throughout this chapter.

74 Walker and Balk, 635.

75 Walker and Balk, 635.

76 Walker and Balk, 647.

77 Walker and Thompson, “Muscogee Creek,” 141.

78 Walker and Thompson, 131.


80 Walker and Balk, 647.
spirit remained on earth for four days, and it was the role of the living to keep the spirit company.⁸¹ Interestingly, some Muscogee and other Tribes believed that the number four was significant for various reasons.⁸² For instance, one Muscogee participant of a Walker and Balk study remembered being taught that important aspects of their culture could be viewed in fours, such as “four cardinal directions; four phases of the moon; four fires; four winds; four sacred colors; [and] four seasons.”⁸³ That same participant also revealed that according to his family’s oral history, the Creator gave all healing chants to humankind in fours.⁸⁴

Additionally, another belief for some Muscogee members was that a wake should take place on the night before burial, which often entailed returning to the decedent’s home where speakers shared stories about them for several hours.⁸⁵ Also, some members of the Muscogee Tribe believed that food had to be placed in caskets, along with the decedents personal belongings such as cultural jewelry, eyeglasses, extra traveling clothes including shoes, and an Indian blanket.⁸⁶ Some members elected to tie eagle feathers to the decedent’s hair which signified that they were returning home, and some also believed that it was essential to engage in a final handshake with the decedent which was symbolized by throwing dirt on the lowered casket.⁸⁷ Moreover, some researchers reported that many Muscogee members continued building

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⁸¹ Walker and Balk, “Bereavement rituals,” 647.
⁸² Walker and Balk, 645.
⁸³ Walker and Balk, 645.
⁸⁴ Walker and Balk, 645.
⁸⁷ Walker and Balk, 642.
small houses with roofs overtop of graves, which also seemed to mirrored the ancient Muskogean tradition of burying ancestors within mounds. Similarly, for a time, some members buried their loved ones under family homes until the U.S. government outlawed that practice. The desire to bury loved ones in close proximity to the family home was also important to some members who believed that if the decedent’s spirit wandered, it could easily find its way back to the burial structure. However, it should also be noted that a key reason for building structures over graves was simply to prevent animals from digging up loved ones’ remains.

The deep connections that some Indigenous groups had with their burial traditions could help explain why disinterment activities were deemed unjust acts against their people. Thus, although not specific to the Muscogee (Creek) Nation, the following Indigenous bereavement customs also help stress the importance of respecting the dead, and why disinterment practices caused harms in both personal and spiritual ways. After burying their loved ones, some Tribes engaged in self-washing practices where if family members bathed themselves thoroughly enough, they believed prolonged grief would be washed away. Moreover, some Tribal members also refrained from speaking the name of the decedent after burial as a way to ensure that they were not summoned back. Additionally, because many Tribes believed that the spirit lived on after death, postmortem contact with decedents was ill-advised.

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88 Walker and Balk, “Bereavement rituals,” 642
89 Walker and Balk, 642-643.
90 Walker and Balk, 644.
91 Walker and Balk, 643.
93 Cacciatore, 47.
94 Cacciatore, 47.
It cannot be dismissed that around the 1940s, likely as a result of colonization, Christian influences seeped into some Muscogee customs which resulted in family members preferring nonindigenous morticians to prepare their deceased loved ones for burial.\textsuperscript{95} European colonization would permanently change burial practices for many Indigenous American Tribes.\textsuperscript{96}

As an example, in the 18\textsuperscript{th} century, the Waldo Farm Cemetery located in Dartmouth, Massachusetts, allowed members of the Wampanoags Tribe to be buried near graves belonging to white decedents which began changing Native American burial customs.\textsuperscript{97} Still, Waldo Farm and other cemeteries were not particularly accommodating to Native Americans, in that funerary supplies were less available to Indigenous families, even when Indigenous companies provided the supplies.\textsuperscript{98} Nevertheless, archaeological evidence shows while those cemeteries were Christianized, some Indigenous groups continued to incorporate their own traditional burial practices into mainstream funeral ceremonies, and the mixing of burial customs remains a part of some Native American groups today.\textsuperscript{99}

In more recent times, there has been a growing interest in supporting Native Americans seeking to honor their decedents according to Tribal traditions. In fact, very recently, in their report entitled, \textit{American Indian Alaska Native Veterans: Burial Ceremonies and Customs In}

\textsuperscript{95} Walker and Balk, “Bereavement rituals,” 635.
\textsuperscript{98} Hodge, 74.
\textsuperscript{99} Hodge, 74.
U.S. National Cemeteries, Strickland and Sanders presented findings on how the Department of Veterans Affairs’ National Cemetery Administration could better support Native American military personnel through the grieving process. The objectives were to better assist Native American service personnel after the death of a loved one, which included ways to address “burial customs, rites, and beliefs of America’s Native people: especially when buried in U.S. national cemeteries.” In the report, findings showed that Indigenous groups across centuries shared very different customs, identities, philosophies, religions, and beliefs about death and grief; however, consensus across Tribes indicated that death was an essential part of life and most members wanted to incorporate their ancient burial customs into their modern belief systems. Additionally, the report revealed that across Tribes, it was common to cleave to the belief that one’s spirit never died, and instead death ushered in the spirit’s journey to another world. Moreover, the report emphasized that some Indigenous soldiers also believed the spirit traveled to familiar places for four days before reaching its final destination.

Further, the report also identified several bereavement rituals common to some Indigenous military personnel, which included drum and song activities; smoke smudging ceremonies; stories spoken by a Tribal elder or spiritual leader about the decedent; the use of conch shells or drum groups to honor the dead; and purification events where living relatives


101 Strickland and Sanders, 4.

102 Strickland and Sanders, 5.

103 Strickland and Sanders, 5.

104 Strickland and Sanders, 5.
were offered “sage, sweet grass, or tobacco.” Subsequently, while the study was undertaken to help the Veterans Administration understand the needs of their Indigenous military personnel during times of loss, its findings also supported the theme of this section which is that many Indigenous groups considered burial customs to be sacred. As such, the act of unearthing decedents continues to be deemed an affront to some Tribes, and today, many Indigenous groups (such as the Muscogee) have assumed the daunting responsibility of reclaiming and reburying ancestral belongings disinterred from burial mounds and other sites that were meant to be permanent places of interment.

**Early Disinterment Practices For Research**

In the next chapter, a rigorous examination of historical events leading to disinterment practices for profit and to satisfy public interests will be undertaken; however, this section explores key events that led to excavating Indigenous remains for scientific research. While research using Indigenous remains occurred before 1788, in that year Thomas Jefferson infamously removed skeletal remains from a small Native American burial mound located near his residence in Monticello, Virginia. Jefferson’s excavations ultimately led to the disinterment activities of Efraim G. Squier (a newspaperman) and Edwin H. Davis (a doctor) around the mid-nineteenth century, when they teamed up and began extensive mound excavations in Ohio and nearby states. Because there were no adequate laws protecting

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Indigenous burial sites, excavating graves for research became normalized. Subsequently, increased disinterment activities resulted in barrels of artifacts being removed from burial sites without regard for their sacredness, and without taking care to document belongings before they were stolen or sold (which would later make it difficult for affiliated claimants to reclaim ancestral belongings).

Although profiting was a key reason for desecrating burial mounds across colonial America, experimentation of skull sizes drove increased interests in disinterment activities early in the 19th century. That was because curiosities involving intelligence ranking increased among Europeans who wanted to prove that nonwhite races were inferior to their own. Moreover, during the post-Civil War period, museums in America were also focused on racist intelligence-ranking research using Native American skulls. Examples of institutions actively excavating Indigenous remains to support intelligence-ranking research were the Army Medical Museum, Chicago Field Museum, and the American Museum of Natural History. Additionally, during the latter part of the 19th century and into the early 21st century, a movement called Eugenics focused heavily on exhuming skeletal remains for this same racially motivated purposes. According to Farber, the Eugenics Movement spanned between 1907 thru 1939, and

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111 Bieder, “A Brief Historical Survey,” i-ii.

112 Bieder, i-ii.

113 Bieder, ii.

114 Bieder, ii.

115 Bieder, ii.
was a focus of Darwin’s cousin, Francis Galton, who promoted the idea that the human race
could be improved with governmental support of Eugenics research.\textsuperscript{116} One suggestion for how
the government could intervene to improve the human race was by taking part in selective
breeding activities, which further increased interest in researching intellectual strata and practices
involving forced sterilization and ethnic genocide.\textsuperscript{117} Thus, growing interests in Eugenics by
prominent men of the time, such as “Alexander Graham Bell, Winston Churchill, John Maynard
Keynes, and Woodrow Wilson,” helped to move racist research activities further, and led to an
increase in human remains being disinterred from gravesites belonging to Native Americans and
other minority groups.\textsuperscript{118} Still today, some online platforms involved in black market commerce
unlawfully offer human skulls for sale.\textsuperscript{119}

\textit{Disinterment Activities At The Etowah Mounds Site}

The Etowah Mounds were vastly important for archaeological research between 1883
through 1995, when the last excavations occurred.\textsuperscript{120} Specifically, John P. Rogan (an
archaeologist with the Mounds Division at the Smithsonian Institution’s Bureau of American
Ethnology), first began excavating at the Etowah Mounds site.\textsuperscript{121} Among the artifacts removed
by Rogan were copper and shelled funerary objects which were excavated from what became

\textsuperscript{116} Steven A. Farber, “U.S. Scientists’ Role in the Eugenics Movement (1907-1939): A Contemporary Biologist’s

\textsuperscript{117} Farber, 243.

\textsuperscript{118} Farber, 243.

\textsuperscript{119} Shawn Graham, Damien Huffer, and Jaime Simons, “When TikTok Discovered the Human Remains Trade: A

\textsuperscript{120} King, “Over a Century,” 281.

\textsuperscript{121} Bureau of Ethnology, Report on the Mound Explorations of the Bureau of Ethnology, by C. Thomas, in Twelfth
annual report 1890-1891, Smithsonian Institution (Washington, D.C., 1894).
https://repository.si.edu/handle/10088/91661.
Mound C. However, Rogan failed to engage in stratigraphic excavations at that time, which would have involved examining various rock layers in order to glean important information about the areas being studied. Subsequently, in 1925, an excavator named Warren K. Moorehead became involved in a deeper excavation of Etowah’s Mounds B and C, as well as around village areas central to where the Mounds were located. Moorehead excavated human remains and elaborate artifacts “made of copper, stone, and shell,” along with several houses located on the site where villages were likely built. Then, around 1939, Robert Wauchope also engaged in archaeological research at the Etowah site; however, because he was only granted permission to research a very small area, few new details about the original inhabitants were acquired. Consequently, it was not until research occurred between 1952 and 1954, that methodical excavations were performed at Etowah. Led by individuals working for the Georgia State Historical Commission and the University of Georgia, William H. Sears, Lewis H. Larson and Arthur R. Kelly, were involved in lengthy excavation projects that resulted in the removal of “one of the largest collections of elaborately decorated grave goods” associated with the Mississippian Muskogean-speaking Tribes of the Southeast. Moreover, the burial artifacts became part of an expansive symbolic grouping of elite inventories called the Southeastern

126 Spears, 4, 34.
128 King, 283.
Ceremonial Complex [SECC]. Additionally, other belongings excavated along with the SECC artifacts included several buildings and human remains. Then, between 1962 and 1973, Kelly also unearthed more human remains and structures identified as housing and a trench. Finally, between the 1980s and 1990s, additional archaeological excavations continued at the Etowah Mounds which produced invaluable data about Late Prehistoric Southeastern Indigenous cultures. It is estimated that inventories disinterred from the Etowah Mounds site included hundreds of skeletal remains and over 18,000 funerary artifacts.

As mentioned previously, various Tribes might have used the same mounds at different times across early Indigenous history, so it was important that mound research included stratigraphic excavations which focused on examining rock layers. For instance, sometime after A.D. 1200, the mounds constructed in the Etowah Valley were primarily deserted by Indigenous communities. However, around A.D. 1250 to 1300, Mississippian groups returned to the Etowah region which allowed that area to thrive once again. Thus, across Mississippian

132 King, 284.
133 Georgia Department of Natural Resources, Georgia Begins Repatriation of Native American Artifacts from Etowah Indian Mounds, Press Release (December 20, 2022), https://gastateparks.org/press-release-parks/georgia-begins-repatriation-native-american-artifacts-etowah-indian-mounds. The burial belongings disinterred from the Etowah Mounds are currently in the possession of eleven institutions that the MCN Historic and Cultural Preservation Department identified for this dissertation, which will be discussed later in a later chapter.
136 Cobb and King, “Re-Inventing,” 175, 180.
history when ancient Indigenous groups abandoned the Etowah Mounds site, and new inhabitants arrived, archaeological evidence shows that oftentimes new groups added onto pre-existing mounds.\textsuperscript{138} That data provided important insights about varying Tribal groups that shared the region where the Etowah Mounds stood. As an aside, Chapter Two will rigorously examine historical events that forced the Muscogee (Creek) people and other Tribes off their ancestral homelands in Georgia, which resulted in the Etowah Mounds area being permanently depleted of Native American societies.

Not surprisingly, perspectives about how to address disinterment activities at the Etowah Mounds can differ greatly between some Native American descendants and scientific researchers, in that many descendants of disinterred ancestors adamantly demand the return of burial belongings that were removed from that site. On the other hand, for many scientific researchers involved in the excavation of Indigenous remains and funerary objects, they viewed their activities as being instrumental for obtaining important data involving Indigenous societies, sociocultural advancements, and/or environmental shifts.\textsuperscript{139} Still, the practice of exhuming ancestral remains for the purpose of obtaining scientific information is nonetheless viewed by many Indigenous groups as an affront to their cultural burial beliefs and to their ancestral decedents.\textsuperscript{140} Moreover, there is also an inherent mistrust of government involvement in Indigenous lives due to unethical research such as intelligence-ranking and Eugenics, which oftentimes lacked ethical intent or participant consent. The historical harms that disinterment atrocities caused across American history remains very real for many Native Americans today.

\textsuperscript{138} King, “Over a Century,” 299.


\textsuperscript{140} Ferguson, 68.
As such, many Tribes are committed to undertaking the tedious task of locating and reclaiming ancestral belongings for the purpose of reburial. For the Muscogee (Creek) Nation, their focus remains fixed on holding the eleven institutions accountable for failing to return ancestral belongings removed from the Etowah Mounds site.

Looking ahead, Chapter Two will involve a comprehensive examination of historical events and complexities involving Muscogee (Creek) members across colonial periods. As part of that interpretive research, explored will be key events that led to forced expulsions of the Muscogee and other Southeastern Tribes off their homelands, and the atrocities that followed which caused thousands to die as they traveled the Trail of Tears toward the unknown. The upcoming research will also examine how those who survived the journey struggled through unjust policies involving forced assimilation practices and attempts at having their new lands stolen. Additionally, the chapter will examine how as some Native American traditions began to dissipate (because of pressures to acculturate and assimilate), curiosities about Indigenous cultures increased which ultimately led to the normalization of disinterment practices to satisfy public interest and for monetary gain. Moreover, Chapter Two will end with a summarization of recent successes experienced by the Muscogee (Creek) Nation, which is included at the end of the chapter to honor the Tribe by highlighting its steadfast resilience since being forced from the Southeast region many generations ago. The summarization also confirms the Tribe’s intent to keep repatriation of ancestral belongings in the forefront of their community’s goals. Overall, the aim of the next chapter is to add historical support for meeting the objective, which is to assist the Muscogee (Creek) Nation by providing a comprehensive examination of their disinterment and repatriation experiences in order to raise public awareness. If enough public support can be acquired, the Tribe may be in a better position to pressure the eleven institutions into
expeditiously returning all of the Etowah burial belongings to their possession.
The Muscogee (Creek) Nation Perspective: Post-Contact Muscogee History In Georgia And Events Leading To Repatriation Challenges Involving The Etowah Mounds

As a precursor to moving into this chapter, it is important to note that the research being undertaken intentionally focuses on the Muscogee (Creek) Nation’s perspective of their experiences across American History. It was not the intention of this dissertation to add to current discourse of Native American history from a European viewpoint, as many Indigenous people have argued that the European perspective does not adequately capture their experiences with historical events.¹ As such (and as requested by one of the Muscogee members that contributed to this dissertation), a key source being used in Chapter Two is the College Of The Muscogee Nation which offers its Native American students three video-lectures covering historical periods, divided as Contact To Removal, Removal To Allotment, and Allotment To 1979 Constitution. Because the Tribe’s views are pertinent to this research and most especially to the historical events examined in this chapter, broadly using that source ensures that the Muscogee perspectives of post-contact American history are being respected. As an example of how Indigenous accounts of their history differs from a nonindigenous view, recently when the Muscogee (Creek) Nation sent delegates to a ceremony at Horseshoe Bend National Military Park in Alabama, Second Chief Del Beaver took issue with plaques depicting the battle between U.S. troops and Muscogee warriors, to which he stated, “When you go around here and you read the signs, it’s from one perspective…It’s not our perspective.”² Thus, whenever possible, scholarly sources from the Muscogee Nation will be utilized in the examination of topics


undertaken as part of this dissertation.

As a brief recap, the research covered in Chapter One served as a backdrop in its examination of ancient Indigenous activities within the Woodland and Mississippian Periods, and focused primarily on inhabitants that ultimately settled across the Southeastern region. As ancient inhabitants of the Americas, Indigenous groups gained knowledge of mastering uncultivated lands and harsh environments which ensured their survival. Additionally, research in Chapter One also highlighted ways in which cultural traditions and environments became inseverable in innovative ways. Those interconnections also helped to establish Indigenous homelands that Tribes were willing to fight to retain. Moreover, emphasizing those interconnections also added context for why many Tribes were compelled to reclaim affiliated remains for reburying on ancestral lands. Overall, events researched in Chapter One laid a foundation for examining how disinterment and repatriation of burial belongings remained contentious issues for the Muscogee (Creek) Tribe across generations. Thus, drawing attention to why those issues continue to be impactful is important for achieving the overall objective, which is to raise awareness of their inability to successfully reclaim ancestral belongings removed from the Etowah Mounds site. Subsequently, if enough support can be garnered for their plight, it could increase advocacy and pressure the eleven institutions to expedite the return of all burial belongings, which may also help the Tribe reclaim enough of their original homelands to rebury ancestral remains. Thus, Chapter Two will include a closer examination of Muscogee inhabitants in the Southeastern region, which will encompass historical events that occurred between the Muscogee people and early Europeans that settled in present-day Georgia.

Because oral tradition was a key transmitter of Muscogee history (and much of their history was lost as a result of forced expulsion off ancestral homelands), detailed information
about Muscogee inhabitants that lived shortly after the Mississippian Period is not abundant.\(^3\) However, research shows that after the Mississippian period ended, Muskogean-speaking inhabitants began living in log homes in small villages around A.D. 1600, which led to the abandonment of large communities that centered around earthen mounds.\(^4\) Moreover, individual groups settled on Southeastern lands of present-day Georgia and Alabama during the Historic Period which was dated between A.D. 1500 to 1800.\(^5\) Also around that time, traditional homelands of the Muscogee people were expanded across present-day Southern Tennessee and parts of Northern Florida.\(^6\) In addition, while some cultural traditions were common throughout various Tribes in the region, languages were quite diverse.\(^7\) According to Foster, many communities residing in the Southeast during the Historic Period spoke either Muskogean or Hitchiti, although smaller Tribes spoke “Yuchi, Natchez, and Shawnee.”\(^8\) Also, it was believed that the Muscogee people were first called Creeks by English settlers, who might have selected that name because the Indigenous inhabitants typically lived along water sources such as creeks, rivers, and streams.\(^9\)


\(^7\) Foster, “Evidence of Historic,” 65.

\(^8\) Foster, 65.

Consequently, data was limited for how the Creek Community came to be divided by two different geographical areas; however, some sources theorized that English settlers identified the Tribe as Upper and Lower Creeks based on where they lived in proximity to the main English camp. More succinctly, Upper Creek communities inhabited lands along the Coosa River and “tributary streams [that] occupy most of the northwest corner of Georgia and extend through northeast Alabama.” Additionally, Upper Creek communities inhabited lands around the Tallapoosa River that currently “originates in Paulding County, Georgia, [and] flows westward, crossing into Alabama…eventually merging with the Coosa River which also originates in Georgia to form the Alabama River.” As for the Lower Creek who inhabited lands closer to where the English were stationed, they lived along the Flint and Chattahoochee Rivers. Both rivers ran through present-day Atlanta at different places before they conjoined and crossed over the Georgia-Florida border.

A key distinction to make is that because Lower Muscogee communities were closer in proximity to English settlers, they became the first of the Tribal Confederacy to succumb to many of the cultural, ideological, and technological influences of early settlers.

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10 National Park Service: Little River Canyon.
11 National Park Service: Little River Canyon.
13 National Park Service: Little River Canyon.
15 National Park Service: Little River Canyon.
17 National Park Service: Little River Canyon.
hand, the Upper Muscogee were able to maintain their ancestral cultural traditions. Interestingly, for Native Americans in general, assimilation practices were promoted by President George Washington and later by President Thomas Jefferson, who believed that while all human beings were equal, Indigenous people were societal inferiors. However, both Presidents were convinced that if Native Americans accepted European values involving “private practice ownership and homesteads, farming, education, and religion,” then Europeans would readily accept Indigenous people as being equal based on race and societal graces.

Subsequently, of the Tribes in that region, many Muscogee people were first to accept European practices, and so they were among the first to be recognized as members of the Five Civilized Tribes. Important to note here is that across settler history, for Muscogee people who did incorporate European values into their traditional culture, oftentimes it was done to trick settlers into believing that they had assimilated in the hopes of being left alone.

Unfortunately, life would change dramatically for Tribes living on lands that became present-day Georgia, which

18 National Park Service: Little River Canyon.

19 National Park Service: Little River Canyon.

20 National Park Service: Little River Canyon.


22 College Of The Muscogee Nation, “Contact to Removal,” The Muscogee History Course, College Lecture, Video, 24:54, Muscogee Media, 2015, https://www.youtube.com/watch?v=lcoGkRuHls8&list=PLzAYLb8-60fO9pHGKfMaZsw-u2j8I8-On&index=2. The College Of The Muscogee Nation recorded three academic courses covering the Tribe’s history from their perspective. It is the intent of this dissertation to garner scholarly information from viewpoints belonging to the Muscogee Nation whenever possible. Thus, the three courses are being used as a source throughout this chapter since historical information published by (and about) the Tribe was sparse.
began with the arrival of the first English trustees officially responsible for establishing that area as the thirteenth and final American colony.\textsuperscript{23}

The goal for establishing Georgia as a colony was the same as it had been for all other Royal colonies in America, which was to accomplish the vision of the English throne to remove undesirable citizens from Britain, advance Christianity abroad, and establish an imperial trade industry across America to increase financial gains for Britain.\textsuperscript{24} However, for the trustees responsible for establishing Georgia, they decided to also create a vastly different colony from the other twelve.\textsuperscript{25} Their plan was to establish a utopian settlement void of vices such as alcohol and slavery, and to regulate the amount of land one could own or transfer which eliminated the possibility of developing large plantations.\textsuperscript{26} Thus, while designing the Georgia colony, trustees agreed that the settlement would be modeled after a yeoman farm utopia.\textsuperscript{27} The agreement to develop a Georgia colony using that model reflected the views of James Oglethorpe, a well-known advocate of oppressed groups, who agreed to sail with 114 others to America in November of 1732.\textsuperscript{28} As one of the planning trustees, Oglethorpe’s role was to oversee the development of Georgia.\textsuperscript{29}

\begin{itemize}
\item \textsuperscript{24}Library of Congress, \textit{A brief account}, 4-6.
\item \textsuperscript{26}Lannen, 34-35.
\item \textsuperscript{27}Lannen, 36.
\item \textsuperscript{28}Lannen, 34-35.
\end{itemize}
Consequently, in February of 1733, Oglethorpe and the other settlers landed at the site of present-day Savannah, and began preparations to develop the first settlement of the new Georgia colony.\textsuperscript{30} However, important to stress here was that Indigenous groups were already inhabiting that area which at that time was called Yamacraw Bluff, named after the Yamacraw Tribe who established themselves along the Savannah River sometime during early Indigenous migration history.\textsuperscript{31} Equally as important to stress here was that the new Georgia colony would never have come to pass had it not been for the support of Indigenous groups that were already there.\textsuperscript{32} In fact, it was under the leadership of Yamacraw Creek Chief Tomochichi that diplomatic interactions between the settlers and local Tribes were carried out. Chief Tomochichi’s diplomatic efforts on behalf of the settlers not only made the Georgia colony possible, but Chief Tomochichi’s intervention was likely the major reason for why the settlement would ultimately thrive.\textsuperscript{33} For example, had it not been for Chief Tomochichi who assisted Oglethorpe with building strong alliances among their Indigenous neighbors, the settlers would not have known how to become co-military associates or economic trade partners with Tribes.\textsuperscript{34} That was because the ability to build a successful colony on unfamiliar lands included the help of Indigenous people, who shared their traditions which ensured the survival of settlers. More specifically, across thousands of years, when ancient Indigenous inhabitants acquired invaluable

\textsuperscript{30} Lannen, “James Oglethorpe,” 209.


\textsuperscript{32} Steve Gooch, Randy Robertson, Max Burns, Sam Watson, Billy Hickman and Michael Dugan (Senators). \textit{Muscogee (Creek) Nation, Cherokee Nation, United Keetoowah Band of Cherokee Indians, Eastern Band of Cherokee Indians; commend, Senate Resolution 388}, Partisan Bill, March 23, 2023, Georgia-2023-SR388-Enrolled.pdf.

\textsuperscript{33} Gooch et al.

\textsuperscript{34} Library of Congress, \textit{A brief account}, 10-12.
knowledge about how to survive on their homelands, that knowledge was perfected and passed along across generations. Quite frankly, although Native Americans do not often receive the credit they deserve for contributions made to America, without benefit of Indigenous ingenuity, early settlers establishing the Georgia colony might not have thrived.\textsuperscript{35} For his part, historical research shows that Chief Tomochichi and other Tribal members assisted Oglethorpe with acquiring safe passage to the Lower Muscogee capital of Coweta Town, which was located along the Chattahoochee River.\textsuperscript{36} As such, the Muscogee community played a significant role in the history of Georgia’s beginnings which resulted in both sides signing the Treaty of Coweta in 1739.\textsuperscript{37} That document established which land could be settled upon, and it also solidified an agreement of comradery between the local Indigenous Tribes and members of the new colony.\textsuperscript{38}

Chief Tomochichi’s authority in leading critical negotiation activities between the settlers and local Tribes emphasized that the Muscogee were well respected by other Indigenous groups in that region. Also, because negotiations on behalf of the early Georgia settlers were likely necessary for their success, one could argue that since local Tribes maintained that level of authority, they alone held custodial rights for lands inherited and inhabited before early settlers arrived. Unfortunately, what Indigenous Tribes in the Georgia region did not know at the time, was that each European family would be given a sizable lot of land to build homes in the new settlement, and each member of a family would also be given an additional fifty acres of

\textsuperscript{35} Joshua Piker, “Colonists and Creeks,” 512.

\textsuperscript{36} Gooch et al., Senate Resolution 388.

\textsuperscript{37} Gooch et al.

\textsuperscript{38} Gooch et al.
farmland located outside of town with no one individual being allotted more than 500 acres.\textsuperscript{39} Thus, those generous distributions of acres would ultimately result in settlers infringing upon Indigenous homelands within areas where burial mounds and gravesites were located. Also, as settlers arriving at the new Georgia colony increased, many began opposing the utopian position against slavery and rum sales.\textsuperscript{40} Consequently, as the utopian model began to dissipate, Oglethorpe turned the colony over to its residents and left America, which would prove disastrous for the Indigenous Tribes who likely believed the Treaty of Coweta would not be breached.\textsuperscript{41}

Unfortunately, beginning in 1733 through the months leading to forced evacuations of Tribes off their Southeastern homelands, twelve land cession treaties were established which resulted in millions of acres of homelands being confiscated from the Muscogee Confederacy alone.\textsuperscript{42} While the Treaty of Coweta was an agreement between Indigenous groups and the Georgia colony, the first Treaty signed between the Federal government and the Muscogee Creek Nation was the Treaty of New York in 1790.\textsuperscript{43} The essence of that Treaty was to confirm that the Muscogee (Creek) were rightful claimants of their homelands, and were therefore protected from


\textsuperscript{40} Ready, 354.


\textsuperscript{42} Kappler, \textit{Indian}, 25.

\textsuperscript{43} College Of The Muscogee Nation, “Contact to Removal.”
Georgia’s attempts at infringing on those lands. The following passage offers a clear overview of what the Treaty of 1790 stated in support of the Muscogee Nation:

> The undersigned Kings, Chiefs and Warriors, for themselves and all parts of the Creek Nation within the limits of the United States, do acknowledge themselves, and the said parts of the Creek Nation, to be under the protection of the United States of America, and of no other sovereign whosoever; and they also stipulate that said Creek Nation will not hold any treaty within an individual State, or with individuals of any State.

The significant loss of land in that region highlights why in this present-day, the Muscogee (Creek) Nation may have challenges reclaiming enough of their original homelands to rebury ancestral belongings disinterred from the Etowah Mounds once repatriation is completed.

*Leaving Ancient Ancestors Behind: An Examination Of Historical Events Resulting In Forced Resettlement Of The Muscogee (Creek) Off Ancestral Homelands*

By many accounts, the year 1811 started the descent that would ultimately result in forced removals of the Muscogee (Creek) people from ancestral homelands that were intricately connected with their cultural traditions. It was during that year when negotiations between Tecumseh (a member of the Shawnee Tribe) and the United States government failed to prevent the western expansion onto Tribal homelands. Consequently, using his organizational prowess, Tecumseh assembled warriors in a planned revolt against the United States. Before declaring war, Tecumseh conferred with Tribal leaders at the Muscogee political center near the western area of the Tallapoosa River, and then headed to his homelands to prepare for the ensuing conflict to begin. Consequently, along the way, one of the Tribes murdered several white

44 College Of The Muscogee Nation, “Contact to Removal.”


46 College Of The Muscogee Nation, “Contact to Removal.”

47 College Of The Muscogee Nation, “Contact to Removal.”

48 College Of The Muscogee Nation, “Contact to Removal.”
settlers in Tennessee, and as a response, the United States Secretary of War advised the Tennessee government to respond in kind.\textsuperscript{49} That event also initiated a long-standing conflict that General Andrew Jackson established against the Muscogee (Creek) Indians.\textsuperscript{50}

The wars that followed were devastating for the Muscogee people, and great numbers were killed.\textsuperscript{51} However, during the War of 1812 (which was arguably fought to stop Great Britain’s territorial expansion in the United States), the Upper Muscogee (Creek) made the decision to fight with the British in an effort to force settlers off their homelands.\textsuperscript{52} Those fighting with the British were Muscogee militia known as the Red Stick warriors, primarily because their war clubs were red and also for many Indigenous Tribes the color was associated with war.\textsuperscript{53} The Red Sticks positioned themselves along the American frontier to lend support to their British partners.\textsuperscript{54} The Tribes were determined to fight against lifestyle changes that settlers were forcing upon their communities, and also to prevent the continuation of land cessions.\textsuperscript{55} Interestingly, because the Lower Muscogee Creek and Cherokee had already begun assimilating into American culture in great numbers, both Tribes were opposed to the position that the Upper

\textsuperscript{49} College Of The Muscogee Nation, “Contact to Removal.”


\textsuperscript{51} College Of The Muscogee Nation, “Contact to Removal.”

\textsuperscript{52} Saunt, “Taking Account,” 734, 736.

\textsuperscript{53} Saunt, 734.

\textsuperscript{54} College Of The Muscogee Nation, “Contact to Removal.”

\textsuperscript{55} John Sugden, “The Southern Indian In The War of 1812: The Closing Phase,” \textit{Florida Historical Quarterly} 60, no. 3 (1981): 275-76, https://stars.library.ucf.edu/fhq/vol60/iss3/3. The Red Stick battle was fought at the site where the Muscogee (Creek) delegates recently visited, as discussed earlier in this chapter, when Second Principal Chief Del Beaver took issue with how one-sided the battle was depicted on plaques at the Horseshoe Bend National Military Park in Alabama.
Muscogee Creek Indians had taken. Consequently, along with members of the Lower Muscogee Creek Indians, 500 Cherokee Tribesmen fought on the side of the United States under the military leadership of General Andrew Jackson. That decision could be deemed self-defeating in that Andrew Jackson had proven himself to be an adversary of Native Americans, which included those that fought on his side. However, Jackson understood that because the Tribes were opposed to one another, their division would weaken the Muscogee (Creek) Confederacy and make it easier for the U.S. government to further encroach on their homelands. Thus, although the division did cause a clear separation within the Muscogee Confederacy, the Upper Muscogee were not easily defeated, as the Red Sticks’ bravery seemed driven by the devotion they had for preserving their cultural traditions. Ultimately, at Horseshoe Bend, outnumbered by Jackson’s military forces, the Red Sticks and those fighting along with them were defeated. It would later be reported that the Tallapoosa River turned red from the blood of 800 Red Stick warriors decaying in its waters, which was not fit to drink for many years after the battle ended. Moreover, years later, settlers discovered sun bleached bones of brave Red Stick warriors which proved that they had never been honored with a proper burial.

57 College Of The Muscogee Nation, “Contact to Removal.”
58 College Of The Muscogee Nation, “Contact to Removal.”
59 College Of The Muscogee Nation, “Contact to Removal.”
60 College Of The Muscogee Nation, “Contact to Removal.”
62 College Of The Muscogee Nation, “Contact to Removal.”
63 College Of The Muscogee Nation, “Contact to Removal.”
Subsequently, as a result of the war, Jackson seized 22 million acres of Creek homelands which was directed by the Treaty of Fort Jackson in 1814, as penalty for expenses incurred by the United States because of Creek participation.\textsuperscript{64} Following is an excerpt of the Treaty’s directives in that regard:

The United States demand an equivalent for all expenses incurred in prosecuting the war to its termination, by a cession of all the territory belonging to the Creek nation within the territories of the United States, lying west, south, and south-eastwardly, of a line to be run and described by persons duly authorized and appointed by the President of the United States...Provided, nevertheless, that where any possession of any chief or warrior of the Creek nation, who shall have been friendly to the United States during the war...shall be entitled to a reservation of land within the said territory of one mile square, to include his improvements as near the centre thereof as may be, which shall insure to the said chief or warrior, and his descendants, so long as he or they shall continue to occupy same, who shall be protected by and subject to the laws of the United States; but upon the voluntary abandonment thereof, by such possessor or his descendants, the right of occupancy or possession of said lands shall devolve to the United States, and be identified with the right of property ceded hereby.\textsuperscript{65}

An important note to highlight here is that while the Treaty did make provisions for ensuring the Muscogee (Creek) would not lose their lands if they remained on it; however upon becoming President, Andrew Jackson would find a way to override that policy to force Tribes off ancestral homelands forever. However, his unscrupulous actions would ultimately lead to financial restitution for the Muscogee (Creek) Nation long after they were forcibly resettled onto Indian Territory in Oklahoma. Unfortunately, before that future outcome would transpire, not long after the Treaty of Fort Jackson was enacted, the United States government levied $300,000 in damages against the Muscogee (Creek) as punishment for their participation in the war.\textsuperscript{66}

Further, in an incredibly deceptive transaction levied against the Tribe, the government usurped

\textsuperscript{64} College Of The Muscogee Nation, “Contact to Removal.”

\textsuperscript{65} Kappler, \textit{Indian}, 108.

\textsuperscript{66} College Of The Muscogee Nation, “Contact to Removal.”
22 million acres of prime Indigenous land as payment for the $300,000 penalty. Because an acre of land was only worth $1.25 in the early 1800s, the Muscogee actually lost $27,500,000 worth of land as payment for the $300,000 penalty that was unjustly levied against them.

Research involving the removal of homelands from the Muscogee people is key to understanding the major themes within this dissertation, because when Indigenous communities were removed from homelands, they were also removed from sacred burial places and environments that were intricately interconnected with their traditions. As such, in 1818, the Muscogee (Creek) Nation strengthened their National Tribal Council which established laws that prohibited members from selling land without their authority, and for those who failed to comply the penalty was death. Consequently, in what appeared to be an act of defiance, Chief William McIntosh of the Lower Muscogee Creek Tribe, sought to continue an alliance with the United States by signing the Treaty of Indian Springs in 1825, which gave all Muscogee lands located in Georgia and two-thirds of Muscogee lands in Alabama to the United States in exchange for lands located in present-day Oklahoma. Because Muscogee law prohibited land sales without permission of the National Tribal Council, McIntosh was executed, and while the Treaty of Indian Springs was ultimately deemed invalid in 1826 when the Treaty of Washington was enacted, by 1827 all Muscogee homelands were ceded to the United States. Again, it is important to re-stress that when original homelands were taken away from Indigenous inhabitants, so too were the burial sites that were a part of their lands. Thus, the loss of

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68 College Of The Muscogee Nation, “Contact to Removal.”

69 College Of The Muscogee Nation, “Contact to Removal.”

70 College Of The Muscogee Nation, “Contact to Removal.”
homelands also meant giving up the ability to protect ancestral burial sites against disinterment activities that would ultimately become normalized across the United States.

Cessions of Muscogee lands occurred as a result of President Jackson’s refusal to honor the 1826 Treaty of Washington, which established that Muscogee Creek lands east of the Mississippi could be retained by the Tribe. Jackson’s refusal was also an open rejection of Chief Justice John Marshall’s decision that supported Tribal sovereignty, which prevented other sovereigns such as states from encroaching on protected lands, and “ensure[d] that any decisions about the tribes with regard to their property and citizens [were] made with their participation and consent.” Consequently, not only did President Jackson refuse to enforce Marshall’s court findings, but in a further act of defiance, Jackson convinced a small majority of Congress to pass the Indian Removal Act which became law on May 28, 1830. While the bill was meant to prevent the United States from revoking previous land treaties made with Indigenous groups, Jackson wielded his presidential power which ultimately resulted in every acre of land being stolen from Tribes across Georgia and Alabama, although the Indian

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71 College Of The Muscogee Nation, “Contact to Removal.”

72 Edwin A. Miles, “After John Marshall’s Decision: Worcester v. Georgia and the Nullification Crisis,” The Journal of Southern History 39, no. 4 (1973): 519. http://www.jstor.org/stable/2205966. Chief Justice Marshall was responsible for deciding outcomes regarding two court cases brought against the State of Georgia. The first was in 1831 when the Cherokee Nation brought a case against Georgia in a fight to uphold their right to keep lands protected by federal treaties. Then in 1832, Samuel Worcester brought a case against Georgia in order to prove that States did not have the power to force policies aimed at acquiring lands belonging to Tribes. Both cases were won on behalf of Tribes; however, Andrew Jackson’s actions revealed his disregard for federally protected rights that Tribes were entitled to, especially concerning their sovereign land claims.


75 Cave, 1332.
Removal Act did not authorize that action. As such, in order to get around that challenge, Jackson lobbied for support to remove Native Americans from their homelands, when on December 6, 1830, he delivered a convincing congressional address by lamenting:

What good man would prefer a country covered with forests and ranged by a few thousand savages to our extensive Republic, studded with cities, towns, and prosperous farms embellished with all the improvements which art can devise or industry execute, occupied by more than 12,000,000 happy people, and filled with all the blessings of liberty, civilization and religion?

Sadly, as a result of his distorted but convincing depiction of Indigenous inhabitants being wastefully irresponsible of land spaces, President Jackson was able to secure support from Congress to approve a policy that his predecessor had initiated. As part of that policy, Tribes were allowed to willingly surrender their lands in eastern areas of the region in exchange for lands west of the Mississippi, but the policy did not authorize the government to seize lands if Native American groups refused to relinquish their holdings. Nevertheless, as a result of a blatant misuse of power by Jackson (and later by President Martin Van Buren), the policy ultimately forced Tribes to be removed from homelands established by their early ancestors.

Jackson’s cruel actions belied the congressional speech that he had made only one year before when, in 1829, he proclaimed that forcibly removing Native Americans from their

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76 Cave, “Abuse,” 1332.


78 Cave, “Abuse,” 1332.

79 Cave, 1332.

80 Cave, 1338.
homelands would be a dishonorable act imposed on them by the nation.\footnote{Andrew Jackson, \textit{The President Of The United States, To The Two Houses Of Congress, At The Commencement Of The First Session Of The Twenty-First Congress, December 8, 1829}, Printed by Duff Green, Doc. No. 2 (Washington: U.S. Government Printing Office, 1829), 17, https://www.govinfo.gov/content/pkg/SERIALSET-00195_00_00-003-0002-0000/pdf/SERIALSET-00195_00_00-003-0002-0000.pdf.} In fact, at that time, Jackson proclaimed, “This emigration should be voluntary, for it would be as cruel as unjust to compel the aborigines to abandon the graves of their fathers and seek a home in a distant land.”\footnote{Jackson, 17.} Yet, only one year later, as a result of his quest to remove those who stood in the way of the nation’s manifest destiny, Jackson secured the necessary votes to remove Native Americans off their homelands.\footnote{Library Of Congress, \textit{A Century of Lawmaking for a New Nation: U.S. Congressional Documents and Debates, 1774-1875}, Register of Debates 21\textsuperscript{st} Congress, 2\textsuperscript{nd} Session, Appendix-To Gales & Seaton’s Register, President’s Message (Vol. VII-B: ix), accessed Feb. 17, 2023, \url{https://memory.loc.gov/cgi-bin/ampage?collId=llrd&fileName=010/llrd010.db&recNum=438}.} Thus, in 1831, forced resettlement activities began as Southeastern Indian Tribes were stripped of lands that were inherently rooted in their culture; however, many of those that remained in Georgia and Alabama were members of the Lower Muscogee Creek Tribe who had assimilated into dominant American culture.\footnote{Cave, “Abuse,” 1338.} However, Tribes refusing to give up their cultural traditions in order to assimilate, were forcibly removed from Southern states at that time.\footnote{College Of The Muscogee Nation, “Removal To Allotment,” The Muscogee History Course, College Lecture, 2016, Video, 22:07, \url{https://www.youtube.com/watch?v=OxMr2w4pNqU}.} Consequently, of those unwilling to assimilate, were approximately 15,000 Choctaw members who were first to be forced off the custodial lands they inhabited in Mississippi (although approximately 5,000 of their members chose to assimilate and remain).\footnote{Ronald Satz, “The Mississippi Choctaw: From the Removal Treaty to the Federal Agency,” in \textit{After Removal, The Choctaw in Mississippi}, eds. Samuel J. Wells and Roseanna Tubby (Jackson: University Press of Mississippi, 1986), 7.} Additionally, it is believed that up to four thousand Seminole (the original inhabitants of present-day Florida)
were forced off their lands in 1832, after losing two military defenses. Moreover, it was in 1834, when the Muscogee (Creek) Indians were forced to leave their custodial lands in Alabama and Georgia, followed by forced resettlements of the Chickasaw Tribe in 1837. The last Tribe to be removed from their ancestral homelands was the Cherokee, who were forcibly resettled one year later. Although some members of the Muscogee (Creek) community were skilled attorneys, they lacked power to defend their land claims because Georgia law prohibited Indigenous members from testifying in court. Thus, by 1838, as remnants of Muscogee (Creek) groups were ultimately removed, over 20,000 members had been forced to travel from their homelands, leaving behind ancestral decedents that had been ceremoniously laid to rest. Over time, many of the ancestral decedents left behind would be among thousands of burial belongings disinterred to satisfy a grotesque curiosity of Native American culture.

_Atrocities Along The Trail Of Tears And Resettlement Challenges_

Thousands of Native American lives were lost as Tribes traveled 12,000 miles from the Southeastern region west to Indian Territory in Oklahoma. As they traveled, the Muscogee refugees took two routes toward their destination, with one being a northern route which began in Alabama into Tennessee, crossing Arkansas and ending in Indian Territory. The southern

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88 College Of The Muscogee Nation, “Removal To Allotment.”


90 College Of The Muscogee Nation, “Removal To Allotment.”


92 College Of The Muscogee Nation, “Removal To Allotment.”

93 College Of The Muscogee Nation, “Removal To Allotment.”
route began in Georgia and into Florida moving toward the Gulf of Mexico, around Louisiana upwards of the Mississippi River, and into Arkansas before reaching Indian Territory."94 Consequently, upon being forced off their lands, because the government did not supply Tribes with adequate provisions, thousands died from starvation and disease along the way.95 That inhumane treatment resulted in the death of an estimated 100,000 Indigenous refugees who journeyed away from homelands that had been connected to many of their cultural traditions, which ensured their survival across generations.96 Tragically, out of the estimated 15,000 abused and broken Muscogee members that were forced off homelands, some researchers estimated that approximately 3,500 Muscogee (Creek) Indians died along the way.97 However, reports also show that the death toll of Muscogee people was as high as 4,000 and possibly more.98 Because forced resettlement was void of humanity and led to the death of so many innocent people, that horrific event became known as the Trail of Tears.

It should be acknowledged that just before being forced to journey along the Trail of Tears from Georgia, Muscogee (Creek) warriors continued fighting valiantly against those who unscrupulously sought to steal their homelands.99 However, all efforts were to no avail, and

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94 College Of The Muscogee Nation, “Removal To Allotment.”
95 Prucha, The Great Father, 241.
99 Gooch et al., Senate Resolution 388.
simply added to the great numbers of Tribal members that died before arriving in Oklahoma.\textsuperscript{100} The entire course of events surrounding the Trail of Tears caused deep-rooted historical trauma for many of those who did survive the journey to Indian Territory.\textsuperscript{101} Moreover, it is also important to pay homage here to the 2,500 Muscogee (Creek) prisoners, who were shackled aboard a ship named the Monmouth just after leaving Alabama for the new territory, before sinking into the Mississippi River.\textsuperscript{102}

Historical events involving the Trail of Tears were steeped in ethical atrocities impacting future descendants of those forced off homelands to this present day. As such, examining events involving involuntary removal is important for exposing that dark stain on American history. For instance, when masses of Indigenous people left the Southeast region on foot between 1836 and 1837, they were appropriately dressed for the warmer weather of that time; however, as the refugees approached present-day Arkansas, many froze to death as a result of not being suitably dressed for the cold winter weather indicative of that region.\textsuperscript{103} During those years, weather conditions in Arkansas were reported to be especially harsh due to increased snowfall, icing and extremely muddy terrain.\textsuperscript{104} Also, great numbers of deaths occurred as a result of starvation from not having adequate provisions to survive the long and treacherous journey.\textsuperscript{105} Still others

\begin{thebibliography}{99}
\bibitem{100} College Of The Muscogee Nation, “Removal To Allotment.”
\bibitem{101} Gooch et al., \textit{Senate Resolution 388}.
\bibitem{102} College Of The Muscogee Nation, “Removal To Allotment.”
\bibitem{103} College Of The Muscogee Nation, “Removal To Allotment.”
\bibitem{104} College Of The Muscogee Nation, “Removal To Allotment.”
\bibitem{105} Thornton, “Cherokee Population,” 289.
\end{thebibliography}
perished as a result of contracting pneumonia and diseases that they did not encounter while living on their homelands.\textsuperscript{106}

Still, although there was great suffering, many Tribal members brought along familiar items that kept them encouraged. As an example, several Indigenous groups brought along sacred fires from their homelands which they believed represented their soul (heart), and as familiar symbols of hope their sacred fires helped Tribes through hardships experienced along the Trail of Tears.\textsuperscript{107} For the Muscogee people and other Indigenous Tribes, they were able to endure unspeakable tragedies that followed them along the way, because gathering around fires had always been a place of communal strength for Tribes.\textsuperscript{108} Thus, when finally arriving on Indian Territory the survivors maintained the hope of finding peace in the new land.\textsuperscript{109} As an aside, today in Oklahoma (where the Muscogee Nation was resettled on lands they now consider home), there are currently 16 active ceremonial grounds where sacred fires are used in traditional ceremonies.\textsuperscript{110} It is profound that many of the same sacred fires used in Muscogee (Creek) ceremonies in Oklahoma today, are the same sacred fires brought to the Indian Territory during forced removal.\textsuperscript{111} Moreover, it is awe-inspiring that even in the face of unimaginable traumas, the Muscogee (Creek) Indians successfully maintained their strong identities while traveling the

\textsuperscript{106} Thornton, “Cherokee Population,” 289.

\textsuperscript{107} College Of The Muscogee Nation, “Removal To Allotment.”

\textsuperscript{108} College Of The Muscogee Nation, “Removal To Allotment.”


\textsuperscript{110} Oklahoma State Department of Education, Slide 26.

\textsuperscript{111} Oklahoma State Department of Education, Slide 26.
Trail of Tears, which was helped by cultural connections to sacred fires that empowered the Tribe and helped to prevent their spirits from becoming broken.\footnote{112 College Of The Muscogee Nation, “Removal To Allotment.”}

Essentially, the large scale removal of the Five Civilized Tribes finally ended in the 1840s. Still, forced resettlement was a tragedy that placed a lasting blight on the United States for abusing those who had trusted European settlers enough to teach them how to survive on their ancestral lands. Thus, not only were there cultural and historical ramifications caused by forced expulsions, but forced resettlement events were also deeply steeped in ethical and moral injustices that were strongly interconnected. As such, when examining atrocities affiliated with the Trail of Tears, the hope here is to give honor to descendants of those directly affected by all that was stolen. With that in mind, it is especially apropos to share the parting words that Cherokee Leader George Hicks wrote on November 4, 1838, in a letter he sent to John Ross (defender of Indigenous rights).\footnote{113 Martha Royce Blaine, *Pawnee Passage: 1870-1875* (Oklahoma: University of Oklahoma Press, 2008), 81.} Hicks stated:

> We are now about to take our final leave and kind farewell to our native land the country that the Great Spirit gave our Fathers, we are on the eve of leaving that Country that gave us birth. It is the land of our fathers…our sons, and it is [with sorrow] that we are forced by the authority of the white man to quit the scenes of our childhood, but stern necessity says we must go, and we bid a final farewell to it and all we hold dear East of the Father of Waters, the Majestic Mississippi.\footnote{114 Blaine, 81.}

Hicks’ words poignantly expressed the depth of what many likely felt as they were forced into exile, away from homelands that were bequeathed by early ancestors who had become custodians of Southeastern lands.
The Precursor To Increased Interest In Native American Cultures: An Examination Of Allotment Practices

Upon entering Indian Territory, the first requirement for Tribes was to be processed east of Okmulgee, Oklahoma at Fort Gibson where a census revealed how many Native Americans had overcome the perils of their journey from the Southeast. Unfortunately, the census process also confirmed the astounding number of lives lost among the Muscogee and other Tribes. Subsequently, upon entering Oklahoma each Tribe was segregated, with the Muscogee (Creek) and Seminoles being grouped together on shared lands. As a side note, the Indian Territory was reserved in 1828, when Congress decided which lands would be assigned to “red men,” and as such, by 1834, all white residents had to remove themselves from Oklahoma land that was designated as Indian Territory by the U.S. Government.

The amazing ability of the Muscogee (Creek) Nation to survive and adapt in their new environments, mirrored the resilience of their early Muskogean-speaking ancestors who found innovative ways to tame uncultivated lands for survival. For some Tribes new to Indian Territory, like their early ancestors before them, they understood the importance of holding onto established cultural traditions that were closely connected to Southeastern homelands. Hence, upon arriving in Oklahoma, the Upper Muscogee (Creek) people settled along the North Fork, Deep Fork, and Canadian Rivers, because by doing so, they were able to work in ways most familiar to their members, such as engaging in planting fields of corn and other crops.

115 College Of The Muscogee Nation, “Removal To Allotment.”
116 College Of The Muscogee Nation, “Removal To Allotment.”
117 College Of The Muscogee Nation, “Removal To Allotment.”
118 College Of The Muscogee Nation, “Removal To Allotment.”
119 Bradley R. Clampitt, The Civil War and Reconstruction in Indian Territory (Lincoln, University of Nebraska Press, 2015), vii.
Interestingly, many of the Lower Muscogee Creek Indians who had given up their Southeastern homelands to live on Indian Territory preferred lifestyles that incorporated European influences into their activities.\textsuperscript{120} That said, upon arriving on Indian Territory, the Lower Creek Indians settled near the Arkansas River, where they continued living separately from the more traditional Upper Muscogee (Creek) members.\textsuperscript{121}

While the Muscogee (Creek) people was settling on their new lands, the U.S. government continued enacting additional treaties that negatively impacted Native American Tribes. One such treaty was established in 1838, which was to provide monetary support to Tribes during the forced removal period.\textsuperscript{122} However, when compensation was finally received from the government, provisions were short lived due to the start of the Civil War (which ultimately destroyed much of the infrastructure that the Muscogee Nation built with their portion of the financial provisions).\textsuperscript{123} Interestingly, during the Civil War conflict, some Lower Creek members sided with the Confederate states, and while most Upper Creek members sought to remain neutral, some did align themselves with the Union Army.\textsuperscript{124} Moreover, the reason that some Lower Muscogee Creek fought on the side of the Confederate Army was because research suggests that many were slave owners, which might have been due to their decision to assimilate while living in the Southern states.\textsuperscript{125} Overall, however, most Muscogee (Creek) Indians on both

\textsuperscript{120} College Of The Muscogee Nation, “Removal To Allotment.”

\textsuperscript{121} College Of The Muscogee Nation, “Removal To Allotment.”

\textsuperscript{122} College Of The Muscogee Nation, “Removal To Allotment.”

\textsuperscript{123} College Of The Muscogee Nation, “Removal To Allotment.”

\textsuperscript{124} College Of The Muscogee Nation, “Removal To Allotment.”

\textsuperscript{125} Clampitt, \textit{The Civil War}, 5.
sides preferred to let the United States fight their own war. Consequently, for the role that some Lower Muscogee members played in the Civil War, in 1866 the United States enacted a treaty that ceded large tracts of land to the government as punishment for the Muscogee Indians aligning themselves with the Confederate Army. However, because the Upper Muscogee Indians should not have been penalized in that way, since they had not sided with the Confederate Army, the Tribe made the decision to establish its own Constitution. An interesting note involving their new Tribal Constitution, was that the Muscogee Nation began allowing freed slaves to become citizens of their Tribe. Subsequently, the group also refused to be taken advantage of by the U.S. government over the land cession penalty, and as a result of pushing back, the Muscogee Nation was ultimately awarded $2.3 million for land that had been ceded to the government in 1866. As a result of receiving that restitution, and due to their exceptional business prowess, the Muscogee (Creek) Nation began to thrive. For instance, astute leaders utilized annuities paid by members to support public works and infrastructure projects, which added to the economic stability of their communities. On the other hand, members of the Lower Muscogee Creek Tribe were strongly influenced by European culture, which likely skewed their economic, political, and social perceptions, and limited the economic

126 College Of The Muscogee Nation, “Removal To Allotment.”
128 College Of The Muscogee Nation, “Removal To Allotment.”
130 College Of The Muscogee Nation, “Removal To Allotment.”
131 College Of The Muscogee Nation, “Removal To Allotment.”
132 College Of The Muscogee Nation, “Removal To Allotment.”
progress of their community. At any rate, while Native Americans in Oklahoma worked on establishing the new lands as their home, the U.S. government continued making policies that negatively impacted Tribes.

Unfortunately, the U.S. government never quite removed their authority from governing Tribes, because the goal was to push them all toward attaining total assimilation. Thus, in an effort to realize that goal, policies were established to force “Tribal members to own land individually and not in common.” As such, in order to bring about total assimilation, the federal government maintained legal control over Tribes through legislation. Subsequently, the Dawes Allotment Act of 1871 was enacted to prohibit new treaties from being made, allowing the U.S. government to implement assimilation practices that forced Native Americans to exchange their communal lifestyles for “values of individualism and private ownership,” which required Native Americans to become independent farmers. However, while the U.S. government was busy developing such policies that would adversely impact Tribes that thrived as part of communal living on the Indian Territories, the Muscogee (Creek) Nation worked hard to continue building communities that included a governmental system of three branches

133 College Of The Muscogee Nation, “Removal To Allotment.”
134 Laurence M. Hauptman, The Iroquois in the Civil War: From Battlefield to Reservation (Syracuse: Syracuse University Press, 1993), 130.
135 College Of The Muscogee Nation, “Removal To Allotment.”
137 College Of The Muscogee Nation, “Removal To Allotment.” The Dawes Act was also known as the Land in Severality Act or Allotment Act which was the most assimilative law of that time. Interestingly, the headquarters for the Dawes Commission was located in Muskogee, Oklahoma.
mirroring those of the federal government, as well as a Tribal police force, churches, a well-developed school system funded by annuities, a college, and thriving businesses.\textsuperscript{138}

Consequently, adverse events that followed the 1871 enactment of the Dawes Act began in 1893, when a special commission organized by Congress, led by Senator Henry L. Dawes, pressed for negotiations with the Five Civilized Tribes to begin implementing allotment activities.\textsuperscript{139} A positive outcome of allotment policies was that the Muscogee (Creek) Nation and other Tribes were recognized as being independently sovereign, which meant that they were viewed as “distinct political communities with full authority and rights to manage their own affairs.”\textsuperscript{140} However, with that being said, it was also true that by dividing Tribal lands so that each family attained individual plots, the U.S. government sought to compel Native Americans to become assimilated as yeomen farmers.\textsuperscript{141} One consequence of the Dawes Act was that by turning communal lands into individual allotments, Tribal governments were eradicated.\textsuperscript{142} Also, as a consequence of the Dawes Act, reservation lands were also distributed to white settlers, who lived with Native Americans as neighbors, which was viewed as a way to “civilize” Indigenous people.\textsuperscript{143}

\textsuperscript{138} College Of The Muscogee Nation, “Removal To Allotment.” Muscogee Creek churches today are representative of Methodist and Baptist traditions, likely due to Presbyterian influence that the Tribe’s ancestors encountered while living on their southeastern homelands. Education is important to the Muscogee community which is reflected by the Tribe’s current ninety-five percent literacy rate.

\textsuperscript{139} Miller, “Assimilation,” 7.

\textsuperscript{140} Miller, 7.


\textsuperscript{142} Blend, 67.

\textsuperscript{143} Miller, 7.
The President’s role with regard to the land allotment policies was to ensure that individual Native American households received 160 acres of land, with single adults receiving 80 acres, and males under 18 years of age receiving 40 acres; however, there were no land allotments designated for married Indian women.\textsuperscript{144} Research suggested that when mothers were no longer allowed to own land, the goal was to remove matriarchal lines from Tribes.\textsuperscript{145} Furthermore, an important takeaway from the Dawes Act was that reorganizing communal lands into allotments required lands belonging to Native Americans to be auctioned. For example, in 1910, allotment policies allowed the Department of the Interior to auction 34,664 acres of prime land across Indian Territory for only $19.14 per acre.\textsuperscript{146} It is important to stress here that after being forced off Southeastern homelands and onto Oklahoma reservations, the Muscogee and other Tribes were again faced with losing their lands, but this time allotment policies were the method of choice.

\textit{On The Road To Repatriation: The Rise Of Native American Advocacy}

Land allotments against the Muscogee and other Tribes resulted in adverse outcomes that are important to examine to fully understand what led to mass advocacy movements supporting Native American rights (which ultimately led to the passing of repatriation law). As a result of the Dawes Act, land allotment policies continued to separate Native Americans from their new homelands on Indian Territory. Ultimately, the federal government began placing allotments in trust to prevent full-blooded Indians from selling their allotments for 25 years.\textsuperscript{147} Moreover, full-

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\textsuperscript{144} Miller, “Assimilation,” 7.
\textsuperscript{145} College Of The Muscogee Nation, “Removal To Allotment.”
\textsuperscript{146} College Of The Muscogee Nation, “Removal To Allotment.”
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blooded Indians and orphans were also forced to attain guardians for handling their allotments.\textsuperscript{148} However, mixed blood Indians were not assigned a waiting period before being able to sell their land.\textsuperscript{149} Consequently, the Muscogee (Creek) Nation viewed allotment policies as “culturally, politically, and economically” erosive to their Tribe.\textsuperscript{150} Thus, in 1898 when the Muscogee Nation made another attempt to reject allotment policies that were working against them, the U.S. government passed the Curtis Act which resulted in the abolishment of Tribal governments involving the “Creek, Cherokee, Choctaw and Chickasaw nations.”\textsuperscript{151} Moreover, the Curtis Act also allowed the Secretary of the Interior to control Tribal funds, and it required the U.S. President to approve all laws involving Tribes.\textsuperscript{152} As a result, Tribal consent was no longer needed for the government to enact allotment policies that separated Tribes from their lands.\textsuperscript{153} Additionally, if Tribes refused to accept land allotments, Tribal law within Indian Territory would have been nullified; therefore, in 1898 without recourse, Muscogee Principal Chief Pleasant Porter “signed the First and Second Creek Agreement to allow for allotments of Creek lands.”\textsuperscript{154}

Accepting land allotments did not bode well for some Muscogee Creek members who flatly refused to go along with any compromise with the U.S. government.\textsuperscript{155} In protest, a

\textsuperscript{148} College Of The Muscogee Nation, “Allotment To 1979 Constitution.”
\textsuperscript{149} College Of The Muscogee Nation, “Allotment To 1979 Constitution.”
\textsuperscript{150} College Of The Muscogee Nation, “Allotment To 1979 Constitution.”
\textsuperscript{152} Miller, “Assimilation,” 7, note 6.
\textsuperscript{153} College Of The Muscogee Nation, “Allotment To 1979 Constitution.”
\textsuperscript{154} College Of The Muscogee Nation, “Allotment To 1979 Constitution.”
\textsuperscript{155} Littlefield and Underhill, 308.
separate Tribal government was formed at Hickory Ground which some historians viewed as the beginning of the Crazy Snake Rebellion.\textsuperscript{156} The Crazy Snake Rebellion was a 1909 uprising of several hundred full-blooded Muscogee Creek warriors, known as the “Snake Faction,” who were focused on reviving Tribal governments dissolved by the Dawes Act.\textsuperscript{157} Led by Chitto Harjo, a staunch opposer of government allotment policies, the rebellion pitted the Snake Faction against white settlers who had purchased and moved onto allotment lands located on Indian Territory.\textsuperscript{158} As part of that short-lived uprising, the Snake Faction sought to make the U.S. government honor previous treaties, such as the Treaty of 1832 which was an agreement that upheld the Muscogee (Creek) Nation’s right to self-governance.\textsuperscript{159} In the end, the patriotic Snake Faction was disbanded, and once again the Muscogee (Creek) Confederacy and other Tribes were cheated out of their lands, as a result of force land allotment requirements.\textsuperscript{160}

The event that began turning things around for the Muscogee Nation and other Native American Tribes, was when in 1928, results of the Meriam Report were published.\textsuperscript{161}


\textsuperscript{157} Littlefield and Underhill, “Crazy Snake,” 307.


\textsuperscript{159} College Of The Muscogee Nation, “Allotment To 1979 Constitution.” Self-governance “empowers tribes to prioritize their needs and plan their futures at their own pace, consistent with their own cultures, traditions, and institutions,” in U.S. Department of the Interior, “Tribal Self-Governance,” \textit{Statement of George T. Skibine Acting Deputy Assistance Secretary - Indian Affairs Department Of The Interior At The Oversight Hearing On Tribal Self-Governance Before The Committee On Indian Affairs United States Senate} (September 20, 2006), https://www.doj.gov/oclt/tribal-self-governance.

\textsuperscript{160} Littlefield and Underhill, “Crazy Snake,” 324.

\textsuperscript{161} College Of The Muscogee Nation, “Allotment To 1979 Constitution.”
Meriam Report was a survey initiated by the Secretary of the Interior to determine the effects of the Dawes Act on Native Americans. More specifically, the goal of the Meriam Report was to determine whether removing Native Americans from communal lifestyles proved beneficial to Tribes. What the Meriam Report revealed was astonishing, in that it proved that by forcing Tribal members to exist outside of their traditional communal ways of life, harmful outcomes resulted which included overwhelming poverty, increased deaths by age 44, and high infant mortality rates. Also, without benefit of communal supports, Tribes suffered from dietary deficiencies caused by poorly prepared foods, and diets that were void of healthy fruits, vegetables, and milk, which were replaced with consuming more meat and foods high in carbohydrates. Also prevalent to Tribes were high rates of tuberculosis, trachoma, and other diseases that were infecting individuals. It was believed that those diseases were prevalent due to poor housing conditions that consisted of primitive building structures and temporary homes, both of which involved increased overcrowding of families. Other causes of perilous conditions were subpar or nonexistent sanitation infrastructures that lacked clean water supplies. Moreover, employment opportunities were so sparc
income involved “fishing, hunting, trapping, wood cutting, or gathering of native products, occasional labor and hauling” which were all traditional to the way of life for many Native American groups.\textsuperscript{170} As a result of unemployment, the average annual income for Tribal members who had been forced onto allotment lands averaged $100 per capita.\textsuperscript{171} Overall, the Meriam Report did an exceptional job at identifying what many Native Americans were experiencing as a result of being forced onto land allotments, as opposed to being permitted to continue residing within communal groups where they thrived.\textsuperscript{172} It is important to note that many Muscogee (Creek) members participated in the Meriam study, and were instrumental at helping to uncover the inhumanities that Native American people experienced as a result of the Dawes Act.\textsuperscript{173}

Subsequently, as a response to the horrific Meriam Report findings, in 1934 under the administration of President Franklin Delano Roosevelt, the Indian Reorganization Act (IRA) was passed, which permitted Native American groups throughout the United States to form their own Tribal constitutional governments, and the IRA also eliminated forced land allotments on Tribal lands.\textsuperscript{174} Additionally, the IRA also allowed Tribes to establish charters so that they could “develop their resources through the corporate form,” and the law also allowed for Tribes to acquire their own lands with the help of government funding.\textsuperscript{175} A lessor discussed outcome

\textsuperscript{170} National Indian Law Library. \textit{Meriam Report}, 5.

\textsuperscript{171} College Of The Muscogee Nation, “Allotment To 1979 Constitution.”

\textsuperscript{172} National Indian Law Library. \textit{Meriam Report}, 3.

\textsuperscript{173} College Of The Muscogee Nation, “Allotment To 1979 Constitution.”


\textsuperscript{175} Gover.
of the IRA was that it included a hiring preference which meant that employment opportunities and promotions within the Bureau of Indian Affairs had to first be given to Native Americans.\textsuperscript{176} While some point to those policies as the start of a recovery process for Native Americans who had failed to thrive during years of forced assimilation and land allotments,\textsuperscript{177} the Muscogee (Creek) Nation protested the new policies because they lacked Indigenous representation when being drafted,\textsuperscript{178} and as such, the IRA had not accurately addressed issues of most importance to the Muscogee confederacy.\textsuperscript{179} According to Goldberg-Ambrose:

> Although the stated thrust of the IRA was to revitalize tribal governments that had suffered from Interior Department domination for the previous half-century, the reality was federal control by different means and in the service of somewhat different ends. Tribal group life was reshaped in the process. Neither the referenda nor the constitutions instituted through the IRA facilitated the full expression of Indian political preferences.\textsuperscript{180}

Similar to policies directed by the IRA, in 1936 the U.S. government passed the Oklahoma Indian Welfare Act (OIWA) which specifically affected those living in Oklahoma.\textsuperscript{181} However, many Tribes rejected both the IRA and OIWA, which in 1940 resulted in Congress repealing the law, and also resulted in a congressional hearing on the matter, where “Alice Lee Jemison, a Seneca, told the committee that ‘there is no self-government in the act; all final power and authority remains in the Secretary of the Interior, which is exactly where it has always rested

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\textsuperscript{176} Gover, “The Power.”
\textsuperscript{177} Gover.
\textsuperscript{178} College Of The Muscogee Nation, “Allotment To 1979 Constitution.”
\textsuperscript{179} College Of The Muscogee Nation, “Allotment To 1979 Constitution.”
\textsuperscript{181} College Of The Muscogee Nation, “Allotment To 1979 Constitution.”
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Ultimately, the Muscogee (Creek) Nation declined to accept OIWA policies out of concern that the U.S. government would force opposing federal initiatives on its citizens, and in 1944 their Tribal nation was granted the right to form the Muscogee General Convention which adopted its own Constitution and bylaws. Moreover, the newly implemented Constitution called for the formation of the Creek Indian Council which merged their Nation’s executive and legislative branches. The Creek Council’s 1944 Constitution gave their Confederacy the right to self-governance, although they never received approval from the Bureau of Indian Affairs (BIA) in that regard. Thus, as a consequence, midway into the 1950s, the BIA revoked the Muscogee (Creek) Nation’s right to elect its own chief, and instead the BIA filled that post with appointees of their choosing which continued until 1970. Although the BIA reduced the role of the Creek Council to that of an advisory board, in 1964 the sum of $2.9 million was awarded to the Muscogee Nation by the Indian Claims Commission as compensation for federal violations regarding the Treaty of Fort Jackson in 1814. As a reminder, that Treaty forced the Muscogee to cede approximately 22 million acres of their lands to the United States as payment for damages that Andrew Jackson attributed to the Red Stick warriors. Moreover, another $1 million was awarded to the Muscogee Creek Nation in 1965 as recompense for monies owed to them as outlined in a 1856 Treaty involving reservation boundaries between the

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183 College Of The Muscogee Nation, “Allotment To 1979 Constitution.”
184 College Of The Muscogee Nation, “Allotment To 1979 Constitution.”
185 College Of The Muscogee Nation, “Allotment To 1979 Constitution.”
186 College Of The Muscogee Nation, “Allotment To 1979 Constitution.”
187 College Of The Muscogee Nation, “Contact to Removal.”
188 College Of The Muscogee Nation, “Contact to Removal.”
Creek and Seminole Tribes.\textsuperscript{189}

Another historical milestone for Native American groups was that at the end of the 1960s, grassroots advocacy movements arose that supported civil rights for groups of color.\textsuperscript{190} Those movements led President John F. Kennedy to establish policies directed at providing increased autonomy for Native Americans by removing them from under federal governance.\textsuperscript{191} Additionally, building on Kennedy’s policies that supported self-determination for Native American groups, in 1968 Lydon B. Johnson signed the Indian Civil Rights Act which passed four years after the Civil Rights Act had become law.\textsuperscript{192} The Indian Civil Rights Act was aimed at providing equal protections under the law, but it also afforded stronger self-determination rights to those of Native American heritage.\textsuperscript{193} The law also addressed what was important to the Muscogee (Creek) Nation at that time, which was to acquire stronger sovereign rights for governing themselves by establishing self-citizenship, controlling their Tribal properties, establishing economic autonomy, and policing their own people.\textsuperscript{194} In addition, which was key, at their request, the Muscogee (Creek) Nation would operate their own government, while also remaining citizens under the U.S. federal government (which allowed them to apply for federal

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\textsuperscript{189} University of Oklahoma College of Law, Message from the President of the United States, transmitting a proposition relative to the Seminole Indian lands in Indian Territory, American Indian and Alaskan Native Documents in the Congressional Serial Set: 1817-1899, S. Exec. Doc No. 122, 50th Cong., 2nd Sess. (1889), https://digitalcommons.law.ou.edu/cgi/viewcontent.cgi?article=5687&context=indianserialset.

\textsuperscript{190} University of Oklahoma College of Law.

\textsuperscript{191} University of Oklahoma College of Law.


\textsuperscript{194} United States Commission On Civil Rights, 9-10.
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funding opportunities and remain privy to the same benefits that other U.S. citizens enjoyed). With an increased advocacy focused on civil rights for Native Americans, between 1969 and 1971, President Richard Nixon was responsible for legislating 52 policies including Senate Concurrent Resolution 26, which provided for Tribal self-governance, awarded substantial funding for the BIA, increased funding to improve healthcare for Tribal members, and created a federal department to address water rights for Tribal communities. Nixon’s empathy of the traumatic experiences endured by Native Americans across history was poignantly expressed in his following statement: “From the time of their first contact with European settlers, the American Indians have been oppressed and brutalized, deprived of their ancestral lands and denied the opportunity to control their own destiny.” As a result of his empathetic domestic policies focused on increased self-determination for Native Americans, Nixon ended decades of adverse federal policies, and created many new policies aimed at giving Indigenous people control of their own destinies.

Resiliency Of The Muscogee (Creek) Nation: Recent Milestones And Focus On Repatriation

Before moving into Chapter Three, the final focus of this chapter will be to provide an overview of notable milestones experienced by the present-day Muscogee Nation. Highlighting their current state of affairs serves to emphasize the resiliency of the Tribe whose ancestors were

195 College Of The Muscogee Nation, “Allotment To 1979 Constitution.”


197 Nixon, 1. According to the Richard Nixon Foundation website (www.nixonfoundation.org), Nixon’s empathetic approach to Native American policies was birthed partly due to being mentored by his football coach who was of Native American descent. Nixon believed that had it not been for discriminatory practices against Native Americans, his beloved coach might have been a candidate for higher level coaching jobs.

198 Nixon, 1.
forcibly removed from all that they knew, lost thousands of members as they traveled the Trail of Tears, arrived in Oklahoma as unwilling refugees with little more than hope and determination, fought against many injustices imposed by the U.S. government, and managed to thrive in spite of those adversities. Thus, following is an overview of the 2022 Address To The Muscogee Nation offered by Principal Chief David Hill,¹⁹⁹ who highlighted the impressive cultural and economic strengths of the Muscogee (Creek) Nation as it stands in this present day:

**Membership**

At the end of 2021, there were 93,000 Muscogee (Creek) citizens registered with the Tribe, which is an amazing homage to the approximately 22,000 Creek Indians who walked the Trail of Tears that resulted in hundreds dying along the way from harsh weather conditions, lack of food, and exposure to diseases. Principal Chief Hill reported that the Nation currently operates two citizenship offices that process a “flood” of membership applications received each day.

**Permanent Fund Investments**

Also at the end of 2021, permanent fund investments totaled $533,577,000. That total represented a nearly $6 million increase over the previous year. That impressive economic stability is a testament to officials making sound business decisions for the future of their communities, as they continue focusing on “core values, traditions, integrity, dignity, and excellence.”²⁰⁰

**Healthcare**

The Muscogee Nation acquired the abandoned Cancer Centers of America hospital in Tulsa, and that acquisition helped to ensure quality healthcare for Muscogee members, which also extended

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¹⁹⁹ David Hill, Principal Chief, 2022 State of the Nation Address.

²⁰⁰ Hill, Principal Chief, 2022 State of the Nation Address.
to the general public. The hospital was especially instrumental in treating and saving lives during the COVID pandemic. The Muscogee Nation also has medical facilities that include the Council Oak Comprehensive Health Care facility, Okemah Community Hospital, and Okmulgee Medical Center, which are all located on their lands in Oklahoma. Patients receive quality care for chronic and acute illnesses within their HIV and hepatitis specialty clinic, and within an outpatient neuroscience center that provides treatments for neurologic disorders. Moreover, the Muscogee Nation has its own Department of Health to support its citizens.

**Education**

The Muscogee Head Start Program enrolled 289 children and families at the time of Principal Chief Hill’s address, with all students receiving Chromebook laptops to support their education. That enrollment surpassed the 116 students enrolled the previous year, which means that the program continued to impact more Muscogee children and families. In addition, there are several high schools in their community, with three of them slated to incorporate a Natives Studies pilot project and courses entitled, “Muscogee History, Life In American Indian Removal, the Muscogee Food Unit,” and the Military Service of Muscogee People.201 Another educational milestone included assisting adults interested in completing a Fiber Technician Training Program to improve their earning potential. Principal Chief Hill also expressed that another area of pride for his people was their language revitalization initiative, which was funded by grants to incorporate the Muskogean Language across educational and training departments. The reservation is also home to the accredited College of the Muscogee Nation which increased in student enrollment, and has plans for a new public education building and lecture hall.

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201 Hill, Principal Chief, 2022 State of the Nation Address.
Economic Development and Commerce

The Looped Square Meat Company is a Muscogee Nation enterprise which is a “state of the art USDA inspected meat processing facility that has capabilities for processing beef, pork, and exotics.”\(^{202}\) It also features rooms for drying and smoking meats, as well as a test kitchen for developing recipes. The Loop Square also incorporates a retail market where consumers can purchase fresh meats, fruits, vegetables, and dairy products. The patronage has outperformed projections each week since opening its doors, which directly improves food sovereignty as well as food insecurity challenges, and the establishment also “creates a revenue stream along a busy highway.”\(^{203}\) Other economic expansion initiatives include a recent ranch purchase that adds to the Muscogee Nation’s 5,600 acres of land, which “is one of the largest land acquisitions in recent Tribal history.” One hundred-sixty heads of cattle now call those lands home. Additional land acquisitions include plans to build a recreational facility and “to expand hunting and fishing capabilities”\(^{204}\) which will increase land acreage for hunting and fishing to approximately five thousand acres.

Housing

Several new housing development projects have begun to address the needs of older adults, low-income citizens, and homeless populations. Additionally, mortgage assistance and emergency rental assistance programs have helped to ensure that housing is available and affordable to those needing support.

\(^{202}\) Hill, 2022 State of the Nation Address.

\(^{203}\) Hill, 2022 State of the Nation Address.

\(^{204}\) Hill, 2022 State of the Nation Address.
Other Milestones

The Nation also has its own Veterans Affairs Office where military veterans are regularly acknowledged through a variety of programs and services. An inscription in front of the VA office reads, “Then, we were young – They defended us. Now, They are old – we protect them.” Additionally, the Nation also has its own police force and criminal justice agencies that partner with law enforcement agencies outside of their jurisdiction to reinforce mobilization objectives. Their criminal justice system consists of Tribal judges, prosecutors, and investigative staff that focus on safety initiatives. The criminal justice system also provides employment opportunities. Another milestone involves the nine gaming casinos located across Tribal lands in Oklahoma, which are regulated, owned, and operated by the Muscogee Nation’s Office of Public Gaming. The casinos provide economic support to Tribal communities, and they also improve tourism and revenue for the state, as employment opportunities are open to all citizens in Oklahoma.

Repatriation of Ancestral Remains

Recently, a delegation of Tribal and ceremonial leaders, as well as representatives from the Tribal government, traveled as good will ambassadors to the State of Alabama to reinforce and reaffirm ties to their original homelands, and to reiterate their claim to burial belongings held by the University of Alabama and the state. In addition, the delegates traveled to Emory University in Georgia, and participated in a land acknowledgement ceremony which helped the delegates fortify a strong presence in the lands belonging to their ancestors. The delegates believed that building strong connections in the Southeastern states of their ancestors would protect their

205 Hill, 2022 State of the Nation Address.

remaining heritage in those areas. It is important to note that the goal falls under Article XI of the Muscogee (Creek) Nation Constitution, which directs that “The Tribal government shall participate in the reburial of disinterred Muscogee persons and all objects.” Thus, the Muscogee Nation’s objective to obtain all burial belongings of their ancestors is more than just a strategic goal, as it is also a task aimed at honoring their disinterred ancestors. Thus, this dissertation’s objective to assist the Muscogee people by raising awareness of their repatriation objectives and challenges, makes the research being undertaken timely.

Those impressive accomplishments shared by Principal Chief Hill clearly highlighted the resilience of the Muscogee (Creek) Nation to overcome complex challenges caused by cultural, historical, and ethical challenges that occurred across their history in America. Over 200 years have passed since the massacre at Battle of Horseshoe Bend which led to forced resettlements of the Muscogee people. Thus, it was inspiring when in 2023, members of the present-day Tribe witnessed their Nation’s flag being raised over Nuyaka Tribal Town (renamed Daviston, Alabama). Addressing that event, in his closing remarks during the Muscogee Nation’s 2024 Inauguration Ceremony, Principal Chief Hill acknowledge both the tragedy and inspiration of witnessing the raising of the Tribe’s flag over that historic site. Hill stated:

As we plan for the future, we also look to the past for wisdom and inspiration…our flag now flies over Alabama, one of the locations is the site of Nuyaka Tribal Town in what is known as Daviston, Alabama. This is where the battle of the Horseshoe Bend was fought. The massacre there marked the end of the way of life that the Muscogee people had known for a millennia. A few short years later, our people suffered along the Trail of Tears to Oklahoma. As I watched our flag rise, wave boldly over this sovereign place, I thought of the many warriors, women, and children, who made the ultimate sacrifice in defending our Nation on that ground. I think everyone in attendance felt the gravity of this movement. But we also felt something else – the spirit of those warriors were present. It filled our hearts and determination and resolve to honor

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their sacrifice and that of many others since. It is this same tenacity that I hope every Muscogee (Creek) citizen carries with them today as we come together to carry on building the future of our Nation. If we remain united, filled with the spirit and determination of our ancestors, nothing can defeat us.\textsuperscript{208}

Moving forward to Chapter Three (with a focus on the Tribe’s current goal of reclaiming all sacred burial belongings removed from the Etowah Mounds), the first topic examined is the rise of disinterment activities for financial gain and to satisfy public interests. Those unethical practices ultimately inspired grassroot movements that resulted in the creation of policies leading to repatriation law. As such, research in the next chapter will also comprehensively examine current repatriation law which provides guidelines for returning burial belongings to affiliated custodians, and it will also examine major barriers in that law which has hindered the repatriation process for over three decades. Also covered will be a summarization of a virtual discussion held with seven Muscogee (Creek) subject matter experts, who provided their professional insights about the Tribe’s challenges with reclaiming ancestral belongings disinterred from the Etowah Mounds site.

\textsuperscript{208} Principal Chief Hill, 2024 Inauguration Ceremony, Livestreamed, Cove River Spirit Casino and Resort, Tulsa Oklahoma, January 6, 2024. Additionally, at this same ceremony, Principal Chief Hill also shared that the Muscogee (Creek) Nation’s flag also “flies proudly” over Georgia and Florida.
An Examination Of Recent Muscogee (Creek) Repatriation Challenges

While an examination of disinterment activities to support human remains research was already undertaken in Chapter One, this chapter will begin with a brief examination of the events leading to the excavations of ancestral remains aimed at profiting and satisfying public interest. That research will segue to a comprehensive examination of repatriation law and include an analysis of major barriers that continue to hinder the return of many thousands of burial belongings still located in institutions across the United States. Thereafter, this chapter will move forward with a summary of professional insights provided by seven subject matter experts from the Muscogee (Creek) Nation, who supported this dissertation by sharing the Tribe’s experiences involving repatriation and the Etowah Mounds. During that discussion, the scholars anticipated that by keeping their plight in the forefront, this research could help raise public awareness which could pressure institutions into returning their ancestral belongings. If enough public interest is raised, it may also help the Tribe reclaim a parcel of original homelands in Georgia to rebury their ancestral grandparents once repatriation of all Etowah’s belongings is accomplished.

Events Leading To Increased Disinterment Practices: For Profit And Public Entertainment

While it is difficult to fully ascertain reasons for why interest in Native American cultures increased, what history does show is that Native American burial remains became the frenzied focus of curating and exhibiting activities at many museums. According to Dr. Chip Colwell, a renowned anthropologist with extensive knowledge of Native American affairs, in the mid-1800s curiosity was a driving force behind the founding of museums which most always included skeletal remains as part of exhibits.¹ Consequently, as discussed in Chapter One, demand for

Native American skulls increased as scientific communities sought to prove that non-white races were inferior to those of European descent. Because Indigenous groups inhabited the Western Hemisphere for thousands of years, their ancestral gravesites covered the continents, making burial sites more accessible for research and curating purposes. Thus, because Native American lives were greatly devalued, laws failed to protect Indigenous gravesites in the same way that decedents of European heritage were legally secured. Thus, without benefit of stronger legal protections, “Native American burial grounds were emptied.”

Moreover, in addition to removing interred human remains, funerary objects were oftentimes excavated along with Indigenous decedents, which helped to create the alarming rise in looting gravesites for profit. Early on, those who sought burial remains were oftentimes “enterprising farmers, amateur archaeologists,” and those who simply liked the idea of profiting from grave robbing rather than earning a living by farming or mining which was typical for that time. As more museums were founded, some collections became deeply rooted in Eurocentrism, which meant that Indigenous curating practices often misrepresented Tribes in stereotypical ways. Moreover, competition among museums led to the demand for acquiring Native

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3 Star, 4.


6 Bieder, 24.

American burial belongings, which in turn increased pillaging of gravesites. Additionally, fierce competition ultimately resulted in stockpiles of Indigenous belongings being housed at curating institutions across America. For example, as a result of aggressive competition between the Field Museum and American Museum of Natural History, it was believed that entire Native American villages were stripped of burial remains and funerary objects that were removed from gravesites.

For several years after the Civil War, the founding of new museums and the frenzied fixation on acquiring Native American burial belongings continued to drive collections across America and Europe. One of the more prominent institutions heavily involved in extensive disinterment practices was the Army Medical Museum. In order to acquire human remains that were being used for comparative studies of Tribal groups, the Army Medical Museum (under the direction of the Surgeon General), required its medical staff to collect bodies of Indigenous soldiers. Alarmingly, that expectation resulted in remains being disinterred from battlefields and military gravesites. Following suit, the American Museum of Natural History also engaged in those same practices for acquiring Native American burial remains. Similarly, the Smithsonian Institution (which was founded in 1859) also began removing bodies from

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10 Bieder, A Brief Historical Survey,” 35.
11 Bider, 36.
12 Gulliford, “Bones of Contention,” 120.
13 Gulliford, 120.
14 Gulliford, 120.
gravesites, and today the institution is in possession of one of the largest collections of Indigenous belongings in the United States.\textsuperscript{16}

Disinterment practices against Native Americans seemed to wane around the 1950s, a few years after World-War II ended, which some believed was due to public outrage against the racist Eugenics movement that ended in the late 19th century.\textsuperscript{17} As discussed in Chapter One, Eugenics research involved the idea that a master race could be created through selective breeding among those of European descent, and examining Indigenous remains was a part of that racist research.\textsuperscript{18} Still, while robbing graves might have waned in the 1950s, Native American grave robbing continued to thrive throughout many periods across U.S. history. For example, increased interest in Darwin’s Theory of Evolution between the late 19th and early 20th centuries spurred interest in collecting Native American remains for researching brain size and testing theories involving “upright posture.”\textsuperscript{19} It should be stated that while many archaeologists at that time approved of exhuming human remains, some opposers argued that the activity was simply being done for profit and for the pure joy of hunting for human skeletons.\textsuperscript{20}

Consequently, on the matter of robbing ancestral graves, Indigenous activist Robert Cruz posed the question as to why “[w]hen a white man’s grave is dug up, it’s called grave robbing. But when an Indian’s grave is dug up, it’s called archaeology.”\textsuperscript{21} Similarly, Susan Shown Harjo, a Cheyenne/Muscogee (Creek) activist, observed that while there were many laws allowing

\textsuperscript{16} Andrew Curry, “Troubled Treasures,” \textit{National Geographic}, March 2023, 66.

\textsuperscript{17} Bieder, “A Brief Historical Survey,” ii.

\textsuperscript{18} Bider, ii.

\textsuperscript{19} Gulliford, “Bones of Contention,” 122-23.

\textsuperscript{20} Gulliford, 125.

\textsuperscript{21} Colwell, “The Long Ethical Arc.”
Native American remains to be claimed as “archaeological property,” there were very few laws protecting Indigenous decedents from being inhumanely claimed. According to a recent National Geographic article entitled, *Troubled Treasures*, “The bones of 100,000 individuals still languish in boxes and locked storerooms across the country.” Needless to say, many Native American groups believed that removing ancestral remains from places of interment was an extremely appalling act that caused historical trauma across Tribes for generations. In fact, recently, Principal Chief Hill poignantly stated, “The forced removal of our people causes pain that is still felt today in our people.” Thus, the act of exhuming ancestors is steeped in historical, cultural, and ethical offenses that point to why disinterment activities at the Etowah Mounds negatively impacts the Muscogee (Creek) Nation to this present day.

*An Analysis Of Repatriation Law (NAGPRA) And Barriers That Continue To Hinder The Return Of Native American Burial Remains And Funerary Objects*

The objective of the following comprehensive examination is to understand repatriation law, and to analyze barriers that have hindered successful repatriation outcomes for over three decades. Passing in 1990, the Native American Graves Protection and Repatriation Act (NAGPRA) was established to direct federally funded institutions on how to return Native American burial inventories to their culturally affiliated Tribes. Unfortunately, for more than three decades, many institutions remain unable or unwilling to comply with NAGPRA mandates.

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22 Colwell.


24 Principal Chief Hill, 2024 Inauguration Ceremony.

due to reasons that continually delay repatriation progress. For many Native Americans, noncompliance of the law is seen as yet another affront levied against their people; however, many Tribal groups remain steadfast in their quest to reclaim all burial remains and funerary objects that were removed from their original places of internment without consent. Thus, in order to understand reasons for non-compliance affronts, this section will evaluate barriers involving NAGPRA’s legalese, lineal descendancy, cultural affiliation, custodial rights, conflicting views about repatriation, and enforcement challenges.

For the purposes of NAGPRA, generally, the term repatriation refers to the rightful return of human remains and sacred funerary objects that were deliberately or unintentionally removed from places of internment. In most of those instances, cemeteries, unofficial burial sites, and mass graves were oftentimes intentionally unearthed by those excavating for research or were accidentally disturbed during land excavation projects. In either case, many Native American groups held onto the expectation that all burial belongings would be successfully reclaimed by Tribal claimants, but because total repatriation has not yet happened, the issue has remained an affront to some Tribes for generations.

The road leading to the passing of NAGPRA was linked to a major discovery in 1986, when William Tallbull, a Cheyenne Tribal Leader, discovered 18,500 skeletal remains housed at the National Museum of Natural History, an entity of the Smithsonian Institution. In an attempt

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26 Nash and Colwell, 232-33.


to bring that issue to the public forefront, Tallbull alerted John Melcher, Senator of Montana, who spearheaded Senate Bill 187 which was the first bill created to address the travesty against Native American people. Consequently, between 1986 and 1990, there were 26 bills debated and amended by Congress for the purpose of passing a final law directed at repatriating human remains of Native American ancestry. As a result of those efforts, in 1989 the National Museum of the American Indian Act (NMAIA) was passed, which was followed by the passage of NAGPRA on November 16, 1990.

NAGPRA serves two main objectives, with the first being to create a litigation process for which Native American and Native Hawaiian groups can claim burial remains and funerary objects from federally funded institutions, and the second objective is arguably to right wrongs caused by the United States government against Native American Tribes. More succinctly, to ensure transparency, NAGPRA directed that Native American claimants were to be partners in the repatriation process, which had not been the approach taken in the past when government agencies created policies that directly impacted Native American groups. Unfortunately, due to several key barriers that have remain a hindrance over the course of NAGPRA’s existence, many Native American groups struggle to believe that it is truly the government’s intent to welcome

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30 Bartman Watson, 172.

31 Bartman Watson, 172. The NMAIA, located in Washington, DC, is responsible for directing research and repatriation activities of Native American burial belongings at the Smithsonian Institution. The NMAIA ensures that the Smithsonian adheres to statutes for returning human remains to recognized Tribes.

32 Bartman Watson, 172.


34 Nash and Colwell-Chanthaphonh, 99. NAGPRA was signed into law by President George H. W. Bush. The Law was revolutionary, as it was the first that mandated federally funded non-Native organizations to consider Native American perspectives on determining the sacredness of burial belongings within curated inventories.
them as partners in the repatriation process.\textsuperscript{35}

It is important to note that in addition to full skeletal remains, burial belongings include small bone fragments along with sacred objects that were also interred in graves.\textsuperscript{36} Additionally, belongings protected by NAPGRA include single or multiple teeth detached from its jaw, as well as other biological tissue belonging to ancestors.\textsuperscript{37} Unfortunately, with regard to unethical research using Indigenous tissue samples, although protected by NAGPRA, sometimes biological samples were “removed and used…without consultation, consent, and collaboration from Native American communities; not cared for in keeping with the current best practices for Indigenous ancestors; [and] are not likely to be repatriated to their communities.”\textsuperscript{38} With that being said, it cannot be ignored that while many collectors view excavated remains as important inventories for satisfying public interest or for engaging in research, many Native Americans unwaveringly insist that the excavated human remains are their ancestors and therefore remains cannot be owned.\textsuperscript{39} Moreover, as covered in Chapter One, it must not be forgotten that many Native Americans believed that once their members were buried during ritual ceremonies, surviving members had a responsibility to protect decedents by ensuring that graves remained undisturbed, and if disturbed it was the responsibility of each Tribe to ensure reburial.\textsuperscript{40} In many cases, reburial was essential because some Native American Tribes believed that disinterring

\textsuperscript{35} Nash and Colwell-Chanthaphonh, “NAGPRA After Two Decades,”99.

\textsuperscript{36} Harris, “Respect,” 195-96.

\textsuperscript{37} Alyssa C. Bader, Aimee E. Carbaugh, Jenny L. Davis, Krystiana L. Krupa and Ripan S. Malhi, “Biological samples taken from Native American Ancestors are human remains under NAGPRA,” American Journal of Biological Anthropology (2023): 1, doi.10.1002/ajpa.24726.

\textsuperscript{38} Bader et al., 1.

\textsuperscript{39} Bartman Watson, “Mediating NAGPRA,” 174.

\textsuperscript{40} Harris, “Respect,” 199.
ancestral remains interrupted the spiritual journey which only reburial would correct. Moreover, it is also important to remember that some Tribes believed that when graves were desecrated and remains excavated, spirits belonging to deceased ancestors were no longer at peace; therefore burial rituals needed to be repeated in order to undo the damage that grave robbers caused.

Interestingly, while thousands of ancestral human remains, over 1 million funerary objects, and “15,000 sacred and communally owned objects” have been returned to their rightful Tribal groups since NAGPRA was established; there are still thousands of full skeletal remains and bone fragments housed at museums, educational institutions, and research facilities. In fact, it is difficult to fathom that for American museums alone, there are still approximately “127,000 Native American human remains and millions of funeral objects still sitting on the shelves.” As a response to this atrocity, to this day, many Native American claimants adamantly seek the return of all ancestral belongings no matter the size or condition, but unfortunately, Tribes must rely on a repatriation law that has many barriers which hinder Indigenous claimants from being successful at acquiring their ancestral belongings within a reasonable amount of time.

**NAGPRA’s Barriers That Hinder The Repatriation Process**

Federally funded institutions have the legal responsibility of returning Indigenous belongings to affiliated claimants. Unfortunately, although over three decades have gone by

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41 Harris, 199.
43 Nash and Colwell, “NAGPRA at 30,” 226.
44 Nash and Colwell, 226.
45 Harris, “Respect,” 198.
since the establishment of NAGPRA, unforeseen barriers continue hindering thousands of human remains and sacred objects from being returned to Tribes. Considering that dismal reality, and to ascertain which barriers need to be addressed, it is important to understand key issues that negatively impact the repatriation process. As such, following is an examination of major barriers that have plagued NAGPRA’s progress since its onset:

First, NAGPRA’s legalese is difficult to decipher, and while it would be inaccurate to assert that no progress has been made since its inception, repatriation processes remain extremely slow which can oftentimes be attributed to the law being entirely too broad. For example, NAGPRA directs that ancestral remains and funerary objects are to be repatriated to “affiliated Tribes or lineal descendants, as enforced by civil and criminal penalties.” However, it has proven to be difficult for some laypersons and professionals to determine the meaning of an affiliated (or associated) Tribe or lineal descendant. Overall, the statute on this topic states:

Museums and federal agencies [must] inventory Native American remains and funerary objects, create summaries of cultural items, consult with lineal descendants or associated Tribes, evaluate repatriation requests for cultural items, and provide public notice prior to repatriation or transfer of such ancestral remains and objects.

Consequently, misinterpretations of the law not only caused heated debates that created extremely long delays to the repatriation process, but misinterpretations also made noncompliance cases difficult to enforce. Moreover, while NAGPRA was established to honor Native Americans by

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47 Nash and Colwell, “NAGPRA at 30,” 229.


49 Zheng, “31 Years.”

reuniting them with ancestral belongings, its complexed language also proved challenging when attempting to determine which objects were covered under the law. \(^{51}\) For instance, according to Zheng:

> The statute defines cultural items into the broad categories of human remains, associated funerary objects, unassociated funerary objects, sacred objects, and cultural patrimony. When it comes to objects of uncertain religious or cultural connection such as projectile points, tools, or loose beads, there is uncertainty as to whether such objects fall under the purview of the elastic definitions of NAGPRA.\(^ {52}\)

As such, the ambiguity of NAGPRA’s language can be so subjective that even professionals such as anthropologists and biologists can find interpreting the law difficult. Thus, repatriation processes can be hindered because oftentimes those are the very experts that Native American claimants are depending upon in order for repatriation to be successful.\(^ {53}\)

A second barrier that hinders the repatriation process is the requirement that lineal descendancy must be established.\(^ {54}\) Lineal descendancy claims are necessary when Tribes are no longer able to be located.\(^ {55}\) In many of those cases, some institutions have been reluctant to turn over remains to claimants that attempt to prove lineal descendancy using oral tradition accounts.\(^ {56}\) Understandably, for many Indigenous claimants, it proved difficult to establish lineal descendancy which was evidenced in the 1996 case of a 9,000 year old skeleton that was

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\(^{51}\) Nash and Colwell, 229.

\(^{52}\) Zheng, “31 Years.”

\(^{53}\) Cryne, “NAGPRA Revisited,” 108.


discovered in Kennewick, Washington, and was later at the center of an infamous repatriation court case.\textsuperscript{57} As an overview of that event, a Tribe living in proximity to where the Kennewick Man was found petitioned the courts for his remains to be repatriated to them based on stories passed down through oral tradition.\textsuperscript{58} During that case, a court battle ensued between eight scientists united against the Tribe, with the case resulting in a win for the scientists who cited that it was not possible to prove whether Kennewick Man had Native American origins.\textsuperscript{59} However, many years after the case ended, DNA advancements helped to overturn the court’s original ruling, because the origins of Kennewick Man were indeed determined to be closely linked to the Colville Tribe, which established lineal descendancy.\textsuperscript{60} Still, while that case ended with the successful repatriation of Kennewick Man’s remains after years of legal battling, many Native American groups and opposing institutions lack financial resources to engage in those types of ongoing court battles.\textsuperscript{61} Consequently, legal entanglements are not the only challenge that can inflict financial burdens on both sides, utilizing DNA to determine ancestry can also be extremely costly and time-consuming to NAGPRA’s cumbersome process.\textsuperscript{62}

As mentioned earlier, similar to determining lineal descendancy, is the legal requirement to prove cultural affiliation before repatriation can be established. In his article entitled,

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\textsuperscript{57} Colwell-Chanthaphonh, Chip, “Reconciling,” 99.

\textsuperscript{58} Zheng, “31 Years.”

\textsuperscript{59} Colwell-Chanthaphonh, Chip, “Reconciling,” 99.


\textsuperscript{61} Zheng, “31 Years.”

“Provinces of Meaning: Determining Cultural Affiliation under the Native American Graves Protection and Repatriation Act,” Jerry Williams delved deeply into how NAGPRA’s cultural affiliation requirements seriously hindered repatriation efforts. Williams argued that from its onset, the goal of NAGPRA was to return objects to descendants sharing cultural affiliations; however, while there were successes, strict cultural affiliation requirements were responsible for unsuccessful repatriation outcomes for many Indigenous groups. Moreover, Williams shared that at the time of NAGPRA’s passing, it was estimated that up to 200,000 sets of remains were housed in 273 federal funded agencies, and by 2005 only about 131,000 sets of remains had been repatriated. Of the unrepatriated remains, 115,000 were said to be culturally unidentifiable, and thus were not included in inventories that should have been returned to their descendants. That dismal outcome occurred because NAGPRA mandated that cultural affiliation could only be determined through scientific means, and as a result, Indigenous claimants relying solely on oral traditions were denied rightful access to ancestral belongings. It is important to note here that there are institutions that do not object to repatriating their burial inventories; however, they hold the belief that there is an inability to match remains to rightful Tribes as required by law. Thus, for Indigenous belongings that could not be scientifically, historically, or prehistorically traced to


64 Williams, 278-79.

65 Williams, 273.


67 Colwell-Chanthaphonh et al., 27-28.

a Tribe, belongings were not repatriated until affiliation barriers were removed.  

Furthermore, the repatriation process was oftentimes hindered because cultural affiliation could only be determined by experts with knowledge of geographical, biological, kinship, archaeological, anthropological, linguistic, folklore, oral tradition, historical, and other relational competencies. Based on that strict caveat, it is easy to ascertain how institutions may be willing to repatriate, and yet are constrained as a result of stringent cultural affiliation requirements. As alluded to earlier, another negative aspect of the cultural affiliation prerequisite is that, while DNA advancements helped to establish cultural affiliation, the government had not provided enough funding for institutions to withstand financial burdens imposed by DNA testing. Thus, since NAGPRA’s onset, disputes centered around cultural affiliation requirements continued to plague repatriation efforts. As an aside, although a discussion with Muscogee (Creek) subject matter experts will be summarized later in this chapter, an interesting note to insert here is that the experts unwaveringly believe that all burial belongings are able to be culturally affiliated, even without benefit of scientific methods. As a result of consultations between Tribes and the U.S. Department of Interior, changes were proposed that would allow cultural affiliations to be determined solely by geographic connections. Moreover, the agency also proposed that the term “culturally unidentifiable” be removed from NAGPRA’s cultural affiliation directives. As

69 Williams, “Provinces,” 273.

70 Williams, 277.


a result of efforts to revamp challenging regulations imposed by NAGPRA, on January 12, 2024, the Department of the Interior made a final rule to remove “geographical affiliation” in its entirety, which should streamline the cultural affiliation determination process.\textsuperscript{73}

A third barrier that continues to cause delays to the repatriation process involves ongoing disputes about custodial rights. Conversations addressing whether human remains can be owned are sometimes contentious. On one side of that debate are some Native American groups that lay claim to ancestral remains based on cultural and religious rights, and on the other side of the debate are those researchers who believe that because burial remains are important for research, they should remain within scientific communities.\textsuperscript{74} Thus, across NAGPRA’s history, many researchers and curators have flatly refused to repatriate their burial inventories because they believe that not all excavated remains are culturally identifiable, and therefore, those burial belongings should be withheld for educational and research purposes.\textsuperscript{75} Moreover, some scientific communities also believe that repatriating ancestral remains may cause important data to be lost as technological advancements improve over time.\textsuperscript{76} Similarly, some argue that data collected from burial remains may be beneficial to Native American groups, and therefore belongings should remain as part of research.\textsuperscript{77} However, Harris highlighted the irony of that perspective when he stated, “in order to preserve Native American cultures, many collectors violate the


\textsuperscript{75} Harris, “Respect,” 200.

\textsuperscript{76} Cryne, “NAGPRA Revisited,” 108.

\textsuperscript{77} Wagner et al., “Fostering Responsible Research,” 185.
cultures’ principal beliefs: the sanctity of burial.”78 With regard to the latter argument, there are many nonindigenous collectors that do agree that culturally identifiable remains should be returned to rightful Tribes.79

There are also pressing issues for Tribes when attempting to assert their right to claim ancestral biological tissue samples. For instance, Tribal groups might not be aware that samples of ancestral decedent tissue were even collected, and also, oftentimes when biological tissue samples were used for research purposes, minuscule “remnants of the samples [could] remain after some types of destructive analyses,” and the remaining remnants might be too small to repatriate.80 Furthermore, it can be difficult to locate biological tissue remnants when they are removed from original curating institutions and relocated to other research facilities.81 Moreover, when biological tissue samples were relocated to different laboratories, in some cases proper care of the specimens were lacking, making repatriation under NAGPRA more difficult.82 That is because sometimes tissue samples are difficult to identify as having human origin once they are “physically and chemically deconstructed throughout the research process.”83 Lastly, it may also be difficult for Tribes to lay claim to biological tissue samples because “remnants, such as paleogenomic extracts or freeze-dried collagen, have not been explicitly addressed within the scope of NAGPRA, and are currently even less likely to be included in the repatriation process.”84

78 Harris, “Respect,” 201.
79 Harris, 200.
80 Bader et al., “Biological samples,” 2.
81 Bader et al., 2.
82 Bader et al., 2.
83 Bader et al., “Biological samples,” 6.
84 Bader et al., 6.
Constraints, such as those just discussed, are reasons for why many Native American groups have difficulty asserting their custodial rights for reclaiming ancestral remains, especially when remains are adversely altered by biological research.

No matter what side of the argument one stands, it would be difficult to deny that some collections within museums and other institutions were acquired without regard to their Tribal significance. As discussed in Chapter Two, during early post-Civil War years, there was an increase in government-funded research that gave anthropologists and other researchers the right to acquire innumerable amounts of Native American cultural and religious items, which included burial remains. It is important to restress that many of those belongings were acquired by “fraud, compulsion, or robbery,” and when Tribes brought lawsuits to protect their sovereignty, courts traditionally cited that the lawsuits were without legal merit. Also prior to NAGPRA, when cultural objects were located on private or state-owned land, excavators had legal rights to own and sell the burial belongings. However, since 1990, “the 10th Circuit…ruled that NAGPRA extends to the individual trade of Native American belongings.” Thus, as an example of increased protections under NAGPRA, the law requires that a permit be acquired by anyone desiring to excavate on federal or Tribal lands for the purpose of removing burial remains, burial


86 Colwell-Chanthaphonh, 97.

87 Zheng, “31 Years.”

88 Zheng.

89 Zheng, “31 Years.”
or sacred objects, or objects deemed to be cultural patrimony. Regarding the latter, permits are only provided upon “approval by interested Tribes and in compliance with the Archaeological Resources Protection Act (APRA).” NAGPRA further requires that anyone removing belongings of cultural significance from federal lands or Tribal properties, must notify the correct federal agency or Tribal official overseeing that area, and in those cases officials must act quickly to provide protection of the objects, notify Tribal descendants, and provide oversite to ensure that the excavation is properly carried out. NAGPRA also ensures that if burial remains or objects are found during a mining or construction project, then the project must be halted so that reasonable attempts can be made for securing the objects.

A fourth barrier responsible for NAGPRA inefficiencies, is when interested parties lack the ability to harmonize their conflicting values about repatriation in general. It is important to note once again that it is incorrect to assume that all Native American groups are cohesive in their repatriation beliefs. Still, according to Grabouski, “Native Americans, the scientific community (including social scientists), museum professionals, attorneys, and historians” may all share varying and oftentimes oppositional ideologies about repatriating burial remains and funerary objects. Thus, not surprisingly, expeditious repatriation efforts seemed doomed from NAGPRA’s


91 National Park Service, Part 10.


93 National Park Service, Part 10.

beginnings due to the contentious disagreements that occurred between Native American groups that wanted to reclaim ancestral belongings, and institutions that felt they had rights to retain burial inventories in support of educational and scientific endeavors. Additionally, from some Native American viewpoints, NAGPRA was oftentimes seen as a vehicle to help create a small measure of closure for Tribes engaged in reburial ceremonies for repatriated ancestors. Colwell confers that although NAGPRA does not specifically list healing as a goal of repatriation, some Native Americans do report experiencing varying degrees of healing as a result of ancestral remains being reclaimed. The general consensus of many Native Americans is that while repatriation alone does not create total healing after a long history of abuses by U.S. institutions, and while repatriation certainly does not erase wounds of the past, reclaiming ancestral belongings can be one step in the healing process. Furthermore, repatriation of ancestral remains is also important across Tribes because some Native American groups are profoundly connected to the internment places of their ancestors, and as previously mentioned, some may also feel a sense of responsibility for protecting their dead. In that regard, a member of Cheyenne and Hodulgee Muscogee descent considered repatriation to be the opportunity to free ancestors that were held as “prisoners in museums.”

95 Nash and Colwell, “NAGPRA at 30,” 230.


Then, as discussed earlier, the opposing perspective is that repatriation can interrupt strides made during scientific research. As an example, Elizabeth Weiss, a San Jose State University anthropology professor, expressed that repatriation law contributed to increased censorship of ancient DNA research in America, and she also lamented that the law also favored religious views over scientific research. Moreover, Weiss argued that burial remains provided important information about the past, and would also be useful for training future forensic anthropologists. Additionally, Weiss expressed her opposition to reburying human remains, stating that it “limits scientific advancement…[as] a collection is not something that you study once and then it can be repatriated, because as you build knowledge on the collection, it helps you ask deeper questions as you learn more about the collection.” Weiss further argued that affiliating present-day Tribes to ancient ones was questionable since individuals migrated throughout history, and as such, even DNA technology lacked the ability to link “older bones to modern Tribes” since genetic markers would no longer be present. Not surprisingly, many researchers agree with Weiss’ assertion that repatriation stands in the way of research and its ability to offer important data that only human remains can provide. Another difference of opinion is the view held by some Indigenous groups who assert that research using ancestral remains continues to be discriminatory. As an example, in 1971, the Iowa Department of Transportation accidentally unearthed human bones during a highway

102 Elizabeth Weiss, and James W. Springer, “Repatriation and the Threat to Objective Knowledge,” Academic Questions 34, no. 2 (2021), 71. DOI:10.51845/34su.2.9.
104 Flaherty.
105 Flaherty.
106 Flaherty.
project, with the remains being identified as both Euro-American and Native American. However, while the Euro-American remains were quickly reburied at a Christian cemetery, the Indigenous remains (which were of a Native American girl and her baby) were confiscated for research. Had it not been for public outrage and national media attention which pressured the Iowan governor to intervene, the Indigenous remains might not have been reburied. Native American groups viewed that case as another instance of the government’s mistreatment of their people, and it also highlighted why some Native American groups lacked faith in NAGPRA’s ability to help them reclaim their ancestors.

A fifth and final barrier that hinders the repatriation process involves inefficient enforcement practices against institutions that fail to comply with NAGPRA. It is the responsibility of the U.S. Department of the Interior to investigate allegations of noncompliance to repatriation law. However, the agency’s challenge is that one fulltime investigator handles all noncompliance cases, which makes investigating potential law breakers an extremely tedious process. In fact, according to the National Park Service:

> Allegations must be in writing, and should identify the failure to comply and provide supporting facts. Documentation should include evidence that the museum has possession or control of Native American cultural items, receives Federal funds, and has failed to comply with specific provisions of the Act.

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108 Star, 9.

109 Star, 9.

110 Star, 9.


113 National Park Service, Civil Penalties.
In addition, while there are civil penalties in place for violators of NAGPRA requirements, enforcement of those penalties can be eluded if a noncompliant institution is able to plead their case “based on a preponderance of the evidence.”  As such, it should be of no surprise that many institutions have not reported that they are in possession of Native American burial inventories protected by repatriation law. Thus, enforcement practices against violators of NAGPRA have remained sparse, which is apparent from a 2022 Department Of Interior review that identified only 20 institutions out of the 53 investigated failed to comply with repatriation requirements. Additionally, in that same 2022 review, it was revealed that only $60 thousand in penalties were collected that year, which was minimal when over 117,000 Indigenous decedents were still being held at federally funded institutions.

Notwithstanding, enforcement challenges also affect Native American groups in other ways. While ancestral belongings found on private lands are protected under NAGPRA, because those collections are housed within privately owned collections, oftentimes enforcement officials do not know the items exist. In a case highlighting that issue, Seidemann et al. discussed the 2009 sale of a human skull that was auctioned on eBay which was ultimately identified as the remains of a middle-aged Native American woman. Although the law prohibited the sale of


115 Beasley, *Statement of Joy*.

116 Beasley.

117 Beasley.

human remains, the eBay seller innocently acquired and sold the belongings (believed to have come from the estate of Roy Pohler, a well-known collector of antiquities). The belongings had no concrete documentation and therefore origins were unknown. Because Louisiana state and federal law had strict guidelines for handling human remains, the Louisiana Department of Justice investigated the eBay skull sale and although they did confiscate the remains, the agency cleared the buyer of knowingly committing a crime. Because a costly analyses of the skull would have been required to determine its Tribal affiliation, the Louisiana Native American community approved that the unaffiliated remains could be reinterred “in a Keepsafe cemetery maintained by the State of Louisiana.” That case highlighted how private collections of human remains could avoid detection, and it also underscored how Indigenous belongings in private collections might never be repatriated to rightful descendants.

In another interesting example of how enforcement of NAGPRA can be a challenging undertaking is that U.S. repatriation law does not extend to international institutions in possession of Native American belongings. For instance, research shows that there were 200 Native American decedents housed in 27 museums across Denmark. Many of those belongings were acquired between the late 1800s and the 1970s, with most appearing to be prehistoric. Still, the objects should be tested to determine lineal descendancy or cultural

120 Siedemann et al., 1247.
121 Siedemann et al., 1248.
122 Siedemann et al., 1251.
124 Ahlqvist et al., 57.
affiliation, and returned to present-day ancestors. Unfortunately, if NAGPRA continues to lack credible enforcement reach within the U.S., it is highly unlikely that belongings located internationally will ever be reclaimable.\textsuperscript{125}

Although estimations vary, based on a recent accounting, since its inception NAGPRA has successfully repatriated “over 84,000 Native American ancestral remains and 1.5 million funerary objects.”\textsuperscript{126} However, arguably, had it not been for challenging barriers across NAGPRA’s history, substantially more burial remains and funerary objects would likely be repatriated. That disheartening fact must be taken seriously in order for Native Americans to finally attain their goal of acquiring ancestral remains that rightfully belong to them. While there are many arguments levied by those who view burial remains as scientific discoveries to be researched and exhibited for educational purposes, it must be paramount to view burial remains and funerary objects as sacred belongings deserving to be reburyed. Native American groups, like the Muscogee (Creek) Nation, have argued that when their people are excavated, it becomes their responsibility to reclaim and rebury the ancestral remains and funerary objects. Thus, when institutions refuse to comply with repatriation law, Native Americans should be confident that enforcement of noncompliance will be swift and effective enough to pressure institutions into adhering to the law. However, because major barriers have prevailed for decades, thousands of burial remains and nearly one million funerary objects are still not repatriated. Until changes to NAGPRA are tested for their ability to streamline the repatriation process for better efficiency, reclaiming burial belongings expeditiously will likely remain challenging for Tribal affiliates.

\textsuperscript{125} Ahlqvist et al., “Native American,” 57.

\textsuperscript{126} Beasley, Statement of Joy.
A Discussion With Muscogee Subject Matter Experts: Recent Repatriation Experiences

While completing research for this dissertation, it was a highlight to be given the opportunity to meet with seven subject matter experts belonging to the Muscogee (Creek) Nation, who provided their professional insights about the Tribe’s experiences with many of the topics being researched. The professional expertise of the scholars ranged across several disciplines, to include Tribal archaeology, Tribal preservation, repatriation law, academia, and Tribal government. Moreover, six of the scholars provided their insights as one collective group that took part in a virtual meeting. The seventh contributor, who was an elected official of the Muscogee (Creek) Nation’s Tribal government, shared their insights by phone a week prior to the virtual group meeting. In order to respect the time of all contributors, questions were emailed to the experts ahead of both discussions, although the participants were free to share additional insights as they were led. Following is a summary of topics discussed:

Discussion Topic No. 1
Does the separation between Upper and Lower Muscogee (Creek) groups still exist today?

As a response, all seven subject matter experts agreed that the Lower Muscogee Creek were not a federally recognized Tribe and had no affiliation with the Upper Muscogee (Creek) Nation. One of the experts further explained, “The Lower Muscogee are a completely separate group, as their values are vastly different than those held by members of the Muscogee Nation.”127 The elected official stated, “The Lower Muscogee are not considered part of the present-day Muscogee (Creek) Nation because their group aligned themselves with European settlers and by doing so, much of the Lower Creek Tribe is now assimilated into European

127 MCN Historic and Cultural Dept., Zoom meeting.
culture.” The elected official also stressed, “The Muscogee (Creek) Nation is not affiliated with the small group of individuals that were recently in the news for confronting the Atlanta Mayor while he was at a private meeting. Although that group of protestors identified themselves as Muscogee Indians, they were likely members of the Lower Muscogee Creeks.” The official also stated, “I hope what the protestors did to the Atlanta Mayor will not interfere with the good faith relationships that the Muscogee (Creek) Nation has worked so hard to build with officials in Georgia.”

**Discussion Topic No. 2**
**What is the most prevalent ethical issue involving repatriation among the Muscogee Nation today and why?**

The elected official stated, “The Muscogee Nation sent representatives to assist with geophysical work at the Etowah Mounds site for several summers, and we are interested in continuing those types of partnerships because it makes it easier to reach out to Georgia agencies on other issues of importance for the Tribe.” A member of the virtual group stated, “Although work has been done between the Muscogee Nation and the Georgia Department of Natural Resources, there is still very little movement for returning the belongings that were exhibited at the Etowah Archaeological Museum. No one has communicated to us about plans for returning...
the belongings, which is a concern to us.”

When asked to elaborate, another expert added, “There are multiple agencies across the country that still have belongings removed from the Etowah Mounds at different periods in history. The belongings were divided among those agencies.” Another expert explained, “Those agencies don’t understand that the burial belongings are our ancestral grandparents.” To that, a different participant weighed in and stated, “our concern is that because so many institutions have the belongings, it could take years before everything is returned to us. Although the Etowah Archaeological Museum no longer has inventories, we are being asked to culturally affiliate the belongings again before they can be returned to us.”

When asked the significance of being asked to culturally affiliate the belongings once again, the expert added, “Belongings removed from the Etowah Mounds were already culturally affiliated to our Tribe around the time that NAGPRA passed. So, having to repeat that process just adds to the delays.”

An interesting statement followed when the same expert shared that, “Even when all burial belongings are repatriated to the Tribe, there is still a concern about whether we can obtain donated land near the Etowah Mounds to rebury our ancestral grandparents.” It was further explained that donated land needed to be located on ancestral homelands near the Etowah Mounds because ancestral grandparents were most connected to that area, and were not connected to Oklahoma in any way. When asked what would happen if Georgia did not donate

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132 MCN Historic and Cultural Dept., Zoom meeting.
133 MCN Historic and Cultural Dept.
134 MCN Historic and Cultural Dept.
135 MCN Historic and Cultural Dept.
136 MCN Historic and Cultural Dept.
137 MCN Historic and Cultural Dept., Zoom meeting.
the land for reburial, one expert stated, “Then we will have to settle for reburying ancestral grandparents on land in another nearby state that is connected to the Tribe, such as Florida or Alabama. Only if none of those states donate lands we will bring them to Oklahoma to reburry them. But that is not ideal because they have no affiliation with Oklahoma.”

**Discussion Topic No. 3**

**What have been actual roadblocks to correcting repatriation challenges for the Tribe?**

One of the experts stated, “Because there are many institutions across the United States that have burial belongings removed from Etowah it makes repatriation complicated. The belongings have to be re-inventoried and then culturally affiliated to the Muscogee Nation again before they will be repatriated.” When asked were there any other issues involving institutions that have the Tribe’s ancestral grandparents, one expert stated, “The problem is that there are antiquated staff archaeologists who have been in charge of the repatriation process for many years, and they are not willing to change their old ways of thinking of the repatriation process. They do not focus on how NAGPRA directs the cultural affiliation process, and so many times staff in positions for a long time delay the process.”

As an example, one expert stated, “The Smithsonian’s National Museum of Natural History takes a very long time to repatriate because their staff do not want to accept guidance from other professionals that are able to complete the cultural affiliation requirements more efficiently. Working with those who have been in positions a long time and won’t change their outdated ways of thinking about repatriation is very difficult, but we are hopeful because of new federal grants awarded to institutions. Those grants are for hiring new staff whose sole job will be to inventory belongings so that the repatriation process

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138 MCN Historic and Cultural Dept.
139 MCN Historic and Cultural Dept.
140 MCN Historic and Cultural Dept., Zoom meeting.
moves more quickly."\textsuperscript{141}

As an aside, in an email that was sent as a follow-up to the virtual meeting, the group was asked to identify institutions still holding onto burial belongings removed from the Etowah Mounds. As a response to that inquiry, according to the Muscogee (Creek) Nation Historic and Cultural Preservation Department, following are the eleven institutions:\textsuperscript{142}

- Robert S. Peabody Institute of Archaeology, Andover, Massachusetts
- Georgia Department of Natural Resources, Carrollton and Athens, Georgia
- Michael C. Carlos Museum, Emory University, Atlanta, Georgia
- Smithsonian National Museum of Natural History, Washington, D.C.
- University of Michigan, Ann Arbor, Michigan
- Gilcrease Museum, University of Tulsa, Tulsa, Oklahoma
- Mercyhurst University, Eerie, Pennsylvania
- The Chicago Field Museum, Chicago, Illinois
- Hastings Museum, Hastings, Nebraska
- Charleston Museum, Charleston, South Carolina
- Rochester Museum & Science Center, Rochester, New York

\textit{Discussion Topic No. 4}
Are there issues of an ethical nature that recently involved the Muscogee (Creek) Nation and institutions holding onto burial belongings?

One expert explained that many institutions do want to return burial belongings, and they show support by removing them from displays. The expert further stated, “Also, some

\textsuperscript{141} MCN Historic and Cultural Dept.

\textsuperscript{142} MCN Historic and Cultural Dept., email message to author, 2023.
institutions became more compliant after learning about the pressure put on the University of Alabama to return our belongings. Once that became public, other institutions started reaching out to us because they likely didn’t want to be embarrassed publicly.”

With regard to the Alabama case, due to time constraints of the virtual meeting, one of the experts later emailed an article written by Turner Hunt, a Tribal Historic Preservation Officer Of The Muscogee (Creek) Nation. In his article entitled, “The Muskogean Confederacy Rises: For Our Ancestor’s Sake,” Hunt provided an accounting of events surrounding the Muscogee (Creek) Nation and the University of Alabama.

As a summary, the University of Alabama owns the Moundville Archaeological Park which includes “29 platform mounds, an archaeological museum, a nature trail, and a camping facility.”

As an overview of the events in his article, Hunt reported that the University of Alabama acquired an inventory of 5,892 ancestral remains and too many funeral objects to correctly assess without formally inventorying the objects. The totality of the burial belongings were disinterred from the Moundville site, and were culturally affiliated to Muskogean-speaking Tribes. Consequently, challenges arose because University staff who were responsible for ensuring repatriation, were also responsible for overseeing their own compliance of NAGPRA. In other words, because the Moundville Museum was profiting from the burial belongings, it was in the University’s financial interest not to comply with repatriation requirements. Thus, when Tribes affiliated with the Moundville site requested that ancestral

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143 MCN Historic and Cultural Dept., Zoom meeting.


147 Hunt, 7.

148 Hunt, 6.
belongings be repatriated, the University engaged in many years of excuses and refusals.\textsuperscript{149} Hunt further reported that when the University of Alabama did engage in conversations with Tribes, their words were “unfair, and at times, blatantly disrespectful.”\textsuperscript{150} Reporting the response of the Muscogee (Creek) Nation, Hunt wrote:

\begin{quote}
[I]n a historic display of unity, a coalition of Muskogean-speaking Tribes… joined forces to demand the repatriation of our ancestors and their belongings… Moundville is a Muskogean cultural site and after 30 years, it is time for the University of Alabama to do what is right – and under the law.”\textsuperscript{151}
\end{quote}

That show of unity led the Tribal Confederacy to pass Resolution No. 21-36, directing “the University of Alabama to recognize that Moundville [was] culturally affiliated to Muskogean-speaking Tribes,” which also meant that immediate repatriation of Moundville’s ancestral belongings was being demanded.\textsuperscript{152} Additionally, “the National Congress of the American Indians, with the help of NAGPRA author and activist Suzan Shown Harjo, passed resolution #SAC-21-007 that supports the Muskogean joint cultural affiliation.”\textsuperscript{153}

Since the publishing of Turner’s article, on August 30, 2022, the National Park Service issued a Notice reporting that the University of Alabama’s Museum had completed their inventorying of burial belongings associated with Moundville and other archeological sites, and the Museum reached the conclusion that their inventories were culturally affiliated with “present-

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\textsuperscript{149} Hunt, “The Muskogean,” 6.
\textsuperscript{150} Moundville Archaeological Park.
\textsuperscript{151} Hunt, “The Muskogean,” 7.
\textsuperscript{152} Hunt, 7.
\textsuperscript{153} Hunt, 7.
\end{flushright}
day Muskogean-speaking Indian Tribes.”  Although, the belongings have not yet been returned to the Muskogean Confederacy of Tribes, it can be reported that the actual number of burial belongings stands at “10,245 individuals of Native American ancestry…[and] 1,529 objects…reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.”

During the virtual discussion with the group experts, one member stated, “During our fight with the University of Alabama, the institution treated the burial remains disrespectfully. There was an injustice in the way that unrelated Indigenous remains were compiled together in sacks, while the remains of individuals of European descent were kept separated and neatly packed in protective wrappings before being assigned their own drawer.”  Another expert also shared, “We were bothered that living descendants were not asked for consent before our ancestral grandparents were used for research. There is an obvious inequity between the two ethnic groups, which is a human rights issue.”  On a positive note, an expert then shared, “Because there was increased news press about the University of Alabama case, other institutions have begun focusing on inventorying their Indigenous belongings.”

_Discussion Topic No. 5_

Have the Muscogee Nation’s perspectives changed about the U.S. government, since proposed repatriation policies require Tribes to be consulted as partners in the repatriation process?

In a show of unity, all seven of the experts agreed that they were hopeful for repatriation

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155 National Archives, Federal Register, _Notice of Inventory_.

156 MCN Historic and Cultural Dept., Zoom meeting.

157 MCN Historic and Cultural Dept.
policies to be improved under the new administration; however, it was also agreed that institutions holding onto ancestral belongings needed to do their part to respect new policies by complying. One expert stated, “We are proud that since NAGPRA passed, the Muscogee (Creek) Nation reburied close to 900 ancestors which took 40 reburial ceremonies.” When asked about barriers caused by NAGPRA’s cultural affiliation requirements, a contributor adamantly stated, “We believe that all burial belongings can be affiliated, if only by determining geographic lines of evidence that link belongings with present-day Tribes. The problem was that many institutions did not use lines of evidence to identify affiliations between their inventories and Tribes, but they relied only on DNA to affiliate belongings when other lines of affiliation include oral tradition, storytelling, folklore, and other nontraditional ways. Now, even with the loopholes in repatriation law that allowed institutions to keep burial belongings, the new policy changes will make it hard not to return burial belongings.”

Discussion Topic No. 6
To ensure that this dissertation identifies your culture correctly, please weigh in on what your members prefer to be called? For example is your preference, Native American, American Indian, Indigenous, etc.? Interestingly, each of the experts from the collective group, as well as the elected official, provided varying responses. None of them refuted or took offense to any of the names that were provided. All agreed that Native American, American Indian, Tribe, and Indigenous were acceptable, as well as Creek, Muscogee, Muscogee (Creek) Nation (it was preferred for “Muscogee” to be followed by “Creek,” with “Creek” being placed inside parentheses). Further, it was also shared that younger generations primarily called themselves Creek. Additionally, the

158 MCN Historic and Cultural Dept., Zoom meeting.

159 MCN Historic and Cultural Dept.
experts shared that those outside of their Tribal group were not typically familiar with the name Muscogee. Another note shared was that the term “Muscogee (Creek)” referred to Tribes that spoke the Muskogean language; therefore, the Muscogee (Creek) were not just one Tribe, but are a collective of several unified Tribes. Moreover, all seven experts felt that when referring to the Muscogee (Creek) Nation, it encompassed everyone accepted as members of their Tribal communities. Also, one of the group experts added that they used the term Aborigine when involved in archaeological research. Interestingly, all the experts felt that the noun “peoples” (such as in the term Indigenous peoples) should be avoided because referring to members in that way somehow detached them from their known cultural group.

Discussion Topic No. 7
How does the present-day Muscogee (Creek) Nation view the Etowah Mounds?

One expert who assisted at the Etowah Mounds site stated, “Etowah was considered the ‘mother term’ for the mounds because it represented the Tribal town, which was the most important aspect of the Muskogean Confederacy during pre-contact times. The term ‘mother’ was an identifier for other Tribal towns who modeled themselves after the Etowah site.”

Another expert added, “The Muscogee (Creek) Nation began working with the Etowah Archaeological Museum in 1993, for the return of burial belongings removed from the Etowah Mounds. A different expert emphasized again that, “Many institutions lost sight of Native Americans being human beings, and burial remains are our ancestral grandparents. Even though some knowledge about burial ceremonies have been lost over the last 200 years, ancestors were buried to give peace to those who died and to those who buried them. Institutions don’t seem to

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160 MCN Historic and Cultural Dept., Zoom meeting.
understand that burial belongings connect Muskogean people to our pre-Columbian past.”¹⁶¹ All seven participants agreed that the Muscogee (Creek) Nation remained interested in connecting to the Etowah Mounds, because the site provided important information about the present-day Tribe in relation to their ancient existence. However, one member stressed, “The Muscogee (Creek) Nation has no immediate interest in fighting for the return of the Etowah Mounds site because our main focus is to reclaim and rebury our ancestral descendants. We consider Oklahoma our homelands. There would not be a reason for us to fight for all the lands taken from our ancestors.”¹⁶² The virtual group agreed that it is a current goal of the Muscogee (Creek) Nation to partner with the Etowah Archaeological Museum to help them build exhibits that tell accurate stories about Muskogean history. In fact, the Indigenous hut that is currently on the Etowah Mounds site was built with the assistance of one of the Muscogee (Creek) members who provided professional insights for this dissertation. Sharing another ethical issue, an expert stated, “Burial belongings were gifted to various museums causing the split collection issue, but we tracked down institutions with those inventories to pressure them to return everything removed from the Etowah Mounds site.”¹⁶³

Discussion Topic No. 8
Is there any ethical issue you can personally share that will add new information to any of the topics discussed during this meeting?

As a response, one expert shared, “In a recent case, a Tribe was faced with reburying repatriated remains but their traditions prevented contact with the dead. We were asked to come

¹⁶¹ MCN Historic and Cultural Dept., Zoom meeting.
¹⁶² MCN Historic and Cultural Dept.
¹⁶³ MCN Historic and Cultural Dept. In an email that followed the Zoom meeting, the subject matter experts identified the eleven institutions in possession of Etowah’s burial belongings. Permission was provided by the MCN Historic and Cultural Preservation Department to list the institutions in this dissertation.
up with a plan to help the Tribe rebury the remains. We worked with the Tribe, and we came up with a plan that helped them to rebury their deceased ancestors. It was a good experience to partner with another Tribe and help in that way.”¹⁶⁴ Finally, as the virtual discussion was ending, the six subject matter experts expressed their appreciation of this dissertation being focused on the Tribe’s repatriation challenges, which they stated would keep the issue in the public eye and raise awareness to help pressure institutions to repatriate their ancestral belongings.¹⁶⁵ In addition, one expert made a statement that was conferred by the others, and that was, “We look forward to the day when all of our burial belongings from Etowah are returned, so that we can rebury our ancestral grandparents in one ceremony.”¹⁶⁶ Lastly, in a final statement, the elected official shared, “I am happy to contribute to this dissertation because the topics being researched are important for the Muscogee (Creek) Nation to be reconnected to their stolen culture, and repatriation helps to support that outcome.”

Moving forward, with negative practices continuing to cause contentions between descendants and institutions in possession of ancestral belongings, Chapter Four evaluates current proposals for removing barriers to NAGPRA, as well as strategies for strengthening relations between institutions and Tribes. Chapter Four will also provide an overview of updated policies implemented by the eleven institutions for improving relationships with Native American groups by ensuring that practices are culturally appropriate and honorable moving forward. Unless improvements can be made in those areas, it will be difficult for positive changes to be made that will ensure successful repatriation outcomes for claimants.

¹⁶⁴ MCN Historic and Cultural Dept., Zoom meeting.
¹⁶⁵ MCN Historic and Cultural Dept.
¹⁶⁶ MCN Historic and Cultural Dept.
Looking Ahead: Proposed Improvements To NAGPRA And Strategies For Building Trust With Native American Groups

In this section, an examination of proposed initiatives for removing barriers from NAGPRA will be undertaken, along with strategies for determining how best to strengthen relationships between Native American groups and institutions that continue to engage in culturally inappropriate practices. Addressing those issues is important for correcting ongoing inequities perpetuated by public institutions and government agencies steeped in Eurocentrism. As such, major changes are necessary to ensure that Indigenous groups are afforded the same rights and respectful treatment that others enjoy simply as a benefit of race. The following strategies are aimed at creating positive outcomes for the Muscogee (Creek) Nation and other Indigenous groups seeking to reclaim disinterred ancestral belongings.

Current Plans For Removing Barriers To Expedite Repatriation

As mentioned in Chapter Three, barriers to NAGPRA plagued the repatriation process resulting in decades-long delays. Consequently, the subject matter experts shared that the Muscogee (Creek) Nation was intent on fighting to overcome those barriers, and their objective remained to acquire Etowah’s belongings so that their ancestral grandparents could finally be laid to rest. Unfortunately, barriers hindered their repatriation attempts, allowing eleven different institutions across the United States to retain the belongings. Additionally, the experts reported that while the Etowah Archaeological Museum removed their burial inventories in 2023, the “187,000 funerary objects and 404 ancestors” removed from the Museum were now stalled at the Georgia Department of Natural Resources, which could take another five years to resolve.¹ Barriers preventing the Georgia Department of Natural Resources from repatriating

¹ Georgia Department of Natural Resources, Georgia Begins Repatriation.
their inventories are not uncommon, which speaks to deep rooted challenges that surround NAGPRA and the need to reform its policies. Encouragingly, the Department of the Interior acknowledges that there are long-standing challenges responsible for massive repatriation delays across the country. As the federal institution responsible for ensuring that NAGPRA is carried out, the Department of the Interior announced in 2022 that for the first time since the inception of the law, an investigator was hired to “enhance oversight and museum compliance…explore allegations of museums failing to comply with the requirements of NAGPRA, present findings to the Secretary of the Interior, serve as a witness in legal proceedings,” as well as support enforcement and levy civil penalties against noncompliant publicly funded institutions retaining Indigenous burial belongings. Moreover, at the invitation of the Department of the Interior, Native American groups were asked to work cohesively with the agency, which resulted in Tribes submitting over 700 comments for overhauling repatriation processes. Subsequently, as a result of collective partnering in that regard, following are the four initiatives aimed at improving barriers to NAGPRA:

- To strengthen the authority and role of Indian Tribes and Native Hawaiian Organizations (NHOs) throughout the repatriation process;
- To address barriers, in order to ensure timely and successful disposition and repatriation;

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2 U.S. Department of the Interior, *Department of The Interior Takes Steps.*

3 U.S. Department of the Interior, *Department of The Interior Takes Steps.*

4 U.S. Department of the Interior, *Department of The Interior Takes Steps.* All bullet points are being cited using this source.
• To document and address requests of Indian Tribes and NHOs when human remains or cultural items are discovered on Federal or Tribal lands before items are further disturbed; and
• To increase transparency and reporting of holdings or collections.

In addition, with regard to removing repatriation barriers, the *NAGPRA Review Committee Report to Congress 2020-2021*, made the following four recommendations:⁵

• To increase NAGPRA grant funding for assisting claimants with affording expenses associated with submitting repatriation applications, and assisting institutions with paying for “consultation, documentation, and repatriation” with Tribes;
• To increase funding to hire professional staff to help agencies meet NAGPRA compliance;
• To allow “exemptions from [the] Freedom of Information Act” which “protects culturally sensitive information identified by Indian Tribes and Native Hawaiian organizations during consultation and specific reburial locations”; and ⁶
• To allow Tribes to rebury ancestral remains and objects at cemeteries that are federally funded.

Further, as stated by the subject matter experts, one of the major concerns and barriers involving current repatriation processes was NAGPRA’s requirement for all burial belongings to be culturally affiliated.⁷ In an effort to alleviate expenses incurred by institutions when attempting

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⁶ National Park Service, Native American Graves Protection & Repatriation Review.

to determine cultural affiliation of inventories, the Biden administration recently proposed major changes that would remove the term “culturally unidentifiable” from NAGPRA, so that institutions could no longer claim the inability to affiliate human remains. Instead, moving forward, if affiliating human remains to a particular Tribe became especially difficult, “regulations would direct institutions to defer to Tribal knowledge of their customs, traditions, and histories when making repatriation decisions.” As a result of consultations between Tribes and the Department of the Interior, on January 12, 2024, a final rule was adopted which provided for the following change:

Removed “geographical affiliation” in its entirety, simplified the process for cultural affiliation to provide that one type of information, including geographical information, is sufficient for cultural affiliation, and replaced “preponderance of the evidence” with “clearly or reasonably identify.”

By implementing the aforementioned changes, there is a greater possibility for the Muscogee (Creek) Nation to reclaim all burial remains removed from the Etowah Mounds site.

**Strategies For Strengthening Relationships Between Native American Groups And Institutions That Historically Caused Harms**

Eurocentric practices embedded within some institutions plagued Native American groups across post-contact history. As such, an essential strategy for strengthening relationships between Native Americans and federal, state, and local institutions is to ensure that policies are created with representation of Tribes. Making that change will ensure that Native Americans are

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respected as important contributors to policymaking processes across all levels of government. In his book entitled, *This Is Not a Peace Pipe*, Dale Turner argued that in order for Indigenous perspectives to be included within policies, nonindigenous decision-makers needed to ensure that representatives from Native American groups were immersed in legal and political discourses that impacted their lives.¹¹ Turner’s point was well-founded because oftentimes across American history, nonindigenous policymakers caused harms when making decisions without consulting Indigenous groups.¹² According to Eason et al., before the Indian Self-Determination and Education Act was passed in 1975 (which gave Tribes increased authority and opportunities for establishing their own programs and services through contracts administered by the Secretary of the Interior),¹³ the federal government viewed Native American groups as wards, which meant Tribes were prevented from making decisions about issues such as “health care, education, and governance.”¹⁴ As a way to prevent similar policies from being established in the future, Turner suggested that “word warriors” from Indigenous groups be trained to understand policymaking legalese, so that Tribes could successfully argue against unjust laws and practices.¹⁵ Consequently, without having Indigenous representatives trained in that way, Turner emphasized that nonindigenous decision-makers would continue creating policies that were either unimportant or adverse to Indigenous groups.¹⁶ A relevant example was highlighted in Chapter

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¹⁵ Ibid., 92.

¹⁶ Eason et al., 81-2.
Two when examining allotment policies imposed by the Dawes Act, which were initially considered beneficial to Tribes based on inaccurate assumptions made by the federal government. As a reminder, allotment policies were aimed at breaking up Tribes and dividing reservations into plots to promote agricultural lifestyles, and to assimilate Native Americans into mainstream society.\(^{17}\) Those policies were established without representation of Tribes, which resulted in catastrophic outcomes for many Indigenous people who thrived best in communal settings.\(^{18}\) That example emphasizes how inclusive policymaking is a key strategy for ensuring issues of importance to Indigenous communities are appropriately addressed. Subsequently, honoring the opinions of Tribes in that way will help to strengthen relationships.

Notwithstanding, one weakness in Turner’s assessment was that across early American history some Indigenous members were versed in legalese, and yet, their attempts at representing Tribes were oftentimes met with intolerance, which resulted in the creation of unethical policies.\(^{19}\) That spoke to how deeply rooted institutional racism had seeped into U.S. government systems. Consequently, disparities persisted when government officials refused to engage in policymaking from multicultural perspectives. Overall, Turner provided strong support for why Indigenous members should be included in policymaking discourses. As shared by the subject matter experts, moving forward, it is the hope of the Muscogee (Creek) Nation that the Department of Interior will honor Tribal recommendations before deciding how to remove barriers from NAGPRA. As for the eleven institutions still in possession of burial belongings

\(^{17}\) Miller, “Assimilation and economic development,” 2.

\(^{18}\) Miller, 2.

disinterred from the Etowah Mounds, the Muscogee (Creek) Nation should be included in repatriation consultations so that the return of ancestral grandparents can finally come to pass.

Another strategy for strengthening relationships with Tribes involves institutions that continue to display Indigenous belongings in culturally inappropriate ways. As with inclusive policymaking, it is important for Tribes to be consulted when decisions are being made about displaying Native American inventories. For instance, although the Muscogee (Creek) Nation was ultimately able to convince the Etowah Archaeological Museum to remove their burial belongings from exhibits, it took many years before the Museum conceded that the funerary belongings were not meant to be displayed. As a result of an amicable partnership that developed between the Muscogee (Creek) Nation and the Museum, the Georgia Department of Natural Resources announced that for items not considered to be burial belongings, “historians and archaeologists plan to follow the guidance of the Muscogee Nation about whether any of the items can be re-exhibited.” Moreover, the subject matter experts shared that a partnership with the Archaeological Museum would also ensure that reimagined exhibits educated the public about Muskogean culture in respectful ways. Engaging in those sorts of inclusive collaborations is important, not only to remove inappropriate belongings or stereotypical content from displays, but to ensure that difficult events (such as atrocities of forced removal and Indigenous genocide) are not only included in Museum discourses, but are done in ways that accurately reflect the experiences of Tribes. Thus, partnering with Indigenous communities to obtain insights for ensuring that exhibits are culturally appropriate can also lead to strengthened

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20 Georgia Department of Natural Resources, *Georgia Begins.*

21 Georgia Department of Natural Resources, *Georgia Begins.*

22 MCN Historic and Cultural Dept, Zoom meeting.
relationships.

As discussed throughout this dissertation, relationships between Native Americans and curating institutions have been strained across history. It could be argued that Eurocentrism drove culturally inappropriate and sensationalized misrepresentations of Indigenous groups within exhibits. More specifically, creating stereotypical exhibits about Native American groups were oftentimes the preferred way to convey Indigenous cultures to the public since such displays peaked public interest, and thus were more lucrative for institutions. As such, it is important not to gloss over how museum practices inflicted long-lasting harms that caused generational traumas for many Native Americans. Thus, as discussed at various points in this dissertation, the very practice of disinterring Native American remains, whether for research, profit, or exhibits, promoted the misnomer that Indigenous groups were deemed less human than their European counterparts. Consequently, when Tribes, such as the Muscogee (Creek) Nation, fight for the return of their disinterred ancestors, they are essentially fighting against long-standing Eurocentric practices that have been harmful to their people across post-contact history.

In his article entitled, “Exhibiting Culture: American Indians And Museums,” Duane H. King expressed that from the time museums were founded, Native Americans were part of displays; although the way they were exhibited continually changed over time.23 Moreover, King highlighted that across American history, Indigenous artifacts were displayed as “exotic curiosities” which meant that exhibits oftentimes lacked “interpretive context.”24 Further, King confirmed that early anthropological research ushered in a more favorable depiction of Native


American cultures, although that did not prevent many nonindigenous people from viewing members of Tribal groups as mere curiosities. That perception drove the frenzy to obtain goods that were culturally affiliated to Native Americans overall. More specifically, during colonial periods, as many elites traveled the world they collected non-European belongings which included human remains found in private collections and in inventories of large museums that still house thousands of skeletal remains today.

Astonishingly, it continued to be common practice for human remains to be placed on display “as late as the 1960s and 1970s, and on a few occasions living people were also exhibited.” In order to emphasize ways in which museums operated in racially inappropriate ways, the following account, while not involving the Muscogee (Creek) Nation specifically, does highlight the lengths in which museums engaged in unethical practices against Native Americans in both life and death. In 1897, a young Eskimo boy named Minik, along with his father and four other Eskimos, were transported from Greenland to New York by ship for the sole purpose of being placed on display as live exhibits. With regard to that account, King wrote:

They were escorted by Admiral Robert Peary whose ship hosted 20,000 people on a single day to see these native curiosities…appropriately dressed in fur-lined parkas in stifling heat…housed at the American Museum of Natural History where visitors would crowd around a ceiling grate above their living quarters. They later contracted pneumonia and soon became gravely ill. After death, their bones were put on display and their brains removed for study…Minik and one other Eskimo were the only survivors.

25 King, 25.


27 Lenzerini, 130.


30 King, 26.
At some point thereafter, the museum used Minik as part of an assimilation experiment which required him to move into the home of a white family, and although many decades of appeals were made for repatriation of his father’s remains, it was not until 1991 that the remains were returned to Greenland, years after Minik had died.\(^31\) That disturbing account highlighted ways in which museums profited from unethical curating and exhibiting practices, and it also showed the lengths in which institutions went to support their research and to satisfy unhealthy public interests.

Another infamous case of how museums engaged in culturally unethical practices using a living subject involved a Native American named Ishi of the Yahi Tribe, who were inhabitants of present-day California.\(^32\) Nearly all members of the Yahi Tribe were murdered in the 19\(^{th}\) century during a period known as the California genocide, where thousands of Native Americans living in that state were intentionally hunted and killed by government agencies and private citizens.\(^33\) During that time, close to 17,000 Indigenous people were killed, with many being subjected to unspeakable atrocities at the hands of those engaged in legalized crimes against humanity.\(^34\) It was during that time when Ishi, who was called the last wild Indian, hid in isolation from mainstream American culture for years after the mass Indian slaughters.\(^35\) In 1911, likely as a result of starving, Ishi snuck into town and was captured after being detected hiding near a


\(^{34}\) Bauer, 48.

slaughterhouse barn when he was fifty years old.\textsuperscript{36} According to Ad Kessler’s interview recounting his experience on the day that Ishi was discovered, when Ishi was captured he smiled and complied to being handcuffed.\textsuperscript{37} Soon after his capture, Ishi was brought to the University of California at Berkley by anthropology professors who studied him while he worked as a janitor.\textsuperscript{38} On a disheartening note, Ishi’s room was located near the Anthropology Department within the University’s Museum, “next to a large collection of human skulls and bones that depressed him.”\textsuperscript{39} Ishi lived at the University’s Museum for five years before succumbing to tuberculosis in 1916.\textsuperscript{40} Upon his death, in honor of Ishi’s request, several individuals at the University who had befriended Ishi demanded that his body not be autopsied; however, doctors affiliated with the University’s medical school removed and preserved his brain before cremating Ishi’s body.\textsuperscript{41} Wrapped in deerskin and placed in a Pueblo pottery jar, Ishi’s brain was sent to the Smithsonian Institution where it remained until the year 2000, when it was repatriated to the Pit River Tribe who were culturally affiliated to Ishi’s Yahi-Yana group.\textsuperscript{42} Ishi’s cremated remains were ultimately buried by Tribal members at an anonymous location.\textsuperscript{43} Those two accounts


\textsuperscript{39} Rockefeller and Starn, “Ishi’s Brain,” 14.

\textsuperscript{40} Albert L. Hurtado, “Ishi in Three Centuries,” \textit{American Indian Culture and Research Journal} 28, No. 2 (2004): 159, https://escholarship.org/content/qt4nr1r2dp/qt4nr1r2dp.pdf.

\textsuperscript{41} Hurtado, 17.

\textsuperscript{42} Bauer, “Stop Hunting Ishi,” 49.

\textsuperscript{43} Bauer, 49.
highlight racially unjust practices involving the use of living human beings in exhibits, research, and to satisfy public curiosities.\textsuperscript{44}

Some museums, educational facilities, and research institutions that continue to retain Indigenous burial belongings, argue that placing human remains on display is necessary for providing invaluable teaching experiences that might not otherwise be obtained.\textsuperscript{45} However, it could be argued that much of what is learned from displayed human remains can also be acquired through medical resources that offer a scholastic approach to studying human bone anatomy. Today, while many museums (like the Etowah Archaeological Museum) understand the harms they caused to Indigenous groups, some institutions remain disinterested in changing their inappropriate practices. To be fair, many institutions are “held hostage by their boards and funding models” which can force curators to continue engaging in sensationalism so that patrons are lured to exhibits.\textsuperscript{46} Still, responsibility for engaging in ethical practices falls to museums that failed to represent Indigenous groups in culturally appropriate ways.

An important consideration to note is that museums are painful places for many Native Americans, and some nonindigenous staff and patrons do not consider how exhibits can cause harms to Indigenous people.\textsuperscript{47} For example, some artifacts can be attached to tragic events in their history, and when curators exhibit certain collections in thoughtless ways, doing so can add


\textsuperscript{45} Licata et al., “Study,” 6.

\textsuperscript{46} Indigenous Studies Historian of Hawaiian Descent, email message to author, 2024.

further trauma for impacted groups.\textsuperscript{48} Thankfully, in recent years, through collaborations with Tribes, museum spaces have become more community-relevant as a result of showcasing exhibits from culturally appropriate perspectives. Those kinds of changes can occur when museum administrators humble themselves enough to seek out the expertise of individuals who have a personal attachment to inventories, because those persons can best advise how to display artifacts respectfully, and also recommend whether artifacts should be displayed at all.\textsuperscript{49} Moreover, Eurocentric practices are being aggressively attacked by Indigenous communities that no longer wait to be invited by museums to discuss best practices for exhibiting Native American cultures, but instead, in a growing trend Indigenous communities are seeking out museums to discuss issues of importance to Tribal groups.\textsuperscript{50} As a result of that direct approach, in recent years, museums have become more willing to engage with Native American communities, and real changes have begun to take hold.\textsuperscript{51} Changes include (1) noticeable increases in collaborative partnerships between museums and Indigenous communities, (2) increased numbers of Indigenous-specific museums being founded, and (3) increased numbers of tribally own cultural centers being established, all of which create encouraging outcomes for Indigenous communities as museums begin to change in positive ways.\textsuperscript{52} As such, museums are being decolonized whether that outcome is intentional or not. Consequently, many experts in the field of museology believe that museums are becoming more open to accepting a community-focused role, which

\textsuperscript{48} Lonetree, 5-6.


\textsuperscript{50} Archambault, 19-20.

\textsuperscript{51} Lonetree, \textit{Decolonizing}, 17.

\textsuperscript{52} Lonetree, 4.
demands institutions to shift from being producers of harmful content to becoming more socially conscious of diverse groups by learning how exhibiting practices impact the community at large.53

Many scholars who study museology have identified that when repatriation requests are made to museums that have traditionally hesitated to return their inventories, sometimes reasons for that hesitancy include not recognizing the role that Eurocentrism plays in curating decisions,54 and thus it is difficult for some museum professionals to understand why repatriating Indigenous collections is necessary.55 On that same topic, interestingly, the elected official who shared insights for this dissertation stated, ”Institutions holding onto ancestral belongings disinterred from the Etowah Mounds are simply denying that they are still holding onto practices that are colonial in nature.”56 As already discussed, that is likely why after over three decades since NAGPRA passed, repatriation remains hindered among the eleven institutions in possession of Etowah’s burial belongings. The elected official also shared that, “Because it is difficult for museum staff to change their old ways of thinking, many museums will remain incapable of returning their inventories to Tribes which means that only a strongly enforced law will get them to comply.”57 Thus, as a strategy, it is essential for museums to address cultural, historical, and ethical challenges by including Indigenous communities in decision-making opportunities involving collecting and displaying inventories specific to Tribes. Institutions that

55 Wali and Collins, 334.
56 Elected Official Of The Muscogee (Creek) Nation.
57 Elected Official Of The Muscogee (Creek) Nation.
are working to remove barriers understand that by collaborating with communities harmed by culturally inappropriate practices, benefits can be experienced by all sides.\(^{58}\)

A final strategy for improving relationships between Indigenous groups and museums, involves partnering to engage in artifact sharing when appropriate. That practice has proven to be successful for allowing certain artifacts to remain with museums, while also remaining accessible to their affiliated Tribes.\(^{59}\) Gerald T. Conaty, renowned museologist and Native American advocate, viewed that type of collaborative partnership as meeting the need of museums and their communities.\(^{60}\) In his article, “The effects of repatriation on the relationship between the Glenbow Museum and the Blackfoot people,” Conaty gave an example of a shared arrangement involving sacred artifacts, which he stressed could only be successful if museums recognized the relevance of certain objects to Indigenous groups, especially those that helped Tribes retain their balance with the spiritual world.\(^{61}\) Conaty discussed one such example which involved museums and Indigenous communities sharing sacred bundles.\(^{62}\) While diverse groups may assign differing meanings to their sacred bundles, overall, sacred bundles are groupings of items that are valued by Indigenous communities because they connect them to certain entities in nature or creation (such as connecting Tribes to animals, plants, rocks, water, moon or stars).\(^{63}\)

\(^{58}\) Lonetree, *Decolonizing*, 171.


\(^{60}\) Conaty, 252.

\(^{61}\) Contay, 257-58.

\(^{62}\) Contay, 252.

For instance, a Tribe might use bird feathers in a sacred ceremony to convey that the animal has a spirit which can be appealed to for guidance. Other items in sacred bundles might include pipes, drums, drumsticks, and rattles. While spiritual help may not materialize physically, and while holding onto sacred bundles cannot assure a harmonious life, some Tribes believe that caring properly for sacred bundles could lead to answered prayers. With that being said, it would not be difficult to find many of those objects among artifacts held at museums, and as such Indigenous groups want their sacred bundles repatriated. Additionally, returning bundles to their rightful Tribal groups creates a sense of pride and promotes self-awareness for Indigenous communities. That occurs partly because repatriated bundles represent the success of reclaiming ancestral customs or traditional knowledge that may have been lost.

Subsequently, shared arrangements can be beneficial when the Tribal member selected to care for the sacred bundle is unable to afford the significant expense, since elaborate and costly ceremonies are required to honor previous caretakers of bundles. Other commitment issues might include an inability to ensure the safety of sacred bundles to prevent them from becoming damaged, stolen, or being resold at marketplaces. Thus, it is not uncommon for loan programs

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64 Conaty, “The effects,” 247.
65 Conaty, 247.
66 Conaty, 248.
67 Conaty, 252.
71 Conaty, 251.
to be established between Indigenous groups and museums so that institutions can continue providing proper care and protection for important artifacts. Conaty affirmed that through sharing arrangements, relationships between museums and Indigenous communities were strengthened. That speaks to how replacing traditional ways of operating (where museums are the sole custodians of Indigenous belongings) can strengthen relationships between the two groups by building trust.

In an interesting case of Tribes agreeing to a shared arrangement with a museum, in 1991, the National Museum of Natural History set up an office specifically to focus on repatriation efforts, and the Institution returned over 224,000 artifacts along with nearly 7,000 human remains affiliated to various Tribes. Unfortunately, the Museum continues to retain thousands of Indigenous objects awaiting repatriation, which will likely take years to accomplish. Still, in 1996, a successful sharing agreement was established between the Institution and the Cheyenne and Arapaho of Oklahoma, which involved “blankets, beaded cradle covers, and buffalo calf robes” of a disinterred Cheyenne child who died in 1868. Sometime after the remains were disinterred by a soldier in the U.S. Army who was tracking the Tribe, all of the burial belongings were given to the Army Medical Museum and later acquired by the Smithsonian Institution.

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73 Teeter et al., 205.

74 Teeter, et al., 205-06.

75 Curry, “Troubled Treasures,” 63.

76 Curry, 63.

77 Curry, 63.

some point, some of the human remains were misplaced; therefore, in 1996 the two affiliated Tribes made the decision to allow the Smithsonian to retain the belongings so that proper preservation could continue. That agreement directed that no photographing or exhibiting of the burial belongings were allowed without permission from the Tribes. Although there may come a day when the Tribes will request repatriation of the belongings in that case, for now, the two sides have committed to a shared agreement for ensuring the best possible outcome for the disinterred burial belongings.

Similarly, the Smithsonian Institution currently has 157 million artifacts in its possession, with several million belonging to Native American Tribes. As an aside, this dissertation acknowledges that the Smithsonian is not subject to NAGPRA; however, the Institution is required to repatriate under the National Museum of the American Indian Act of 1989 (NMAIA) which upon request of Tribes, the Smithsonian is obligated to repatriate “Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony to culturally affiliated federally recognized Indian tribes.” However, although repatriation processes are continual for the Institution, shared agreement practices are also ongoing, where members of Tribal groups visit belongings affiliated with their ancestors and consult with curators. Moreover, during those regular visits, “a conference room doubles as a ceremonial space, complete with a

82 Curry, 61.
83 Smithsonian Institution, Repatriation FAQs, National Museum of the American Indian, last modified 2023, https://americanindian.si.edu/explore/repatriation#:~:text=The%20NMAIA%20requires%20the%20Smithsonian,affiliated%20federally%20recognized%20Indian%20tribes.
cabinet stocked with dried sage and tobacco for Tribal members to burn in purification ceremonies before or after handling sacred objects.” That type of sharing agreement would have been unheard of years ago when museums and Tribes were at considerable odds with one another.

Notwithstanding, it should be respected that because there are still varying levels of angst felt across Tribes regarding relationships with curating and research institutions, many Indigenous groups prefer to focus on repatriation of their ancestral belongings, while others are comfortable with sharing belongings with institutions that can provide proper care. Also, for Tribes that may never want to reclaim ancestral artifacts, shared agreement opportunities can work well for their communities. Many Native American groups feel strongly that shared agreements must never include caring for ancestral skeletal remains, which some Tribes believe should always be repatriated for the purpose of reburial. However, for approved belongings, sharing agreements can be an opportunity to educate museum staff on issues of importance to their Tribe. In particular, Indigenous proponents of sharing artifacts have the opportunity to correct inaccurate perceptions that led to disrespectful curating and exhibiting practices against Native Americans. That being said, while shared arrangements might be a good option in some situations, to be clear, in no way did the subject matter experts indicate that they would enter into a sharing agreement for the burial belongings disinterred from the Etowah Mounds. Instead, the Muscogee (Creek) Nation has stood firm on their sole objective since the very start of their


repatriation journey, which was to assume responsibility for all ancestral belongings in order to bury them back on original homelands.

**The Eleven Institutions: Policy Changes For Ensuring Culturally Appropriate Relationships With Native American Groups**

Overall, strategies for improving relationships with Indigenous groups have begun to show promise, in that policy changes are being made to build partnerships and to replace unethical narratives displayed within exhibits. In fact, to date, most of the eleven institutions have professed their commitment to incorporate strategies aimed at mending fences with Indigenous communities. Specifically, of the eleven institutions still in possession of the Etowah belongings, most have posted policy changes on official websites which reflect the understanding that their unethical practices caused harms to Indigenous people. Following are current policies that highlight changes to how the eleven institutions plan to engage with Indigenous communities moving forward:

- The Peabody Institute of Archaeology posted a statement on its website that professed its support of repatriation obligations as outlined in the “United Nations Declaration on the Rights of Indigenous Peoples” which “explicitly affirms that Tribes have a right to repatriation of ceremonial objects and human remains.” The site goes on to state that the Institution “look[s] forward to hearing from the representatives of tribes in the United States or indigenous groups abroad…to begin the consultation process.”

- The Michael C. Carlos Museum (which is located on the campus of Emory University) listed in its 2023-2027 Strategic Plan, a commitment to “[c]ontinue dialogue with

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89 Peabody Institute of Archaeology, “NAGPRA.”
Muscogee Nation (MCN) partners with the goal of returning ancestral remains and their possessions…Promote dialogue among our peers on how to approach research and repatriations…and Publish details on all repatriations on the website.”

- The Smithsonian National Museum of Natural History is the holder of one of the largest collections of Native American belongings in the United States. With regard to policy changes involving Tribes, the official website stated that the “Museum no longer collects human remains. Moreover, non-invasive research on collections is permitted only after community consultation and consent, and the moratorium of destructive analysis is continuing.” Because the Museum is administered by the Smithsonian Institution, as an added note, following is an update made to the Smithsonian’s policies as well:

  The Smithsonian has placed temporary restrictions on research on human remains in its care and the acquisition of any additional remains while it forms its human remains policy. The policy will guide the Institution as it assesses the human remains in its collections, including examining the circumstances under which they were acquired. In developing the policy, the Smithsonian will also examine and clarify the ethical reasons for holding human remains in its permanent collections.

- The University of Michigan posted listings of its repatriation successes from 1997 through 2022, which resulted in the return of hundreds of ancestral remains, associated funerary objects, and “un-associated funerary objects” belonging to various Tribes. However, a close review of their repatriation lists revealed that, to date, no repatriations

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93 University of Michigan, *NAGPRA Progress to Date*, Office of the Vice President for Research, accessed December 14, 2023, https://nagpra.umich.edu/progress-to-date.
were completed for the Muscogee Nation.\textsuperscript{94} That reality belies the sentiment made by a representative of the University’s repatriation project, who stated, “It’s important for tribes’ ancestors to be in the earth because that’s where they were removed from and where they need to be returned to.”\textsuperscript{95} For the Muscogee Nation, who have been waiting many years to reclaim ancestral descendants, an obvious response would be to ask why their Tribe had not yet become benefactors of the University’s repatriation track record.\textsuperscript{96}

- The Gilcrease Museum cited that the Institution entered into a two-year repatriation project from 2018 through 2020, after receiving an $81,000 NAGPRA grant. The funds were provided to support consultations with Tribes, and to focus on “documentation and repatriation of Native American ancestral remains and cultural items, as required by the law.”\textsuperscript{97} However, no updates involving the project have been listed on the website since the grant was announced four years ago (although the Museum has been closed for construction since April 2021).\textsuperscript{98}

- The Field Museum made public that several Indigenous displays would remain covered until consent was obtained from affiliated Tribes. The site also stated that the Museum was “committed not only to compliance with NAGPRA but to consultation and

\textsuperscript{94} University of Michigan, Office of the Vice President for Research.

\textsuperscript{95} Indigenous Studies Historian of Hawaiian Descent, email message to author, 2024.

\textsuperscript{96} University of Michigan, \textit{NAGPRA At U-M: Learning, Growing and Building Bridges}, Public Engagement & Impact, accessed December 14, 2023, \url{https://publicengagement.umich.edu/nagpra-at-u-m-learning-growing-and-building-bridges/}.

\textsuperscript{97} Gilcrease Museum, \textit{Gilcrease Receives Native American Graves Protection and Repatriation Act Grant} (September 15, 2018), \url{https://gilcrease.org/news/gilcrease-receives-native-american-graves-protection-and-repatriation-act-grant/}.

\textsuperscript{98} Gilcrease Museum, \textit{Gilcrest Closes to Rebuild}, accessed December 14, 2023, \url{https://gilcrease.org/exhibitions/gilcrease-closes-to-rebuild/}. 

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collaboration with affiliated communities whose heritage [was] represented in [their] galleries.”

Moreover, before creating exhibits the Museum now receives advisement from over 100 Tribes.

- The Hastings Museum also updated policies advocating for strengthening relationships with Indigenous groups. Posted on the Museum’s website were the following declarations, “decolonizing our work…learn by listening to different voices and be accountable to the needs of American Indians and other Indigenous people.” Also, in addition to the website information, a notice of the Museum’s intent to repatriate ancestral remains to the Muscogee (Creek) Nation was published in the Federal Register in October 2023.

- The Rochester Museum & Science Center cited that it “continues to create and cultivate relationships with Native American communities through NAGPRA consultations and the repatriation of ancestors and cultural heritage objects to those communities with which they belong.” The site further reported that the Institution was committed to developing “meaningful relationships with Native American communities based on

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100 Field Museum.


respect and trust.” Also acknowledged was that before the Institution was built on its current site, the lands were stolen from the Seneca people.

- Regarding the Georgia Department Of Natural Resources and the Etowah Archeological Museum, as shared by the Muscogee subject matter experts, the Tribe’s belongings were removed from the Museum’s exhibits in early 2023, and the Museum was preparing to work with the Tribe on reimagining exhibits. However, when the belongings were removed from the Museum, they were sent to the Georgia Department Of Natural Resources. To date, the Muscogee (Creek) Nation has not received any of the belongings, which they have been told needed to be reaffiliated to the Tribe.

- Websites for the Charleston Museum and Mercyhurst University did not mention current policies for how they planned to mend relations with Indigenous communities. However, further research shows that in 2022, the Federal Register published a notice announcing that the Charleston Museum had “completed an inventory of human remains and associated funerary objects” which listed the Muscogee (Creek) Nation as consultants. Also, at the time of this writing, Mercyhurst University completed some of its inventorying which was published in the Federal Register in May and August 2023. In fact, although the Federal Register also published notices of inventorying for many of the

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104 Rochester Museum & Science Center.

105 Rochester Museum & Science Center.

106 MCN Historic and Cultural Dept, Zoom meeting.

other eleven institutions, some notices were published several years ago, and yet, repatriations were still not completed.

While policy changes involving the eleven institutions appear promising, repatriations remain extremely slow. Thus, it is not enough for institutions to post policy changes on websites or to simply complete NAGPRA’s inventoring requirements, because those actions do not necessarily translate to a commitment.108 Unfortunately, since the passing of NAGPRA, similar actions were enacted but did not amount to more than “surface level changes, [which] is a critique people make of a lot of anti-racism and decolonized work.”109 Instead, the Muscogee (Creek) Nation expects institutions to follow through on the entire repatriation process so that ancestral belongings can finally be reclaimed.110

Overall, research covered in this chapter should provoke a key question, which is what prevented the eleven institutions from returning the Etowah burial belongings to the Muscogee Nation for more than thirty-three years. Admittedly, as discussed throughout this chapter, it is true that major barriers have hindered some institutions from complying with NAGPRA; however, even the most difficult challenges could have been resolved over the course of so many years as evidenced by the fact that repatriations for other Tribes have been achieved. As such, because Etowah’s belongings continue to remain in the care of the eleven institutions, there may be another cause for repatriation delays. As such, in an attempt to offer a philosophical explanation for why ancestral belongings have not yet been returned to Tribes, Chapter Five will utilize The Vermillion Accord On Human Remains as a framework to investigate the suggestion

108 Indigenous Studies Historian of Hawaiian Descent, email message to author, 2024.
109 Indigenous Studies Historian.
110 MCN Historic and Cultural Dept, Zoom meeting.
that repatriation is hindered when institutions reject Indigenous ‘respect’ ideologies that honor ancestral remains.
An Analysis Of *The Vermillion Accord As A Framework For Assessing How Repatriation Is Hindered When Institutions Reject Indigenous ‘Respect’ Ideologies That Honor Ancestral Remains*

In keeping with the goal of incorporating Indigenous perspectives throughout this dissertation, the following evaluation will involve ideologies common to many Native American groups, with the understanding that perspectives do vary within and across Tribes. Before delving into the main focus of this chapter, as a general recap, the belongings removed from the Etowah Mounds were culturally affiliated to Muskogean-speaking people and were largely disinterred for scientific research, profit, and satisfying public interest. Additionally, as reported by the subject matter experts who shared their repatriation experiences, there are currently eleven institutions in possession of Etowah’s disinterred belongings. While it is not exactly known why each of those institutions failed to comply with NAGPRA, the present-day Muscogee Nation has not wavered from their mission to reclaim ancestral grandparents in order to rebury them on original homelands. As a way to accomplish those goals, the subject matter experts expressed interest in raising public awareness of the Tribe’s repatriation challenges, which they hoped would pressure the eleven institutions into returning Etowah’s burial belongings. Thus, the purpose of this chapter is to utilize *The Vermillion Accord On Human Remains* (also referred to as *The Vermillion Accord*) as a framework to evaluate how repatriation can be hindered when institutions reject common Indigenous ‘respect’ ideologies that honor ancestral remains. The specific suggestion being presented is that the eleven institutions failed to repatriate their Etowah inventories for over three decades because they were unwilling or unable to accept the Indigenous mores that assigned ‘respect’ to the remains of ancient ancestors. As previously discussed, many museums and scientific institutions in the West were founded on Eurocentric ideologies, and thus, it should not be surprising that some of those same institutions remained unwilling or unable to understand the unwavering commitment of Tribes to reclaim the remains of ancient ancestors. That disconnect
often occurs because some institutions “tend to be interested in knowledge that fits in their own frameworks and does not require a shift in ontological perspective.”¹ As such, it is essential that the eleven institutions assess whether lingering Eurocentric perspectives of Indigenous worldviews play a role in their noncompliance of NAGPRA. Subsequently, by using the ‘respect’ values characterized in The Vermillion Accord as a guide, this chapter will discuss ways in which Eurocentrism can be identified within present-day institutions.

**The Vermillion Accord On Human Remains Ethical Code**

In 1989, the first Inter-Congress was sponsored by the World Archaeological Congress (WAC) in Vermillion, South Dakota, and was attended by 200 representatives from over 20 countries.² Among the delegates were members belonging to 27 Native American Tribes, along with a diverse group of representatives from “Australia, New Zealand, Scandinavia, and Africa.”³ During that gathering, The Vermillion Accord On Human Remains was adopted after contentious debates were ultimately settled.⁴ As expected, those disagreements were inevitable due to opposing views between Indigenous attendees (who sought to protect the sacredness of ancestral remains), and scientific communities that viewed remains as being critical to research.⁵ That being the case, it was no small feat that the meeting led to an adoption of “the only international

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agreement among the anthropological and indigenous communities on the issue of human remains.” Also notable was that groups with strong oppositional beliefs could put their stark differences aside to reach an agreement resulting in an ethical code focused on mutual respect of human remains, custodial affiliates, and scientific communities. Fforde further emphasized that:

“[T]he Vermillion Accord was the first document developed together by archaeologists and Indigenous people to provide a set of principles for behavior, decision making, and mutually agreed ethical approaches to the question of archaeological (and other scientific) interest in the mortal remains of the dead.”

The Vermillion Accord is still active today, and while the agreement does not have legal prominence, some view it as a viable template for creating future international law aimed at protecting ancestral remains and parties of interest.

As a general rule, “a code of ethics is a written, formal document consisting of moral standards and guidelines” for directing right behavior. Although codes of ethics vary across a wide range of disciplines, common to most are guidelines directing individuals on how to avoid and correct unethical practices. As an example, ethical challenges can be present within the field of bioarchaeology which involves the “study of human skeletal remains excavated from archeological sites,” with a focus on demographic research that examines “mortality, fertility…

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11 Giorgini et al., 124.
migration, disease and health characteristics,” among other areas encompassing human life and the environmental past. Ethical codes within the bioarcheological field help researchers avoid missteps against ancestral remains and affiliated custodians, as such codes provide guiding principles for handling remains respectfully, acquiring custodial consent before conducting research, and engaging in careful preservation practices. Hence, established codes of ethics involving human remains research can prevent egregious moral, “social, political, and legal” pitfalls.

As an ethical code, The Vermillion Accord consists of six ‘respect’ values that provide guidance on appropriate practices for handling human remains, engaging respectfully with affiliated individuals, and affording respect to principled researchers. Moreover, language used throughout The Vermillion Accord appears most directed at cautioning scientific communities on how to engage respectfully with affiliates of human remains. The push to create an international code of ethics evolved out of a long history of troubling disinterment and research practices that ultimately led to the “reburial movement.” Subsequently, one year after The Vermillion Accord was adopted, NAGPRA became law.

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13 DeWitte, 13.


15 Seidemann, “Bones,” 582.


17 Bauer-Clapp, 162.
Theoretically, because ‘respect’ values characterized within *The Vermillion Accord* were aimed at right treatment of human remains and custodians, expedient repatriations in the United States should have become the norm, especially with the passing of NAGPRA. However, while additional research is needed to determine the Code’s impact on repatriation, because thousands of ancestral belongings remain unrepatriated after several decades, it suggests that *The Vermillion Accord* has not been especially impactful for helping to expedite the process for some Tribes. In fact, because repatriating ancestral belongings continues to be unreasonably slow among many scientific and educational institutions, one might question whether the noncompliance of NAGPRA is rooted in Eurocentric beliefs that devalued Native Americans across U.S. history. Notwithstanding, however, is that because the notion of ‘respect’ for all things is a cultural more among some Tribes, reclaiming ancestral grandparents is viewed as an inherent responsibility.

**An Evaluation: Common ‘Respect’ Ideologies From The Indigenous Perspective**

This section undertakes an evaluation of common Indigenous ideologies involving the notion of ‘respect’, which will include how some Indigenous groups define it, come to know it, and why they believe respect should be afforded to living human beings as well as human remains. Also, this chapter will evaluate ways in which institutionalized beliefs are oppositional to Indigenous ‘respect’ ideologies common to many Tribes, which can negatively impact repatriation. Overall, in an attempt to provide a philosophical explanation for why repatriations are hindered, *The Vermillion Accord On Human Remains* ethical code will be used as a framework to show that when institutions reject Indigenous ‘respect’ ideologies that honor ancestral remains, their Eurocentric perspectives can hinder the repatriation process.

Defining the notion of ‘respect’ is challenging since ideologies are connected to differing
personal and cultural experiences that are impacted by contextual settings. While nonindigenous ideologies of ‘respect’ oftentimes differ from those common to some Indigenous groups, it can be argued that most definitions would consider that respect is “a form of regard: a mode of attention to and perception and acknowledgement of an object as having a certain importance, worth, authority, status, or power.” Hence, the notion of ‘respect’ has connections to ethical behavior which very generally can be defined as doing what is right based on accepted societal or cultural rules. As such, exhibiting an adequate level of respect can be challenging because ‘respect’ values are not always translatable across differing cultural contexts. Still, research does support that some Indigenous ideologies of ‘respect’ are similar across many Tribal groups that view it as “a deep practice of universal consideration for all things, a consideration that is not instituted as a moral principle or rule governing behaviour, but is, rather a dimension of one’s very perception of the world.” Cheney elaborates:

To Western ears, the term “respect” may have overtones of hierarchically-structured relationships, or it might have a Kantian flavor of obedience to moral law. But to indigenous ears it signifies a mode of presence in the world the central feature of which is awareness, an awareness that is simultaneously a mode of knowing—an epistemology.

In keeping with the idea of an Indigenous epistemological view of ‘respect,’ Vine Deloria (a

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22 Cheney, 91.

23 Cheney, 91.
renowned Native American scholar) viewed the notion of ‘respect’ as having “two attitudes” which defines “the acceptance of self-discipline by humans and their communities to act responsibly toward other forms of life,” and it also includes the inherent need to “establish communications and covenants with other forms of life on a mutually agreeable basis.”\textsuperscript{24} The depths of Indigenous philosophies about notions of ‘respect’ can be complex, which may be why some institutions struggle or refuse to accept what compels present-day Tribes to highly respect ancient ancestors who they have never had contact with. However, there are some members of Indigenous communities that unequivocally reject that institutions are unable to understand non-European ideologies about respect, even respect for ancestral remains. In agreement with that perspective, an Indigenous historian of Hawaiian descent stated:

I have watched many, many people dive into Indigenous epistemologies for their own betterment. I’ve seen the New Age movement adopt these tenants and pass them off as their own. I’ve seen identity fraud where non-native people adopt native identities wholesale and pass these worldviews off as their own. [I]f they can do it, these institutions can do it. But they do not and will not, \[which is\] different from cannot or tries to but just can’t get there. These worldviews do not have a middle ground.\textsuperscript{25}

Additionally, in response to the claim that institutions are unable to understand how Indigenous groups can assign ‘respect’ to ancient ancestors they have never known, the historian stated:

Mayflower societies exist, [as well as] Sons and Daughters of the American Revolution. These are examples of the ways people in these institutions find it easy to venerate their own ancestors (or ideas about their ancestors), but for some reason…cannot see the same thing as being possible for indigenous people.\textsuperscript{26}

Thus, it is certainly possible for even the most colonialized institutions to understand Indigenous ‘respect’ ideologies that honor ancestral remains, especially when attempting to explain why


\textsuperscript{25} Indigenous Studies Historian of Hawaiian Descent, email message to author, 2024.

\textsuperscript{26} Indigenous Studies Historian.
Indigenous communities take on the daunting responsibility of reclaiming and reburying ancestral belongings. The multigenerational fight for the return of ancestral grandparents is a strong indicator of respect and honor. Still, the reality is that some institutions do reject the rights of Tribes to reclaim burial belongings that remain within inventories, and that reality underscores the concern that the Etowah belongings may remain hindered.

Tensions are apt to exist when discussions about epistemological and ontological worldviews are debated. That is because the very nature of those philosophical perspectives come from many sources, and in the many ways they are experienced (which is based in the diverse wisdom of every country and culture). Because Eurocentric thought and analysis of traditions define primary ways of experiencing the world, it is difficult for institutions to give non-European epistemologies equal standing by comparison. In the article, “Overlapping ontologies and Indigenous knowledge. From integration to ontological self-determination,” Ludwig added that it was also challenging for institutions to adopt Indigenous ontologies “because its recognition would require intimate familiarity with the epistemic and social goals of a community and the unique features of a local government.” Ludwig further stated that because institutions find it easy to reject knowledge not relevant to Western science, Indigenous philosophies are often ignored. As such, since many Indigenous ways of experiencing the world focus on interrelationships “between plants, animals, humans, and the land and to a much lesser degree on internal properties,” which are not overly representative within Western

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28 Swidrovich, 177.


30 Ludwig, 36.
approaches to philosophy, Indigenous ideologies oftentimes fall outside of Western epistemological contexts, and thus they are rejected.\textsuperscript{31}

Consequently, when institutions reject Indigenous ‘respect’ ideologies that honor ancestral remains, they are in essence reflecting an inability or unwillingness to place the same value on repatriation as some Tribes. From the perspective of an Indigenous studies historian, when institutions are unable to respect ancestral remains from the unique perspective of a Tribe:

[They] are devaluing Indigenous perspectives. Period. Valuing Indigenous perspectives means treating ancestral remains appropriately. These institutions profit from their inclusion of Native history (and have made names/careers studying it) but refuse to comply with Indigenous wishes.\textsuperscript{32}

As such, the goal must be for both sides to work together so that institutions have opportunities to learn more about Indigenous perspectives involving the ethical treatment of burial belongings, which could ultimately promote understanding and expedite repatriation processes. In that regard, according to Alyce Sadongei, whose expertise is in training Tribes across museology topics, for many Indigenous groups ethics is revealed “through cultural values, attitudes and beliefs manifested in tribal epistemologies that include religion, language, family, kinship and community organization, social norms and the phenomena of both the natural world…and the spiritual world.”\textsuperscript{33} Additionally, common to many Tribes is the belief that ethical conduct acknowledges that the “human presence in the world requires establishing a good relationship to all the living things that we share existence with.”\textsuperscript{34} Hence, from those perspectives, it does not

\textsuperscript{31} Ludwig, “Overlapping.” 36.

\textsuperscript{32} Indigenous Studies Historian of Hawaiian Descent, email message to author, 2024.


\textsuperscript{34} Sadongei, 153.
seem unreasonable to suggest that when ‘respect’ values of others are not understood, unethical treatment can occur. Consequently, in the case of the eleven institutions that have not repatriated their Etowah inventories, failure to do so is unethical even if the cause is a perceived inability to understand Indigenous ideologies that assign ‘respect’ to ancestral remains.

Another issue to evaluate regarding differences in ‘respect’ values between institutions and those common to some Tribes, is understanding why ancestral remains should be afforded certain rights. For instance, while there may be an expectation of the living to be laid to rest in permanent burial places, some institutions do not feel obligated to afford that same right to human remains (especially when used in research), and therefore excavating remains is not viewed as a disrespectful practice. For example, researchers studying the evolution of diseases, lament that “the human body, the skeleton and the ancient anatomical remains, as biological archive” provide essential information that offers “a temporal and cultural window on the funerary practices, beliefs and customs of different cultures.”35 Additionally, from an anthropological perspective, human remains can aid in the reconstruction of “demographics and the style lives of the past populations.”36 Those examples provide reasons for why institutions may reject Indigenous views that call for the repatriation and reburial of ancestral remains.

It is vitally important for institutions to learn and accept Indigenous ideologies of ‘respect’ as emphasized by Indigenous philosopher, Viola F. Cordova, who stated that the Native American view of ‘respect’ is similar to that of the Greeks because it “relies on the internalization of rules for proper conduct, but unlike the Greeks, the Native American adds to


36 Licata et al., 2.
the We definition of human beings the idea of equality.”37 Cordova goes on to share that Indigenous philosophies involving equality extends “toward the planet and its many life-forms.”38 Therefore, in the same way that the living have the right to expect a permanent burial place as a show of respect, a common Native American perspective is that ancestral remains (as remnants of life-forms of those who were once alive and added eternal value to the universe) should be granted that same equal right and show of respect. Thus, the Muscogee Nation is committed to reclaiming the remains of their ancient descendants, not only because the remains belonged to individuals who once lived and added eternal value to creation as a whole, but also because contributions made by ancestral grandparents have remained personally impactful to those of Muskogean-speaking ancestry, and therefore, ancestral remains should be respected.39

The important takeaway of this section is to understand that common to many Native American groups is an epistemology that involves awarenesses and experiences that view and respect social, natural, and supernatural environments equally. Consequently, because many institutions hold Eurocentric worldviews, rejecting non-European ways of knowing can potentially hinder repatriation. Thus, in order for repatriation to be successful for all claimants, institutions with a history of devaluing Indigenous epistemologies must come to accept that, for many Native Americans:

Knowledge is holistic, cyclic, and dependent upon relationships and connections to living and nonliving beings and entities; There are many truths, and these truths are dependent upon individual experiences; Everything is alive; All things are equal; The land is sacred; and the relationships between people and the spiritual world is important.40


39 Sadongei, 154.

From that perspective, institutions would be hard-pressed not to understand that as a show of respect for both the living and dead, skeletal life-forms of those who once lived should be interred in places of permanence. Unfortunately, challenges arise when some institutions fail to understand or accept the ‘respect’ value that many Native Americans place on ancestral remains. Thus, this chapter suggests that whether it is intentional or not, when institutions retain beliefs about ancestral remains that are inconsistent with ideologies common to many Tribes, then it is possible for those institutions to hinder the repatriation process.

Connecting The ‘Respect’ Values Of The Vermillion Accord To The Theme

As an overall theme of this chapter, it is being suggested that some institutions may negatively impact repatriation efforts by holding onto beliefs that are inconsistent with ‘respect’ values conveyed in The Vermillion Accord. That suggestion is being evaluated to provide a philosophical explanation for why the eleven institutions may still be in possession of burial belongings disinterred from the Etowah Mounds site. In this section, the six ‘respect’ values conveyed in The Vermillion Accord will be evaluated, alongside an assessment of institutionalized beliefs that reject common Indigenous ‘respect’ ideologies which honor ancestral remains. The suggestion driving the evaluation is that Eurocentric values rejecting Indigenous worldviews cannot be excluded as a reason for hindered repatriations. Following are the six ‘respect’ values within The Vermillion Accord On Human Remains as they appear on the World Archaeological Congress (WAC) website:41

1. Respect for the mortal remains of the dead shall be accorded to all, irrespective of origin, race, religion, nationality, custom and tradition;

2. Respect for the wishes of the dead concerning disposition shall be accorded whenever possible, reasonable and lawful, when they are known or can be reasonably inferred;

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3. Respect for the wishes of the local community and of relatives or guardians of the dead shall be accorded whenever possible, reasonable and lawful;

4. Respect for the scientific research value of skeletal, mummified and other human remains (including fossil hominids) shall be accorded when such value is demonstrated to exist;

5. Agreement on the disposition of fossil, skeletal, mummified and other remains shall be reached by negotiation on the basis of mutual respect for the legitimate concerns of communities for the proper disposition of their ancestors, as well as the legitimate concerns of science and education;

6. The express recognition that the concerns of various ethnic groups, as well as those of science are legitimate and to be respected, will permit acceptable agreements to be reached and honoured.

When reviewing the ‘respect’ values listed above, it is not difficult to understand reasons for why the Muscogee (Creek) subject matter experts expressed dismay over how long ancestral grandparents have been held as inventories within the eleven institutions. As discussed in the previous section, like many Tribes, the Muscogee Nation viewed disinterred ancestral remains as being worthy of respect. Moreover, in many instances, ancestors buried within the Etowah Mounds likely underwent sacred ceremonies that initiated spiritual journeyings which were interrupted when remains were removed from burial sites. Arguably, at the time that sacred ceremonies took place at Etowah and other burial places, they were likely believed to be precursors to permanent interments. Therefore, for many Muskogean-speaking people, when excavations took place across the Southeast and other regions, those activities not only halted the spiritual journeying of ancestral decedents, but they also imposed emotional burdens on descendants across generations.

Disturbingly, as of September 2021, research shows that there are 117,576 Indigenous remains housed at institutions across the U.S. Consequently, the question being addressed

throughout this dissertation is why thousands of ancestral remains, particularly those affiliated to the Muscogee (Creek) people, have gone unrepatriated. As a response, while it cannot be conclusively proven that a rejection of Indigenous ‘respect’ beliefs is why repatriation involving the eleven institutions have been hindered; what cannot be ruled out is that when institutions devalue Indigenous mores that assign respect to human remains, the repatriation process can be negatively impacted. Hence, in cases where the Muscogee Nation has been unsuccessful at reclaiming the Etowah belongings, the suggestion being presented here appears feasible because while there have been many successful repatriations over the decades since NAGPRA became law, the eleven institutions failed to repatriate the Etowah belongings to the Tribe. In that regard, using the six ‘respect’ values characterized in *The Vermillion Accord* as a framework, following is an evaluation of how Eurocentric perspectives can impede the repatriation process (even if unintentional):

*‘Respect’ Values 1, 2 and 3*

Collectively, ‘respect’ values 1, 2, and 3, are closely related and can be evaluated together to present a more concise picture of how some institutions exhibit certain beliefs that are inconsistent with *The Vermillion Accord*. As an example, because the first three values are aimed at ensuring the respectful treatment of human remains (value 1), honoring the wishes or perceived wishes of decedents (value 2), and respecting the wishes of affiliated communities and custodians (value 3), it will be helpful to take another look at the case involving the University of Alabama. As a reminder, the University was in possession of ancestral remains affiliated to the Muskogean Confederacy of Tribes. Recently, as part of the repatriation process, affiliated Tribes consulted with University representatives, and the Muscogee delegates noticed that ancestral
remains were stored inequitably.\textsuperscript{43} Specifically, human remains belonging to those of European descent were wrapped for protection and placed securely in individual drawers; however, by contrast, Indigenous remains of different persons were mixed together and stored in drawers without benefit of protective wrappings.\textsuperscript{44} That example is a demonstration of how institutionalized ‘respect’ beliefs about ancestral remains can be inconsistent with ideologies of some Indigenous groups (value 1). Hence, regarding the correct way to ensure respectful handling of human remains, Antoine and Taylor stated:

> Anyone handling human remains should have received appropriate training (e.g. in physical anthropology, bioarchaeology, conservation or museum handling) and should be made aware of their ethical obligations with regard to human remains…and [w]herever possible associations between human remains and funerary objects are maintained.\textsuperscript{45}

Consequently, whether intentional or not, when human remains are mishandled in research, one has to wonder if the lack of respect being displayed was the cause.

Similarly, ‘respect’ value 2 provides directives for how best to honor the wishes or perceived wishes of decedents. Although some may argue that it is not possible to know the expectations of those who died many centuries ago, it is not a stretch to assume that had the practice of excavating remains never existed, being permanently interred in original burial places would have been the expected norm.\textsuperscript{46} Moreover, common to many Native American groups is a way of knowing that establishes an understanding of the expectations of ancient ancestors. In

\textsuperscript{43} MCN Historic and Cultural Dept, Zoom meeting.

\textsuperscript{44} MCN Historic and Cultural Dept.


support of that premise, Deloria described:

In an epistemological sense…the tribal method of gathering information is more sophisticated and certainly more comprehensive than Western science. In most tribal traditions, no data are discarded as unimportant or irrelevant. Indians consider their own individual experiences, the accumulated wisdom of the community that has been gathered by previous generations, their dreams, visions, and prophecies, and any information received from birds, animals, and plants as data that must be arranged, evaluated, and understood as a unified body of knowledge.47

Hence, a common Indigenous way of knowing reaches back to knowledge assimilated and experienced by ancient affiliates, which is passed forward to present-day descendants and onto future generations, all of whom will add their own knowledge of the world as they experience it.48 Therefore, the ability to know the wishes of ancient ancestors is inherently acquired through passed on experiences, values, traditions, and worldviews, resulting from a “deep and continuous communication between humans and the more-than-human world of which they are citizens.”49

In essence, as with the Muscogee people, knowing the wishes of deceased ancestors is a responsibility for some Tribes, which carries “an ethical-epistemological orientation of attentiveness” that many Native Americans refer to as respect.50

Additionally, because many Tribes have a “we are all relatives” worldview,51 members may consider it a moral duty to respect the wishes of deceased affiliates by ensuring norms are carried out. As such, since in many cases Indigenous burial customs were passed forward across


50 Hester and Cheney, 320, 325.

51 Hester and Cheney, 325.
generations, future descendants were inherently equipped to know the wishes of ancient decedents based on stories, dances, oral traditions, cultural norms, and other methods that created ways of knowing for Tribes. As discussed previously, the burial ceremonies undertaken by early Muskogean-speaking people likely involved members digging graves with their hands, throwing dirt over lowered caskets to symbolize a final handshake, and in many cases tiny houses were built to cover graves after caskets were fully immersed in the ground.\textsuperscript{52} When examining the intricacies of those sacred burial rituals, one would be hard-pressed not to surmise that decedents and affiliates would have expected for burial sites to be permanent places of interment. As such, throughout time, generations that followed were able to share knowledge of ancient burial customs, even when they were no longer being practiced.\textsuperscript{53} Therefore, with regard to ‘respect’ value 2, it would be pragmatic for doubtful institutions to consider that present-day Tribes do in fact know the wishes of ancient ancestors, who arguably expected for interments to be places of permanency.

Next, as with value 2 (which focuses on the respectful treatment of human remains), the focus in value 3 involves the respectful treatment of affiliated communities and the living relations of decedents. As mentioned previously in this section, common to many Tribes is the worldview that considers all human beings to be interconnected and equally valued; however, among many Indigenous groups there does seem to be an especially close-knit connection between members sharing Tribal affiliations.\textsuperscript{54} The practice of affording equal respect to all members of one’s Tribal group is the essence of the Indigenous kinship relationship. Indigenous

\textsuperscript{52} Walker and Balk, “Bereavement rituals, 642.

\textsuperscript{53} Walker and Balk, 640-45.

kinship can be defined as a “social mechanism that regulates a totality of traditional Native American social life.” While an in-depth discussion of Indigenous kinship relations is beyond the scope of this dissertation, an important take away involving the directive in value 3 is that Tribal members are afforded respect as equal participants of a single extended family, as kinship is a “bilateral phenomenon in that it [is] adopted by and binding across the generations.” As such, because Tribes afford equal respect to one another (as well as to all others), they would likely expect the same manner of respect in return. However, because there are institutions that “do not share a common metaphysic or religious worldview” where respecting all human beings equally is the goal, it can prove difficult for some institutions to engage in ethical treatment of Indigenous people, which can potentially be hindering to the repatriation process.

The overall takeaway of ‘respect’ values 1, 2, and 3 is that it is essential for institutions to understand ‘respect’ ideologies from Indigenous perspectives to ensure that institutional belief systems are not responsible for refusals to comply with NAGPRA. Essentially, because the eleven institutions have not returned the Etowah belongings after far too many years, it may prove helpful for them to evaluate whether they are retaining beliefs that are dismissive of the first three ‘respect’ values characterized within The Vermillion Accord. As such, the suggestion being made here is that in some cases, it is quite possible that Eurocentric beliefs (which traditionally devalued Native Americans) are responsible for impeding the Etowah belongings from being returned to the Muscogee (Creek) Nation and likely other Tribes.


56 Red Horse, “Traditional American,” 245.

“Respect” Values 4, 5, and 6

Much like the first three values of *The Vermillion Accord*, ‘respect’ values 4, 5, and 6, are closely related; therefore, evaluating them collectively will prove more impactful for supporting the overall theme of this chapter. For the last three values, the focus will be on examples involving scientific research in particular. Because institutions did not always afford respect to Indigenous groups within scientific research (as seen during the Eugenics era), many Native Americans struggled to trust researchers who experimented using ancestral remains. Many reasons for that mistrust abounded, which included robbing graves to obtain human remains for research rather than seeking consent. Also, disinterring Indigenous decedents was oftentimes deemed an insignificant practice because Native Americans were considered to be inferior.58 Consequently, in order for present-day Native American groups to afford ‘respect’ to some scientific communities (value 4), institutions must find ways to instill trust with Indigenous groups by addressing their legitimate concerns (values 4, 5 and 6). According to the Native American Center For Excellence (NACFE), due to historical abuses that Indigenous people endured in the name of science, institutions must take certain steps before attempting to approach Tribes for scientific research.59 For example, the agency suggested that institutions should begin by associating with Tribal elders in order to build relationships, as elders can facilitate processes by mentoring and guiding both researchers and members of Tribes. Also, NACFE recommends that researchers should be present at Indigenous ceremonies to develop an appreciation for Tribal


customs and histories. Moreover, the agency suggests that when attempting to build trust, institutions must seek to understand generational traumas as part of collecting the personal histories of research participants. Additionally, researchers can gain respect of groups by enlisting the expertise of Tribal members, hiring members as consultants, and including Indigenous communities as partners. Other suggestions for building trust with Indigenous communities is for researchers to “respect the privacy of the community being studied…[e]mploy blended research methods that include ‘indigenous ways of knowing”…keep the community fully informed as the study progresses…[and] give credit to the community for scientific results acquired from the study.” Similarly, in his presentation on how to support ethical research involving Native American populations, Dr. Spero Manson (Director of the Centers for American Indian and Alaska Native Health, and member of the Pembina Chippewa Tribe) shared that there were several “points of tension in research planning and implementation” which were of concern to Indigenous communities.” Specifically, Dr. Manson explained that because consent was not always obtained before carrying out research, Indigenous communities remained wary of researchers. Also, some Indigenous groups became suspicious when institutions professed that research was being conducted for the betterment of Native

60 Native American Center For Excellence,” 1-2.

61 Native American Center For Excellence,” 1-2.

62 Native American Center For Excellence,” 1-2.

63 Native American Center For Excellence,” 1-2.


65 Manson, “Native Communities,” 4.
American health, and yet, researchers failed to report findings to Tribes. Those examples are just a sampling of areas needing improvement so that institutions can begin building trust, which can help Indigenous communities grow to respect ethical research initiatives (value 4). Although the Muscogee (Creek) Nation is not interested in allowing ancestral remains to be used in research, if other Tribes are open to that option it will be important for all sides to respect differing viewpoints when ancestral remains are used in research with consent (values 4, 5, and 6). Should either side fail to respect, agree, or recognize, the positions and ideologies of the other side, it can result in contentions that may impede the repatriation of belongings used in research.

The focus of this chapter was to use The Vermillion Accord On Human Remains ethical code as a framework for assessing how repatriation could be hindered when institutions reject notions of ‘respect’ that some Tribes assigned to ancestral remains. In many ways, the information evaluated in this chapter supported the suggestion that the eleven institutions failed to return the Etowah belongings because they were unable or unwilling to accept Muscogee (Creek) ‘respect’ ideologies afforded to their ancestral grandparents. As such, that lack of understanding may explain why, while some Tribes have experienced successful repatriations over the last three decades, the belongings disinterred from the Etowah Mounds still remain unclaimed. For the Muscogee Nation, the goal of reburying ancestral grandparents on original homelands remains paramount, which was communicated by Principal Chief Hill as he addressed the Tribe’s members in January 2024. On that day, as he reaffirmed many of the Tribe’s pressing commitments which included the unwavering focus to reclaim all disinterred

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66 Manson, “Native Communities,” 4.

ancestors, Hill determinedly stated, “We will preserve our sacred place and fight to ensure that our ancestors are allowed to rest in peace.”

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68 David Hill, Principal Chief, 2024 Inauguration Ceremony.
Conclusion

The comprehensive examination of historical events leading to disinterment and repatriation challenges experienced by the Muscogee (Creek) Nation was undertaken to raise public awareness of those issues, which could help the Tribe pressure eleven institutions into returning burial belongings excavated from the Etowah Mounds. This dissertation sought to meet that goal by engaging in an interpretive investigation of pre-contact migration events that highlighted interconnections between Southeastern Tribes and the development of traditions associated with the Woodlands and Mississippian Periods. Also examined as part of that early migration history were connections between ancient inhabitants and earthen mounds, such as those located at the Etowah Mounds site in Georgia. That early migration research was used as the backdrop to show how earthen mound societies developed, and how understanding burial customs gave context to why Muskogean-speaking groups were adversely impacted by unethical disinterment activities that increased across post-contact history.

Subsequently, the overall backdrop led to a detailed examination of the Muscogee Tribe during colonial periods, with a focus on experiences involving the first Europeans that settled in present-day Savannah, Georgia. Early encounters with European settlers would ultimately lead to deceptive treaties and practices aimed at removing the Muscogee and other Southeastern Tribes from their ancestral homelands by way of the Trail of Tears. Consequently, being forcibly removed from homelands caused the deaths of thousands of Tribal members as they traveled through harsh environments toward Indian Territory in Oklahoma. Also linked across post-contact history (and most central to this dissertation’s objective), was the rise in disinterment practices against Native Americans because of racist research, the quest for financial gain, and a desire to stoke public interest about Indigenous people as exotic curiosities. Those events drove the mass plundering of graves (which included the Etowah Mounds site), and led to burial
belongings and even live persons being exhibited within museums. Simultaneously, as part of Muscogee post-contact history in Oklahoma, the Tribe was forced to overcome several unlawful treaties, pressured into land allotments, and suffered from tragic outcomes as a result of being restricted from living communally. Ultimately, because the Tribe had the uncanny ability to thrive when faced with adversities, they began to win legal cases against unethical treaties, and in 2022, Principal Chief Hill gave an astounding report that highlighted the Muscogee (Creek) Nation’s milestones which included their determination to work toward the repatriation of their ancestral grandparents.

Further researched was repatriation law (NAGPRA) and several major barriers hindering repatriation efforts for over thirty years. Moreover, the research undertaken also included insights from seven Muscogee (Creek) subject matter experts, who provided updated information about the Tribe’s repatriation concerns regarding eleven institutions still in possession of burial belongings disinterred from the Etowah Mounds. This dissertation was strengthened by their personal experiences regarding relevant topics, and sharing future plans which included reburying ancestral grandparents on original homelands in one sacred ceremony. As such, if enough public awareness is garnered by information researched in this dissertation, it may help pressure the eleven institutions into expediting the return of the Etowah belongings, and it may also encourage officials in Georgia to donate enough ancestral homelands to rebury all belongings removed from the Etowah Mounds site. A possible concern in that regard, is that historically when Native American groups made requests to officials, achieving successful outcomes typically took years. As such, when asked to comment on the possibility that it could take years before the Muscogee people acquired original homelands to rebury ancestral
grandparents, Dr. Alima Anderson, a Business Ethicist, offered the following appeal on their behalf:

It is very disturbing to think that the Muscogee (Creek) people would have to fight to reclaim a portion of their rightfully owned ancestral lands. Out of the tens of millions of acres unethically taken from their ancestors, it would only be reasonable and just to restore an adequate portion of the land to them for [reburying] their ancestral remains. Ownership of the restored land should be transferred and maintained on a tax-free basis with the understanding that doing so will not fully cure, but be a step in the right direction of compensation for the generational trauma that they were forced to endure. If our government is able to help find and approve land for expensive housing and retail developments in an acceptable amount of time, then the same attention should be given to locating the land and transferring the remains.¹

Because repatriation of the Etowah belongings have been hindered for over three decades, this dissertation also utilized The Vermillion Accord On Human Remains ethical code as a framework to evaluate how repatriation can be impeded when institutions are unwilling or unable to accept Indigenous ‘respect’ ideologies that honor ancestral remains. Hence, this dissertation explored ways in which rejecting Indigenous ‘respect’ values could have played a role in why the eleven institutions had not yet complied with returning the Etowah belongings to the Muscogee (Creek) Nation. Finally, this dissertation also provided major initiatives currently being considered for removing barriers to NAGPRA as outline by the Department Of Interior, and also evaluated strategies for strengthening relationships between institutions and Indigenous groups. Included as part of the evaluation of those strategies was an overview of current policies that informed the public about how the eleven institutions intended to correct culturally inappropriate practices levied against Tribes across America’s past.

In light of this completed comprehensive examination, the stated objective has been met, as the Muscogee (Creek) Nation will be able to utilize this research to raise public awareness of

¹ Alima Anderson (Doctor of Business Ethics), email message to author, July 2023.
their repatriation challenges, with the hope of pressuring the eleven institutions into returning ancestral belongings disinterred from the Etowah Mounds site. As such, it seems apropos to end this dissertation with the final words spoken by Principal Chief Hill to the Muscogee Nation during their 2024 Inaugural Ceremony, which poignantly encapsulated the spirit of the Tribe today. Principal Chief Hill stated, “At the far end of the Trail of Tears was a promise. We are still here. We are growing. We are strong. We are Muscogee!” In response to his empowering declaration, members who packed The Cove at River Spirit Casino and Resort in Tulsa on that eventful day, responded to their Principal Chief with a resounding standing ovation with the same show of unity and pride that has sustained the Tribe across generations.

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2 David Hill, Principal Chief, 2024 Inauguration Ceremony.
Bibliography


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