Comment

MICHAEL S. WILLIAMSON/*THE WASHINGTON POST* VIA GETTY

At Sweet Briar Plantation Burial Grounds in Virginia, Bethany Pace works to protect the graves of her ancestors, many of whom were enslaved.

Craft an African American Graves Protection and Repatriation Act

Justin Dunnavant, Delande Justinvil & Chip Colwell

Universities and museums must catalogue the remains of Black Americans in their collections, and pause research pending consultation with descendant communities.

Last month, shocking news reports revealed that what are thought to be the skeletal remains of Tree and Delisha Africa, two Black girls killed in a US police bombing in 1985, might have been studied for years by researchers at two US universities, without their families' permission. The finding, involving the University of Pennsylvania in Philadelphia and Princeton University in New Jersey, is just the latest in a series of discoveries in university collections related to the mistreatment of African American human remains.

A week earlier, the University of Pennsylvania announced that it would rebury the remains of more than 50 enslaved people held in its anthropology museum. In January, Harvard University in Cambridge, Massachusetts, announced that it was creating a committee to consider policies around its museum collections after the discovery of the remains of 15 people who were enslaved. In 2017, the University of Virginia in Charlottesville acknowledged that it had lost track of grave-robbed remains from African American cemeteries, which the medical school had once used for anatomical study[1].

The call for institutional accountability over African American remains in academic collections comes at a time when the US Congress will soon convene hearings on the African American Burial Grounds Network Act. This bill would survey and offer recommendations for the protection of African American burial grounds. It is a good first step.

Although this could become one of the most significant pieces of legislation in the fight to safeguard Black heritage, the United States needs much stronger laws to respectfully care

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for the graves, osteological remains and genetic material of deceased African Americans. There are thousands of remains in unmarked burial grounds and institutional collections around the country, which are at risk of loss, negligence and destruction (see 'Defend the dead').

We propose in addition the creation of an African American Graves Protection and Repatriation Act (AAGPRA), modelled on existing federal legislation for Native American remains and cultural items. Such a law would protect graves and provide guidance on the care and repatriation of human remains in scientific collections. It could do so in a manner that also addresses a growing interest in genetic samples, both for genealogical testing services and for medical and historical research.

The practices of academic institutions should match their bold statements against anti-Black racism. The scientific community must embrace policies that catalyse new collaborations to honour community needs and desires. Greater accountability among researchers, universities and museums is long past due. Here's why this should be done, and how.

No protection

Because of historical oppression in US society, the graves of enslaved people and their descendants were often unmarked, placed in unofficial cemeteries and razed by development projects. Across the United States, from the late nineteenth century and continuing today, Black cemeteries were landfilled to make space for buildings, levelled for the creation of parks, and either destroyed or put at risk by suburban developments, roads, infrastructure and housing[2]. Many burial sites held hundreds of people, a few held several thousand[3].

Through the years, Black descendants and concerned residents formed associations and coalitions in defence of these burial sites. African American cemeteries have struggled to acquire state and federal recognition[4]. For example, to protect cemeteries, the US National Historic Preservation Act of 1966 requires evidence that they achieved historic significance, are associated with historic events, have the potential to yield historic information, or contain the graves of people of "transcendent importance". For marginalized, poorly documented graveyards, this is difficult – or impossible. Moreover, significant individuals in disenfranchised minority communities are often not recognized by those in power.

Since the early 1990s, high-profile archaeological projects have led national calls for the preservation of such sites. These include the New York African Burial Ground[5], Freedman's Cemetery[6] in Dallas, Texas, and the First African Baptist Church graveyard[7] in Philadelphia. At the latter, for instance, researchers worked with community leaders to protect graves while studying the historical experiences of urban enslaved and free African Americans from the eighteenth century onwards. Last year, scholars in Oklahoma involved in the discovery of a probable mass grave of Black Americans – who could well be among hundreds killed by a white mob in the 1921 Tulsa Race Massacre – joined in the call.

There are still no federal protections specifically for historic Black cemeteries.

Today, the remains of at least 2,000 African Americans – possibly many more – are in museums, medical collections and universities around the United States. Black burial grounds were plundered for research until the early twentieth century. For instance, construction crews discovered thousands of remains at the Medical College of Georgia in Augusta in 1989, most of which had been stolen from a graveyard for Augusta's poor and Black citizens between 1835 and 1913. In other cases, the remains of Black people did not even reach the grave before being taken into collections. For example, the body of Nat Turner – the freedom fighter who was hanged and skinned in 1831 for leading a rebellion – is thought to have entered the 'cadaver trade', which supplied US anatomy classrooms[8].

In the 1980s, it became possible to extract DNA from osteological samples for genealogical research. When genomic data are coupled with biochemical and archaeological studies, they can paint a complex portrait of demography, disease, geographical origin and more. These advances, coupled with interest in African American ancestry, spurred public and private sequencing of DNA from African American human remains[9].

But the acquisition, storage and use of this genetic material cannot be undertaken lightly. The promise of expanding knowledge must be considered alongside the perils of medical exploitation and biocolonialism[10]. Recall the globalization of Henrietta Lacks's tumour cells in lab research, or the 1840s gynaecological experimentation on Anarcha Westcott, an enslaved woman. Neither of these African Americans consented to their participation in research; both were reduced to scientific data, rather than being treated as humans with rights and relatives[11,12]. Modern extractive practices risk recapitulating the scientific racism that dehumanized Black lives.

This is a civil- and human-rights issue. The remains of African American people, as with those of Native Americans, have not received the same protections as the bodies of white citizens.

Legislative fix

In December last year, the US Senate unanimously passed the African American Burial Grounds Study Act. But the House of Representatives adjourned before the legislation could be considered. In Congress's 2021 term, the bill – now provisionally titled the African American Burial Grounds Network Act – is anticipated to be reintroduced with the support of an alliance of dozens of scientific, community and national organizations. Research champions for the bill include the US National Trust for Historic Preservation, the Society for Historical Archaeology and the Society of Black Archaeologists.

If successful, the legislation would allocate funding for the creation of a voluntary network to build a national database of African American burial grounds. It would also consider best practices for commemoration and preservation.

This is a crucial step to redress the centuries of desecration perpetrated against African American cemeteries and skeletal remains.

More is needed. The legislation does not protect cemeteries on federal lands or mandate consultations with descendants. Nor does it address the thousands of human remains in museums and research institutions. A better model is the Native American Graves

AFRO AMERICAN NEWSPAPERS/GADO/GETTY

Laurel Hill Cemetery in Baltimore, Maryland, was demolished in 1958 to build a market.

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Protection and Repatriation Act (NAGPRA) of 1990. This US federal law gives certain rights to descendants and tribes over ancestral human remains, in the ground and in museums.

We call for the creation of an analogous African American Graves Protection and Repatriation Act (AAGPRA). It could emulate such provisions as a grant programme, prohibitions against the sale and transfer of human remains, and a review committee to oversee the law and adjudicate disputes.

One principle would be the inventory process. A network of archaeologists, city planners and communities could together identify burial grounds and plan for their stewardship. This could build on previous efforts such as the National Burial Database of Enslaved Americans and the Convict Leasing and Labor Project. For federal agencies and federally funded museums, AAGPRA would require a full public inventory of their human-remains collections. As under NAGPRA, these inventories could be published in the Federal Register and listed on a National Park Service website.

A second principle, similar to NAGPRA, would be consultation with descendants and community leaders. This would require researchers and institutions to actively prioritize inclusive decision-making processes. An AAGPRA could build on protocols developed by leading scholar-advocates that foster genuine engagement.

For example, through meaningful collaboration between archaeologists, artists, community leaders and government officials, the New York African Burial Ground Project was driven by a 'clientage model'. This replaced the sort of tokenistic engagement that project director Michael Blakey has described as "hearing Blacks but not listening, looking at Blacks but not seeing"[13]. Clientage led to discoveries such as how the changing patterns of gruelling forced labour bent the bodies of enslaved men and then women. And it led to memorialization — the site became a US national monument with a visitor centre[13].

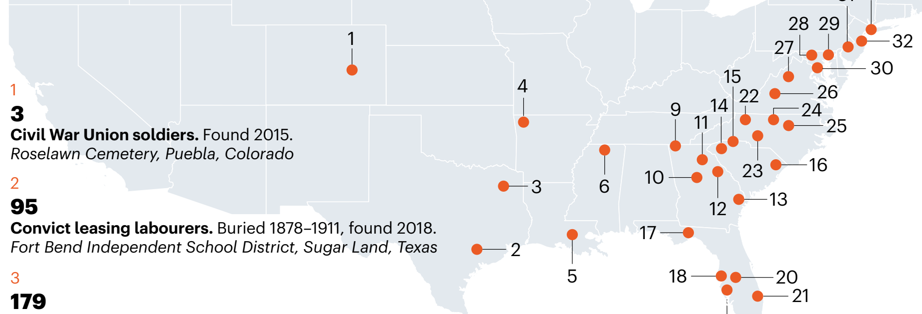
Challenges ahead

Determining who exactly should be consulted presents several challenges for African Americans. Under NAGPRA, the primary consulting parties are sovereign tribal nations, and cultural relationships between claimants and ancestral remains are determined through analysis of ten lines of evidence. Centuries of displacement and sparse genealogical records for African Americans can mean that it is difficult to link a set of human remains to specific Black descendants[14].

Those working with African American remains can draw from the National Trust for Historic Preservation's 2018 publication, *Engaging Descendant Communities* (see go.nature.com/3g76zt4). This provides guidelines for multidisciplinary research that is collaborative, transparent, accountable

DEFEND THE DEAD

Across the United States, the remains of thousands of Black people have been discovered in unmarked graves or unofficial cemeteries. These sites are often razed by development. Only a few have been granted protection. There could be many more.



1
3
Civil War Union soldiers. Found 2015.
Roselawn Cemetery, Puebla, Colorado

2
95
Convict leasing labourers. Buried 1878–1911, found 2018.
Fort Bend Independent School District, Sugar Land, Texas

3
179
Enslaved people and their descendants. Buried 1852 onwards, found 2015. *Oakwood Cemetery, Tyler, Texas*

4
90+
Enslaved people. Found 2019. *Christian Life Cathedral, Fayetteville, Arkansas*

5
1,000+
Enslaved people. Found 2013. *Ascension Parish Plantations, Lemannville, Louisiana*

6
119
Enslaved people. Buried 1848 onwards, found 2019.
Red Banks Cemetery, Red Banks, Mississippi

7
13
Victims of the Chicago Race Riot. Buried 1919, found 2019.
Lincoln Cemetery, Blue Island, Illinois

8
12+
First African American settlers. Buried early 19th century, found 2019. *Butternut Ridge Cemetery, North Olmsted, Ohio*

9
100+
Enslaved people. Found 2015.
District Hill Cemetery, Chickamauga, Georgia

10
872
Buried 1866 onwards, found 2016.
Oakland Cemetery, Atlanta, Georgia

11
1,146
Enslaved and segregated people. Buried 1870s–1950s.
Alta Vista Cemetery, Gainesville, Georgia

12
100+
Enslaved or formerly enslaved people. Found 2015.
Old Athens Cemetery, University of Georgia, Athens, Georgia

13
383+
Formerly enslaved people. Buried 1870s–1900s, found 2006. *Hunter Army Airfield, Savannah, Georgia*

14
200–250
Enslaved and convict leasing labourers. Buried 1860s.
Woodland Cemetery, Clemson, South Carolina

15
900+
Enslaved, formerly enslaved and Black parishioners. Buried 1800s onwards, found 2013. *Soapstone Baptist Church, Pickens, South Carolina*

16
~100
Enslaved people. Found 2020.
Eddy Lake Cemetery, Bucksport, South Carolina

17
40+
Enslaved people. Buried 1830s onwards, found 2019.
Capital City Country Club, Tallahassee, Florida

18
44
Segregated people. Found 2020.
Pinellas County School District, Clearwater, Florida

19
120+
Segregated people. Found 2019.
Robles Park Village, Tampa, Florida

20
145+
Paupers' burial ground. Buried 1950s, found 2019.
King High School, Tampa, Florida

21
674
Buried 1928, found 1950s.
Hurricane of 1928 Mass Burial Site, West Palm Beach, Florida

22
165
Enslaved people. Found 2016.
Historic Black Cemetery, Boone, North Carolina

23
19+
Enslaved people. Found 2017.
Mallard Creek Presbyterian Church, Charlotte, North Carolina

24
200+
Enslaved people. Buried after 1959, found 2018.
St Philips Moravian Graveyard, Winston-Salem, North Carolina

25
475
Enslaved people. Buried after 1859, found 2015.
University of North Carolina at Chapel Hill, North Carolina

26
32
Enslaved people. Found 2005.
Avoca Museum, Altavista, Virginia

27
67
Enslaved people. Buried 19th century, found 2012.
University of Virginia, Charlottesville, Virginia

28
200+
Segregated veterans and families. Found 2020.
Ellsworth Cemetery, Westminster, Maryland

29
5,000+
Enslaved, formerly enslaved and veterans. Buried 1852 onwards, found 2018. *Laurel Cemetery, Baltimore, Maryland*

30
?
Enslaved people. Buried 19th century, found 2019.
Former Belvoir Plantation, Crownsville, Maryland

31
?
Enslaved people. Buried 19th century, found 2018.
University of Pennsylvania, Philadelphia, Pennsylvania

32
673
Nation's first free Black settlers. Buried from 1830s, found 2018.
Rossville A.M.E. Zion Church Cemetery, Staten Island, New York

33
15,000+
Mostly enslaved people. Buried 17th–18th centuries, found 1897.
African Burial Ground National Monument, New York City, New York

SOURCE: DATA AND MAP: HANNA KIM & THE CONVICT LEASING AND LABOR PROJECT

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and accessible. It defines descendants both in genealogical terms and more inclusively, to welcome input from African Americans whose ancestors had a shared historical experience. Community organizations, churches and national groups should be empowered to guide decisions on potential solutions ranging from retaining collections to reburial.

Genetics could help to establish biological relatedness between individuals in museums and current kin. All involved must acknowledge that it is a destructive method – requiring bone to be sampled and ground up. And results can be disappointing – genetic reference libraries generally provide only a snapshot sample of populations, and predominantly hold data on people of European ancestry.

Delineating how the genetic data of living and deceased African Americans could and should be used is essential. It is key that this powerful tool does not replicate the very practices it is intended to redress[15]. As we have learnt from Indigenous scientists, conversations of data governance must unfold for Black communities to reduce the risk of yet another form of biological data being further out of their control[16].

Given that NAGPRA has been controversial – often seemingly pitting scientific goals against Indigenous sovereignty – one could reasonably ask why this law for Native Americans should be a model for African Americans. In our view, NAGPRA is not anti-science, it is pro-human[17]. Like the human-subjects regulations that established necessary oversight after the betrayal of the Tuskegee syphilis experiment in Alabama (which left hundreds of African American men with the disease untreated), NAGPRA does not prohibit research. Rather, it requires scientists to respect the dignity of all people and seek the consent of descendants. We contend that this should be considered a necessary component of good science.

The collaborative ethic that emerged among Native Americans and museum professionals following NAGPRA, despite the act's flaws, offers hope for how an African American analogue might bring together diverse stakeholders equitably. Exemplars of co-production since 1990 have resulted in discoveries – such as information about the ancestry, descendants and seafood diet of a man whose 10,300-year-old remains were excavated in Alaska – and celebrations, such as the revival of a lost Indigenous boat-building technique used by the Sugpiat people of south central Alaska.

In a similar vein, at Oakwood Cemetery in Austin, Texas, Black descendants are helping to guide work with archaeologists, geneticists and city officials to recover the identities and lived experiences of 36 marginalized people buried in the mid- to late nineteenth century. The burials were discovered under a chapel during its restoration, and the collaboration explores questions related to these people's diet, experiences of disease, stress and trauma, and potential genetic relatedness to living populations (see go.nature.com/3uedoyu).

Four steps

To develop an AAGPRA, we suggest these four priorities for the next two years.

Pass the African American Burial Grounds Network Act. To protect African American burial sites and remains, we must know where they are, and understand their condition and any potential threats to them. Therefore, the passage of the act is a logical first step.

Catalogue existing osteological collections. We think that museums, universities and other institutions should voluntarily survey their existing osteological collections and publish public summaries. They should reassess their collection protocols in consultation with descendants. Where possible, they should undertake genealogical and historical investigations to identify potential descendants. This work will certainly identify further African American remains and establish best practices that could be used as the foundation for a required inventory process under AAGPRA.

Pause the unethical study and use of Black remains in collections. In instances where ethical and legal standards have not been determined by stakeholders, there should be a moratorium on destructive research or teaching that uses African American remains. Efforts should first exhaust all non-invasive methods to find known descendants or representative descendant groups, so that they can be consulted closely on giving consent for inventories or repatriation.

Amend and extend other federal legislation. Without risking a delay in passing the African American Burial Grounds Network Act, some key elements of an AAGPRA could be included now. But we need full and exhaustive solutions to this crisis. Scientists and community leaders must work together to apply the lessons learnt from these efforts for inventorying, conservation, consultation, research and repatriation when necessary. Federal legislation must also consider the ethics around genetic testing and genealogical research[18]. These efforts will require coordination and mutual support among all constituencies.

Time to act

Recommendations of this kind have been discussed in the three decades since Native American remains were legally, at least, afforded the respect we're calling for here. Researchers affiliated with the New York African Burial Ground Project and other archaeological sites have pioneered laudable case studies that demonstrate how scientists and communities can work together[19,20].

What is new is the US political momentum. A new president and Congress seem committed to combating anti-Black racism. There has been nationwide protest over police violence, worldwide protest over systemic racism, renewed public outrage over Black people's remains being held in university collections, and this year is the centennial of the Tulsa Race Massacre. All this, we hope, will foster a united effort to bring dignity to the ancestors of African Americans (see page 313 and *Nature* https://doi.org/dx7r; 2020).

The past year has seen numerous leading academic and scientific institutions make statements about the need to end systemic racism and advance social justice. The same institutions can act on their stated commitments by developing, or reassessing, their protocols for acquisition, conservation and research, in alignment with an ethic of care. They can use their power to leverage support for the African American Burial Grounds Network Act, the foundation for a long-term vision of providing civil and human rights to Black Americans in death as well as in life.

The authors

Justin Dunnavant is a postdoctoral fellow in historical archaeology in the Department of Anthropology, Vanderbilt University, Nashville, Tennessee, USA. **Delande Justinvil** is a doctoral student in the Department of Anthropology, American University, Washington DC; and an incoming predoctoral fellow at the National Museum of Natural History, Washington DC, USA. **Chip Colwell** is an anthropologist and editor-in-chief of *SAPIENS* magazine, New York City, New York, USA.
e-mails: justin.p.dunnavant@vanderbilt.edu; dj6541a@american.edu; chip@sapiens.org

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