

Archaeologist Rob Bonnicksen has developed a technique for recovering at an archaeological site ancient human hairs shed thousands of years ago. The hairs recovered under this technique are extremely valuable for archaeological research because they contain enough DNA to help track early human migrations. After Bonnicksen found hairs at an archaeological site in southwestern Montana, which had been an ancient burial ground, the Native American tribes, on whose reservation the site was located, filed a request that the hairs be turned over to them under the 1990 Native American Grave Protection and Repatriation Act (NAGPRA). Mr Bonnicksen takes the position that the hair he found was naturally shed, and that NAGPRA should be interpreted only to cover human remains in burials. The Native American tribes, however, view human hair as remains. "In their culture, hair is very sacred," said Gray Smith, an archaeologist for the Federal Bureau of Land Management in Montana.

From a moral standpoint, who has a right to the hair, Mr. Bonnicksen or the Native Americans? In either case, justify your position.

MODERATOR'S ANSWER: In this case the Native American Tribes have the right to have the hair returned to the burial ground. The purpose of the Native American Grave Protection and Repatriation Act (NAGPRA) is to assure respect for the traditions, attitudes, and beliefs about burial of the Native American Tribes. In light of this purpose, the words of the Tribes should be given predominant weight concerning what kinds of objects it would be inappropriate to remove from a burial ground. NAGPRA functions no differently in this respect than do State statutes forbidding grave desecration, which courts interpret largely in terms of the general population's viewpoint about what kinds of actions count as desecrating a grave. Scientific research to determine early human migration patterns is a worthwhile and important activity, but the interest in knowledge regarding this subject cannot justify allowing actions that the Native American Tribes regard as deeply offensive to their beliefs, attitudes, and traditions concerning burial.

Case from the February 24, 1996 Intercollegiate Ethics Bowl. Copyright Robert Ladenson, Center for the Study of Ethics at the Illinois Institute of Technology, 1996.