

意見書

冠省

私は「先住民族アイヌの声実現！実行委員会」ならびに「日本人類学会のアイヌ遺骨研究を考える会(通称・チャランケの会)」の活動の社会的意味について考え、基本的にその理念と行動を支持する者であります。この度、同会の事務局、出原昌志氏の慫慂により意見書をまとめることになりましたので、本状に添付します。

なお、先住民・非先住民をとわず、墓場から盗掘された遺骨や副葬品、兵士（正規・非正規を問わず）や政治的信条や良心により命を奪われた者の遺骨遺品等は、その歴史的責任に預からない承継の統治者・統治政府・行政機関においても、学識経験者による適切な調査をおこない報告書を作成し、十全の努力をして、当局者が認定した関係者・団体に返還 (repatriation) する、あるいはそのような努力義務があるというのが、世界的趨勢としてあることをご理解いただきたく存じます。

添付の文章は、すでに公刊あるいはインターネット上に公刊されているもので、後者の場合は、その収集日付が2020年10月11日のものです。

- 1) 遺骨や副葬品を取り戻しつつ先住民のための試論、『京大よ還せ：琉球人人骨は訴える』松島泰勝・山内小夜子編、Pp.202-211、耕文社、2020年
- 2) 先住民遺骨副葬品返還の研究倫理、(池田の「研究倫理」の授業用資料) https://www.cscd.osaka-u.ac.jp/user/rosaldo/human_remains_indigenous_people.html
- 3) Repatriation of human remains and burial materials of Indigenous peoples in Japan : Who owns their cultural heritages and dignity? (先住民の遺骨と副葬品の返還について：誰が文化遺産と尊厳を所有(保有)するのか?) CO*Design 7:1-16, 2020. info:doi/10.18910/75574
- 4) 遺骨は自らの帰還を訴えることができるのか? (池田の「研究倫理」の授業用資料) https://www.cscd.osaka-u.ac.jp/user/rosaldo/Human_Remains_as_plaintiff.html
- 5) 霊性と物質性：アイヌと琉球の遺骨副葬品返還運動から (池田の「研究倫理」の授業用資料) <http://www.cscd.osaka-u.ac.jp/user/rosaldo/Spirituality191005.html>
- 6) 個人が特定されないアイヌ遺骨等の地域返還手続きに関するガイドライン (案；丹菊逸治氏との共同制作) (池田の「研究倫理」の授業用資料) https://www.cscd.osaka-u.ac.jp/user/rosaldo/Ainu_bone_repartriation2016.html
- 7) 先住民の視点からグローバル・スタディーズを再考する (現在進行中の科学研究費補助金基盤(B)18KT0005の納税者への広報用のページ) https://www.cscd.osaka-u.ac.jp/user/rosaldo/GS_Indigenous_2018.html

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ご注意：本状添付の文書内容は、研究者として私個人のものであり、私個人の責任において発出しているものです。現在、私が所属している職場ならびに機関の公式見解を示すものではありません。

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遺骨や副葬品を取り戻しつつある先住民のための試論

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この文章は、世界の先住民遺骨返還運動の現状とその背景にある社会思想を明らかにして、「琉球遺骨返還請求訴訟」への理解を深め、その歴史的ならびに社会的意義をより多くの人に知ってもらうために構想されました。

世界の先住民遺骨返還運動を調べると、遺骨が地元の埋葬地から「収奪」されてきた経緯や、それを正当化する「科学の論理」、そして「遺骨はすべからく返還すべし」という結論に運動の当事者たちが到達するまでは、長く複雑な経緯がありました。遺骨や副葬品を「取り戻す」先住民の思想も実践（作戦）も日々深化していると言っても過言ではありません。その理由は、世界の先住民同胞が、時には先住民が帰属する国家を巻き込んで、先住民への搾取や差別の実態、そして略奪行為がなされてきたことを訴えて、博物館や大学・研究機関に遺骨や「文化的略奪物 (cultural loots)」

の返還を要求してきたことにあります（池田：二〇〇〇）。またそのような返還要求が現在の政治哲学や国際関係論という観点からみてもまったく正義に叶ったものであることが明らかになってきました（シャブコット：二〇一二）。

まず初めに結論を言っておきましょう。世界の先住民遺骨返還運動の歴史を学んだ人にとつては、日本における博物館や大学、研究機関にある先住民遺骨と副葬品の返還の不履行の現状は、悲しく驚くべきほど「遅れて」います。したがって、歴史と現状を、今ここでまさに私たちが学ぶ時に「どうしてこんなに遅れているのか？」と悲観的になるのは当然のことです（松島と木村：二〇一九）。しかしながら、世論は、研究者のみならず一般の人でも「研究のためだから仕方がなかったのではないか？」と他人事のように思っているのではないのでしょうか。自分やその親族が標本になることはないという「無感情（アパシー）」の構造というものが、先住民遺骨返還運動と私たちのあいだを分断しているのです。

その流れに抗して、世界の先住民の人たちが博物館や大学、研究機関にある同胞の先祖の遺骨や副葬品をふるさとに奪還し、祖先から伝わったやり方で供養することができた経緯について学ぶことは重要です。学ぶことで日本における「歴史」のギャップを取り戻すことができると私は信じています。この文章は、私ができるように確信するに至った道どりについて記すことでもあります。

人骨「略奪」を正当化した人種主義

先住民の遺骨や副葬品は、たしかに、植民者や宗主国あるいは権力者の側の博物学者、考古学者、人類学者（自然人類学者と民族学者の両方を含みます）が、先住民の許可を得なかったり、あるいは半ば公然とした盗掘行為を通して略奪されてきました。しかし、それらの科学が専門分化する以前の十八世紀前半には、探検家や宣教師たちがヨーロッパに持ち帰った異文化の「珍品」のコレクションがありました。それらはやがて博物学（ナチュラル・ヒストリー）という学問を形成するのに寄与し、貴族の収蔵庫は王立の博物館へと発展していきました。先住民の人骨を現在の感覚からみると「病的に」コレクションしていく背景には、ヨーロッパでの人種主義の発展が見逃せません。これは主に十九世紀におこりました。

人種主義とは、人間を複数の「人種」に分類し、そこに人種の間で「優れている／進んでいる／劣っている／遅れている」という、人類の進化の時間的概念と優劣の概念をヨーロッパ人を頂点とする秩序の中に当てはめる行為をさします。またそのことを科学的に「証明」し、差別を正当化する価値観は科学的人種主義と言えるでしょう。十九世紀後半のダーウインの進化論の登場はその傾向に拍車をかけました。そのような自惚れや優越感のために先住民の人骨や民族学上の「風物」の記録が加速度的に進んだことは、『大学による盗骨』（二〇一九）のなかにおびただしく指摘されています。それだけではなく「未開の地」から文明の地に連れてこられ感染症で亡くなる先住民もいました。彼らは伝統的な方法で埋葬されることなく、人骨標本として博物館に陳列されました。

（ハーバー・二〇〇二）。ヨーロッパ人が入植しやがて独立した北米では先住民が虐殺と侵略の対象になりましたが、白人入植者たちはヨーロッパに対して劣等意識を抱いていたので、先住民が自分たちよりもはるかに「劣っている／遅れている」ことを証明するために人骨の収集と「分析」に集中することに躍起になったからです。じつは日本はアイヌと琉球に対して同様の意識を持っていたことは明らかで、国内においては民族的他者を、海外においてはアジア諸国や植民地の人たちを蔑視していました。一万円札の肖像にも採用され、教科書にも掲載されている著名な啓蒙主義者の福沢諭吉ですら自分たちはアジア人ではなくヨーロッパ人になるのだという「脱亜入欧」というスローガンを掲げ、当時の多くの人の喝采を浴びたのです。

その後、この科学的人種主義は、やがて人種を好ましい方向に改良したり、悪い人種を増やさなために断種という手段も正当化される優生学という学問の誕生においてクライマックスを迎えます。優生学は、やがて人種の選別という実践的方法に使われなくなる代わりに、精神障害やハンセン病などの隔離断種を正当化する実践原則に姿を変えていきます。他方で、第二次大戦後の国際人権宣言（一九四八年）が国連で採択され、人間という種はひとつであり人種主義は誤った考え方という見方が優勢になるといって明るい面も生まれます。

遺骨返還の未来

一九六〇年代の旧植民地からの新興独立国の誕生と国際連合への加盟は、全地球のほとんどの領

土が独立国家により色分けされ、各国民の間でナシヨナリズムが台頭します。同時に、国家の中に少数民族や先住民を組み込む政策が進みます。歴史的に反植民地運動や反乱を組織した先住民の首長などは建国に先立つ国家的英雄と持ち上げられます。しかしながら、その先住民への評価はアイドル化のレベルに留まり、結局のところ、旧宗主国の言語による国家語の採用と均質な国民文化への同化政策がますます進みます。他方で、少数民族や先住民の庇護者として国家が彼らを代弁し、旧宗主国への人骨や副葬品の返還を要求する運動が一九六〇年代末から世界各地でおこってきます。この時期の、政府の役割はあくまでも旧宗主国に対する先住民の要求を代弁し、対外的な要求運動を通して自国のナシヨナリズムを強化する運動の一環としておこなわれます。

この潮流が変化するのが一九八〇年代です。対外的な活動をおこない先住民の遺骨の返還を達成したものの、国内にも同様の人種主義時代のコレクションを抱えて、先住民に返還する枠組みそのものがなかったため、先住民は国家の研究機関に対しても遺骨や副葬品を返還すべきだと要求したのです。アメリカでは一九七〇年代のアメリカ先住民の抗議運動が盛んになり、各地で土地返還訴訟がおこなわれ、強制移住や文化の剝奪について事実が明らかにされ、司法当局もそれに応えていかざるを得ませんでした。先住民の権利復権のための複数の社会運動が進められました。その運動のクライマックスが一九九〇年のアメリカ先住民墓地保全返還法 (NAGPRA) の制定です。ニュージーランドのマオリやオーストラリアのアボリジニーも、先住民に対する国家の「負の歴史」の発掘や言語復興運動などを通して、国内の博物館から歴史的謝罪も含めて返還訴訟を勝ち取

国や地域	北欧諸国			英国	北米			オセアニア	
	スウェーデン	フィンランド	ノルウェー		米国	カナダ	オーストラリア	ニュージーランド	
主たる対象先住民	サーミ	サーミ	サーミ	マオリ、アボリジニー、	北米先住民	イヌイット、北米先住民	アボリジニ	マオリ	
先住民組織	サーミ組織、サーミ議会	サーミ議会	サーミ議会、サーミ博物館協議会	(旧植民地の先住民団体、コミュニティ長老)	国立歴史遺産保存法(1966)、考古資源保存法(1979)、アメリカ先住民博物館法(1989)、アメリカ先住民墓地保全返還法(1990)	フテーストナーシヨン会議、カナダ博物館協会	政府とアボリジニ団体、国際返還組織、国立保管計画	マオリ先住民組織	
法	遺産保護法	法整備は少ない	文化遺産法、墓地法	歴史的慣習法が返還を阻む、人権組織法(2004)、スコットランド人権解判法(2006)	遺体採取指針(1991)、カナダ文明博物館返還方針(2001)、フラインシヨコロソピア大学帰還プロジェクト	国立先住民研究所、先住民文化返還プログラム、先住民返還政策(2011)	保護遺物法(1975)、テハバトンガレフニニエーシラント博物館法(1992)	ニュージーランド博物館法による返還	
ガイドライン	人骨管理ガイドライン	再埋葬ルールの確立	博物館や大学などで設学などでの規定	遺体に関する作業グループ(2001)、学協会ガイドライン(1998)、各博物館や大学の組織的対応	先住民概念の尊重法と返還手続の確立、費用負担原則、ビーボテン博物館等ガイドライン				

出典：おもに加藤(2018)による

ることに成功します。

(すべてを網羅しているわけではありませんが) 世界の先住民の遺骨や副葬品の返還について整理したのが表です。ここから将来遺骨や副葬品の返還を実現するためには、二つの方法があるように思われます。ひとつは、アメリカやオーストラリアのように、法制度の整備を働きかけることを通して、先住民の集団的権利を国家に認めさせ、返還と埋葬を補償金つきで認めさせるという方法です。この方法はいったん制定されると法的拘束力をもつために、博物館や大学はその要求に答えざるを得ないという利点をもちます。もうひとつは英国やカナダのように、先住民団体が博物館や大学に圧力をかけ交渉を通して、それぞれの博物館や大学に、組織として対応させる返還ガイドラインを制定させることです。この方法の利点は、法整備が十分でなくても(英国はコモンローという法制度の下で統一法で対処しにくい) 個別の組織の判断で返還が可能になるということです。

では肝心の日本はというと、とても問題含みです。アイヌにみられるように地域返還が運動家の根気強い活動により一部で実現しましたが、ウポポイの慰霊施設に集約するという閣議決定(二〇一四年六月)以降は、国立ならびに公立の大学・博物館にある遺骨が個別の交渉で返還を実行することが難しくなりました。中央政府から慰霊施設に集約するために、個別に応じるなど裏で声をかけているかのようです。人骨の研究利用についても窓口にあたる団体は、アイヌ民族の集合的な先住民権を声高に称揚はしていません。「琉球遺骨返還請求訴訟」では、先にアイヌ民族の遺骨返還ガイドラインで定められたはずの民法上の「祭祀承継者」の権利すら原告には認めない動きすらあ

ります。「祭祀承継者」である可能性のある遺族の要求に関して一切耳を傾けようとしないうのは、研究倫理の原則にも違反する行為です。遺骨と副葬品の返還を実現させた諸外国の事例から学び、日本の先住民運動に携わる人びとの遺骨返還運動の戦略について私が提案するのは次のようなことです…

(1) 今日の研究倫理原則に照らして反倫理的ないしは非倫理的な経緯で採集されたことが明らかかなものは、ただちに所有者ないしは返還に該当する者を研究機関が調査し速やかに返還する義務があること。そして、あらゆる人道的犯罪に時効がないように「盗骨」した時点ですら研究倫理遵守の必要性があり、研究不正の真実を裁判所は認定する必要があることを訴えるべきです。

(2) 次に、今日の研究倫理原則に照らして反倫理的な経緯があると疑念されるものは、その疑念が晴れるまでは研究には使えないこと。

(3) 今日の研究倫理原則に照らしてもなお問題のないものについての今後の研究は、当該組織の研究倫理委員会(施設内委員会「IRB」)の他に、その組織以外第三者からなる研究倫理組織の認証を受けてはじめて可能になること。

これらのことを研究組織とそれを管理する国や自治体に対して、国民(市民)はそれを働きかけ遵守させるべきだと、私は考えます。

このような縛りは、これまで好き放題に研究してきた研究者にはまったく理不尽な要求に見える

ことでしよう。しかしながら、私は世界水準に照らし合わせても常識的なことを提案しているにすぎません。なぜなら(3)の条件をクリアすれば、世界水準に叶う倫理基準を担保しているわけですから、堂々と海外の論文に掲載することもできます。長年の間、支配者の優越心だけを満たすために使われてきた先住民の遺骨と副葬品を、本来用うべき人の元に還すことができ、また先住民とともに——遺骨やDNAは研究に「使われる」のではなく物質的にも霊的にも自ら「参画する」ことになる——科学的な成果を共有することができるわけですから、これほど合理的精神に満ちた処方箋はないと、私は考えます。今こそ、当たり前のことを要求してきた先住民と、反倫理な「負の歴史」を抱える科学者の言うことの、どちらが正しいのか、国民(市民)はしっかりと判定し声をあげるべきでしょう。

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Repatriation of human remains and burial materials of Indigenous peoples in Japan:

*Who owns their cultural heritages and dignity?*¹⁾

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In this paper, the author examines the ethical aspects of the debates on the repatriation of both Ainu and Ryukyuan-Okinawan human remains. The debates are framed as two sides of a controversy or lawsuit, with the “*plaintiff*” as Indigenous peoples and the “*defendant*” as the universities that possess their remains and burial materials for “scientific specimens.” The author poses four questions on repatriation in the political context of the United Nations Declaration on the Rights of Indigenous Peoples, 2007. Finally, some proposals for pragmatic solutions are presented from a Japanese cultural anthropologist’s point of view.

Keyword _____ Repatriation, human remains, burial material, Indigenous peoples, anthropology of ethics, ELSI

1. Introduction

Following the Japanese government's ratification of the United Nations Declaration on the Rights of Indigenous Peoples²⁾ (UNDRIP) in 2007, the Ainu, an ethnic minority in Japan, began to advocate for the repatriation of human remains and burial materials that once belonged to them. These had been collected, or "pillaged" according to Ainu activists, from tombs and archaeological sites in Hokkaido and maintained in Japanese universities, chiefly national ex-imperial universities for "academic purposes."

Meanwhile, the debate about the translocation of the US military base³⁾ in southern Japan's Okinawa prefecture has inflamed rising local Ryukyuan nationalism, which began in 2008 when the Japanese government adopted a resolution recognizing the Ainu population. In a plenary session at a U.N. forum (19 April, 2008), a representative of the Japanese mission stated that the government "respects Okinawa's culture and traditions" but also that "there is no widespread understanding in Japan that the people of Okinawa are Indigenous people" (S. Mgaee, online⁴⁾). As the government fails to recognize their Indigenous rights, Ryukyuan activists have adopted the Ainu strategy of demanding the repatriation of human remains. The concept of the repatriation of Indigenous people's remains is challenging the government to rethink their modernist perceptions of collective property and ownership without amending their legislative systems.

In this paper, I will examine the socio-cultural concepts of property rights⁵⁾ and disposable rights, and advocate for the repatriation rights of Indigenous people from an anthropological point of view. I will discuss the ethical, legal, and social implications (ELSI⁶⁾) of the debates surrounding the repatriation of both Ainu and Ryukyuan-Okinawan human remains. The debates take place with Indigenous peoples, their lawyers and civil activists (i.e., those who request repatriation) on the so-called "*plaintiff*" side, and the national universities that collected and stored the human remains on the "*defendant*" side. These debates have remained in a deadlock for over 10 years⁷⁾. The *plaintiffs* have sought to establish the collective entitlement of Indigenous rights to the repatriation of remains and objects, that have not been enacted. The *defendant* has rejected repatriation claims by asserting legal conformity with the principle that "the person who custom dictates shall preside over rituals for ancestors," in accordance with article 897 of the current Japanese *Civil Code*⁸⁾.

As part of these debates, we cultural anthropologists should ask the following questions. Firstly, what concept of property is involved in the repatriation of human remains and burial

materials? Secondly, what are the collective human rights of Indigenous people? Thirdly, why do Indigenous people ask to have both collective human rights and to repatriate their “ancestral” heritage from universities? And finally, how are Indigenous people’s property rights different from those of non-Indigenous people?

My conclusion will explain that Indigenous people’s desire and/or request for the repatriation of human remains refers to their need to reclaim objects to recover from violent colonial trauma, and to the need for a homecoming to their time and place of origin. This ideology is represented in their ceremony of returning⁹⁾, a ceremony that they originally invented.

2. A Brief History of Claims for the Repatriation of Ainu Remains

The first systematic collection of Ainu human skulls began in 1888, led by Dr. Yoshikiyo Koganei (1859–1944) from the Tokyo Imperial University. Dr. Koganei collected 166 skulls and burial accessories during his field trips. Dr. Sakuzemon Kodama (1895–1970) of Hokkaido Imperial University was the most famous anthropologist for collecting Ainu skulls. He collected over a thousand skulls and burial accessories (Ikeda online-a, online-b). Due to the historical dominance of scientific racism and eugenics theory, the Ainu were labeled “inferior” or a “disappearing race” by many anthropological scientists of Imperial universities from the 1890s to 1940s (Emori 2007, 440). At the same time, scientists were rushing to research the Ainu by conducting biometrics and excavation work¹⁰⁾.

The Ainu witnessed many research studies being conducted without their informed consent, and, through their oral histories, they have preserved their memories of “robbing our ancestral bodies, especially skulls by Imperial university professors” (Koganei 2016:198–239)¹¹⁾. However, they did not taken any action against these practices, no doubt because, in many cases, they were afraid of losing the small income they received from employment as guides and information workers (Batchelor 1901:564–566; Ueki 2017:55–58).

Following Kodama’s death in 1970, the first Indigenous movement, driven by the *Ainu Liberation Alliance*, emerged in 1972. In 1980, one eloquent Ainu activist, Mr. Hiroshi Kaibazawa, requested a regent of Hokkaido University return the Ainu human remains. However, the University did not respond directly but insisted on the importance of retaining the remains for academic reasons. Mr. Kaibazawa remonstrated with the University about their lack of evidence that the

Ainu people had given informed consent to this research. The *Utrari*¹²⁾ (today, Ainu) Association of Hokkaido intervened and said that the association would act as a representative of all Ainu people, including Mr. Kaibazawa. Subsequently, the University decided to construct a charnel house to store the Ainu remains in their possession. According to national university rules, however, the budget for constructing the charnel house was prohibited because it connoted a religious facility. Instead, the central government approved a budget for constructing a “storage facility for specimen collections,” which the chief university administrators have labeled “the Ainu Charnel House” since its construction in 1984 until today. The University permits “authorized” Ainu people to conduct their Indigenous ceremony, *Icharupa*, in front of the charnel house. As a result, the Ainu deferred their request for the repatriation of remains (Ueki 2017).

Following the ratification of the UNDRIP by the Japanese government, the Ainu reopened the discussion. Mr. Ryukichi Ogawa, who participated in the repatriation movement at the beginning of the 1980s, requested that Hokkaido University to open the inventory of the Kodama collection in accordance with the *Act on the Protection of Personal Information held by Administrative Organs*¹³⁾. However, the government was already planning to construct the National Ainu Museum, accompanied by memorial service facilities, as a symbol of reconciliation between the Ainu and the central government. The government instructed all national universities holding the remains of Indigenous people to suspend any communication with the Ainu until the national announcement of the unified policy of repatriation had been made, and not to answer individual requests to return remains. This led to Ainu complaints about a delayed repatriation process and activists initiated a lawsuit. Some cases were reconciled as local repatriation by the court of justice, and the Ainu generally accepted their ancestral remains with their traditional ceremony, *Icharupa*. However, they claimed that it cost money to hold ceremonies and that the government never compensated them for their ceremonial costs. The most radical activists were now suspicious about a possible conspiracy between the government and some physical anthropologists, e.g., genome specialists, who wished to continue objectifying Ainu remains as scientific specimens, without the Ainu’s informed consent.

3. Stories of Bones

To illustrate our argument, let us look at stories about the repatriation of bones in two regions: Hokkaido, northern Japan and Okinawa, southern Japan.

In Hokkaido, the case of the remains of Penriuku Hirabayashi (1833–1903), the chief of

Biratori, was very tragic. Hirabayashi was a very famous member of the Biratori Ainu community, and even nineteenth-century British explorer, Isabella Lucy Bird (1831–1904), requested a meeting with him in 1880¹⁴). Later, Hirabayashi became an important informant to John Batchelor, an English missionary ethnologist of the Church Mission Society¹⁵) in Biratori. Thirty years after his death, in 1933, Hirabayashi’s remains were excavated (or “robbed”) from the Ainu graveyard by Dr. Haruo Yamazaki (1886–1961), Professor of Anatomy at the Hokkaido Imperial University, and his colleagues.

From 1980 to 1982, when the first request for the repatriation of Ainu remains occurred, Hokkaido University was aware that Hirabayashi’s remains had been identified and stored at the University. However, the university remained silent and never responded to the requests of the bereaved family. Following the completion of “the Ainu Charnel House” in 1984, Hirabayashi’s remains were relocated from the anatomy laboratory in the Faculty of Medicine to the charnel house. One year after Japan’s ratification of the UNDRIP, and following Mr. Ogawa’s request the University to open the inventory of the Kodama collection. In 2018, Mr. Ogawa and Ms. Yuri Jyonoguchi organized a stakeholder group to claim the collective right to the local repatriation of Ainu remains. After these action the repatriation movements has begun to revitalize again (Ikeda online-c).

Inspired by these repatriation movements, Ms. Yoshimi Dobashi, the great-grandchild of Hirabayashi’s younger brother, Imautokan, became interested in this movement. She claimed that one day, in February 2016, she became possessed by the spirit of Hirabayashi and empowered by his voice. According to Ms. Dobashi, Hirabayashi spoke in Japanese the following words to her,

Ikiteiru ningen-ni / “Jinken” toyaraga arunonara / Washira ikotsutote / Aete / Kotobanisurunara / “Ikotsuken” toiumonoga / Mitomeraretemo iinodehanaika

(If every human being has his/her own “human rights,” we, human remains, should be allowed to have own “the rights of human remain itself.” Shouldn’t we?) (Dobashi 2017, 59–60)

Ms. Dobashi began to request that Hokkaido University return Hirabayashi’s remains. Initially, the University agreed to the repatriation, but after reexamination of the bones by physical anthropologists, the University denied the return because the “specimen” was deemed not to be Hirabayashi’s remains. Ms. Dobashi could not understand and requested the University to examine the remains again. However, the University did not change its decision. Ms. Dobashi understood that

the University's final response indicated she had been deceived by the "reasonable collective right of repatriation," which had not been officially recognized. She recovered from her psychological trauma by narrating and writing her own epic entitled "*Penriuku in Pain*" (2017).

In the former independent kingdom of Ryukyu, the authentic name of the prefecture of Okinawa, the repatriation movement developed along a different path to the Ainu. Ryukyuan intellectuals have argued that the Japanese central government has discriminated against their people since the annexation and settlement of the Ryukyu Kingdom in 1872 and the founding of the Okinawa Prefecture in 1879. From 1945, in what could be interpreted as the *continuation of colonial domination*, the Japanese central government permitted the Allied forces, chiefly the United States army, to exercise trusteeship domination of their territory¹⁶. The Ryukyu Trustee Government ended in 1972¹⁷. However, even today, almost 80 percent of U.S. military bases in Japan are located in Okinawa prefecture.

In 1995, a 12-year-old Okinawan girl was raped by U.S. servicemen. This incident triggered large protests and renewed interest in the Ryukyu independence movement. In 2010, one of the leading intellectuals of the Ryukyu independent movement, Professor Yasukazu Matsushima of Ryukoku University, proposed the *Declaration of an Autonomous Federal Republic of Ryukyu*. He also organized the *Association of the Indigenous People of Ryukyu* and has published several books on the colonial history of Ryukyu and the possibility of *her*¹⁸ independence. Through his research, Professor Matsushima learned that a famous Japanese anatomist¹⁹, Dr. Takeo Kanaseki (1897–1983), former professor of Taipei Imperial University, had "grave-robbed" over 50 bodies from the royal tombs of *Momojyana*, *Nakijin* between 1928 and 1929. These bodies have remained in storage at both Taiwan National University and Kyoto University, even as the remains of another 63 individuals were repatriated from the Taiwan National University to the *Okinawa Prefectural Center for Buried Cultural Properties*²⁰ in March 2019. Professor Matsushima had requested Kyoto University to disclose historical information about the "grave-robbing" process and to repatriate the bodies in August 2017. And he also has requested the university to "use of scientific observation," but university rejected his "investigation" in May 2018. Finally he and the descendants of the former Ryukyu royal family (*Momojyana*) brought the case before the Kyoto District Court at the end of 2018 (Ikeda online-d, online-e)²¹.

Using the metaphor of a lawsuit, Professor Matsushima embodies the plaintiff, and Kyoto University, whose president is Dr. Jyu-ichi Yamagiwa, a world-famous primatologist, represents the

defendant. At several lecture meetings for both academics and civil activists, Professor Matsushima has repeatedly asserted, “*Stealing human remains is criminal in our common sense, not only for Ryukyuan but for all the Japanese.*”

From the year 2010, members of the *Anthropological Society of Nippon*, a specialist group for physical anthropology in Japan, have organized open sessions for Japanese general/laymen audiences to discuss the “importance of their studies” (including objects of both the Ainu and the ancient Jomon people of 16,000–3,000 BP) and the importance of studying human remains, including both Ainu and Ryukyuan people²²). However, on July 2019, the group’s president, Dr. Ken-ichi Shinoda, wrote a letter to Dr. Yamagiwa making it clear that the group did not want to hear the “plaintiff’s voices and requests.” Dr. Shinoda wrote that,

For the sake of the maintenance and inheritance of old human remains, the Anthropological Society of Nippon thinks following three principles mentioned below; (1) Old human remains are cultural properties and national heritages that have value for scientific studies, (2) In case of necessity, the organizations which maintain old human remains should discuss the methods for proper maintenance by holding counsels with local government organizations that are only representatives of specimens of origin, (3) In case of transferring human remains, the applicable organizations should inherit specimens for scientific purposes and mention in any kind of consensus documents to offering for continuous opportunities for academic studies.²³

Dr. Shinoda’s statement seems to be very nervous about repatriating the human remains of the Kiyono collection²⁴), which Dr. Kanaseki had collaborated in collecting from both the Amami and the Ryukyu islands.

The Ryukyuan case was obviously inspired by the Ainu movement. Indeed, Professor Matsushima had traveled to Hokkaido to meet the Ainu repatriation activists prior to his own claim activities²⁵). In March 2019, Professor Matsushima and the descendants of the *Momoyana* royal family officially requested that the Okinawa prefectural government perform a reburial and Ryukyuan traditional funeral. To date, the prefectural government has refused their request. Instead, the Okinawa prefectural government have announced that these human remains would be transferred from cardboard to wooden boxes and kept in an airconditioned store room, which they claim is because the remains have “just returned from abroad in Taiwan.”²⁶) However, Professor Matsushima is deeply concerned that the prefectural government could use the remains for DNA tests without

informed consent from descendants of the royal family.

4. Quest for Harmony Between Plaintiffs and Defendants

In both the Ainu and Ryukyuan repatriation cases, Indigenous people can be seen as the plaintiff, while the defendant is the local and central governments and national universities. The reason why the government is potentially at fault is the lack of legislation governing acts of repatriation in Japan. Without legislation stipulating *the collective rights* of Indigenous people, the Japanese government can always excuse themselves with the legal argument that they are conforming to the principle that “the person who custom dictates shall preside over rituals for ancestors,” as stated in the *Civil Code* of Japan.

The Ainu and Ryukyu have sought a positive solution to repatriation issues by referring to the Native American Graves Protection and Repatriation Act (NAGPRA)²⁷⁾, enacted in 1990 in the United States. Indigenous repatriation movements have expressed their support for NAGPRA as a progressive solution to the disputes between Indigenous people and their former oppressors. Japan’s Indigenous communities want repatriation legislation in Japan to resemble NAGPRA in the U.S. The reality is that the Japanese government would not like to legislate enactment like NAGPRA because of lack of any consciousness of the rights of Japan’s Indigenous people. Until today, beginning of 2020, the government has not had any dialog with Indigenous people. Another real problem is the deficit of imagination among Japanese social scientists²⁸⁾. Despite our academic tradition of cultural anthropology, we have not taken the plaintiff’s side because almost all Japanese anthropologists receive grants from government and quasi-governmental agencies. Until today, the majority have taken the defendant’s side in repatriation cases, with the rare exception of those anthropologists who have been trained by Indigenous leaders. Anthropology departments in Japanese universities do not teach Indigenous studies in their own right²⁹⁾.

5. Conclusion

This paper has highlighted the need for collective rights legislation for Indigenous people. It seems that the quest for the repatriation of ancestral remains does not simply entail the return of objects that are the Indigenous people’s property; it requires proper cultural procedure, consistent with the New Testament philosophy of “*reddite igitur quae sunt Caesaris Caesari et quae sunt Dei Deo*,” (Render to Cæsar the things that are Cæsar’s, and to God the things that are God’s) [Mark

12:17]. Indigenous people insist on the importance of hearkening to ancestral voices, and their remains deserve to be treated appropriately, not only spiritually but also with financial compensation for the damage caused. I will conclude with my answers to the four inquiries presented earlier.

What concept of property is involved in the repatriation of human remains and burial materials?

Legislation to govern the repatriation process does not objectively protect Indigenous people's human remains. For government officials, human remains should be treated as objects that must be returned to the appropriate stakeholder. In contrast, Indigenous people insist that human remains are not property but a part of a whole body, a painful body, and a “mindful and spiritual body”^{29,30} that will never be recuperated.

What are the collective human rights of Indigenous peoples?

Even now, the Japanese government does not approve of the collective rights of Indigenous people as recognized by the UNDRIP. Yet Indigenous people have always possessed a shared sense of collective rights, long before the UN began to discuss them.

Why do Indigenous people ask for collective human rights and for the repatriation of their “ancestral” heritage from universities?

Because there is a significant relationship between collective human rights and repatriation of their “ancestral” bodies, Indigenous people have naturally accepted the newly emerging concept of Indigenous collective rights.

How are Indigenous people's property rights different from those of non-Indigenous people?

Non-Indigenous people cannot imagine how this has affected those people whom the government and scientists harm unintentionally. Again, I will repeat two propositional phrases and say my inclusive proposition: (i) Indigenous people (*plaintiffs*) insist that human remains are not property but a part of a whole body, a painful body, and a mindful body that will never be recuperated; (ii) For government officials (*defendants*), human remains should be treated as objects that must be returned to the appropriate stakeholder.

I have examined the ELSI of the debates on the repatriation of human remains of Indigenous people. The remains of every deceased human and their burial materials has its own history, not for academics but for themselves. We need to more carefully examine our understanding of the afterlife of humans and their belongings. Now is a good time to remind us of Walter Benjamin's critique of

both political and academic historicism,

Historicism contents itself with establishing a causal connection between various moments in history. But no fact that is a cause is for that very reason historical. It became historical posthumously, as it were, through events that may be separated from it by thousands of years. A historian who takes this as his point of departure stops telling the sequence of events like the beads of a rosary. Instead, he grasps the constellation which his own era has formed with a *defi* ite earlier one. Thus, he establishes a conception of the present as the “time of the now (*Jetztzeit*)” which is shot through with chips of Messianic time (Benjamin 1968: 265).

Having reviewed the ELSI³¹⁾ of the debates surrounding repatriation, perhaps the most important thing is that progressive repatriation requests of Indigenous people involve not only returning objects but also their recovery from violent colonial traumatic memories, which evokes a sense of homecoming to the time and place of origin³²⁾. We need to examine more carefully the afterlife of humans and their belongings in the context of *our “not passing away” colonial memories*. The Ryukuan-Okinawan people and other Japanese citizens ought to reconcile and reach a consensus that repatriation of human remains can be returned to a certain time and space. That is, there ought to be reconciliation between plaintiffs and defendants. This leaves the question of how do cultural anthropologists engage with dialogs between the plaintiff and the defendant in the “time of the now”³³⁾

Notes:

- 1) This paper is based on reading materials of the oral presentation at the Spring meeting of the Korean Society of Cultural Anthropology, Seoul National University Asia Center, April 26, 2019. This work was supported by JSPS KAKENHI Grant Number 18KT0005 and 19H04363.
- 2) https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf (retrieved in 25 October, 2019)
- 3) This issue has been said as the *Relocation of Marine Corps Air Station Futenma to southern Henoko Bay*. In August 2015, the Japanese government had agreed to halt construction activities temporarily while talks with Okinawa officials continued. Today “Okinawa Gov. Denny Tamaki showed his resolve to counter Tokyo’s efforts to press ahead with a controversial U.S. military base relocation project in the prefecture. It was “intolerable” that the Japanese government started dumping soil into the landfill off the Henoko coastal district in Nago, Okinawa Prefecture, as part of the relocation project, Tamaki said at a protest rally held in Henoko.”

cited from https://en.wikipedia.org/wiki/Relocation_of_Marine_Corps_Air_Station_Futenma (retrieved in 25 October, 2019).

- 4) (Magee, online) .
- 5) The first version of the paper was presented in the summer meeting of the Korean Society of Cultural Anthropology (See note #1), the main subject is “Land and Tenure,” that explores the broad sense of property, entitlement, and ownership of an area, domain, space, and territory. I deeply acknowledge to Dr. Park Dong Seong, Institute of Asian Studies of Soon Chun Hyang University, and Dr. Park Jeehwan, Dep. of Archaeology and Cultural Anthropology of Chonbuk National University, with their cordial panel organization and comments on my presentation. And also I thank to Dr. Sookja Suh, Niigata College of Nursing, and Dr. Gerry Yokota, Graduate School of Language and Culture, Osaka University, for both productive comments of my first version of this paper. The author also would like to thank *Enago*, www.enago.jp, for English language review for final version
- 6) Both, ELSI, *Ethical, Legal and Social Implications* (U.S.) and, ELSA, *Ethical, Legal and Social Aspects* (EU) research have same implication of newly emerging sciences, especially genome-wide association study and nano-sciences in which researchers might address and refer in their own contexts before all kind of audiences and stakeholders. In Japan this terminology is now adopted as ELSI, *Ethical, Legal and Social Issues* (Japan) treating words and issues separately can be problematic by their traditional technocratic ideology (Kasuga and Ikeda 2018).
- 7) The first exercise of “Right to Request Disclosure” according to the Act on Access to Information Held by Administrative Organs, 1999, was exercised by Mr. Ryukichi Ogawa who had wanted to know the “official register documents of human remains collected by Prof. Sakuzaemon Kodama of the Faculty of Medicine of both Hokkaido Imperial University and Hokkaido University,” in 2008. And Mr. Ogawa and Ms. Yuri Jonoguchi, both of the Ainu, have presented a case of the civil action of reparation to the Sapporo district court at September 14, 2012.
- 8) In the “Civil code, Article 897, 1” says, “Despite the provision of the preceding Article, rights to ownership of a genealogy, equipment used in rituals, and any grave, shall be succeeded by the *person who custom dictates shall preside over rituals for ancestors*; provided that if the decedent designates a person who shall preside over rituals for ancestors, this person shall succeed rights to ownership.” (Italics by author, that is translated from “SAISHI-KEISHOU-SHA” in Japanese).
<http://www.japaneselawtranslation.go.jp/law/detail/?id=2252&vm=&re=> (retrieved in 25 October, 2019)
- 9) In Ainu, *Icharupa* is explained as “celebration of ancestors” in the Ainu’s method (*Ainupuri*).

The *Kamuinomi* means “to pray to *Kami* (spirits),” and also means the ceremony for “sending/returning *Kami* (spirits) to heaven where they originally live.”

- 10) Ueki’s work with elaboration entitled “The Violence of Academy: Why the Ainu graves were violated?” in Japanese is very useful for researchers who are interested in this topic (Ueki 2017).
- 11) 10) From Diary of Dr. Yoshikiyo Koganei of the dates from July 8, to September 3, 1888 (Koganei 2006).
- 12) “Utari” in Ainu means people, our fellows, or companies. The Ainu Association of Hokkaido was founded in 1930 and was once renamed as Utari Association of Hokkaido in 1961. Then the Association has renamed again to its original name of Ainu Association of Hokkaido in 2009. <https://www.ainu-assn.or.jp/outline/overview.html> (retrieved in 25 October, 2019).
- 13) <http://www.japaneselawtranslation.go.jp/law/detail/?vm=04&re=01&id=131> (retrieved in 25 October, 2019)
- 14) In “LETTER XXXVII-III” from “Unbeaten Tracks in Japan” (Bird 1880).
- 15) “The Church Mission Society (CMS), formerly known as the Church Missionary Society, is a British mission society working with the Anglican Communion and Protestant Christians around the world. Founded in 1799.” https://en.wikipedia.org/wiki/Church_Mission_Society (retrieved in 25 October, 2019)
- 16) Before the Battle of Okinawa, April 1 to June 22, 1945, not only many mainland Japanese soldiers but also Korean workers and “comfort” women were mobilized to main island of Okinawa. After the end of war the KOSEI-SHO (Ministry of Health) had organized volunteer brigades by bereaved families of soldiers for collecting bone. The Japanese war veterans dead or alive at that time were generally compensated by government. But there were many exceptions including ex-colonial workers, “comfort” women, veterans who were diagnosed as “were neurosis” or other mental illnesses. Only dead ex-soldiers were objects for collecting human remains in post-war Okinawa. Some brigades were sent to Okinawa. Some Ryukyu inhabitants criticized that these brigades misunderstood the custom of washing of cremated bones before placing them in a funerary urn as discourteous manner from the mainlanders’ point of view, The Mainichi new paper said in June 8, 1965.
- 17) The Okinawa prefecture had “been returned (HENKAN SARETA)” as a one of forty-seven prefectures of Japan in 1972.
- 18) The gender of pronoun of land, territory, community, or country is female. Many indigenous independent leaders tend to express thanks for lands that fosters their hearts and minds.
- 19) We cannot say that Dr. Takeo Kanaseki is not only anatomist but also physical anthropologist, ethologist, and folklorist. He started his academic life as an anatomist after his graduation of the

Faculty of Medicine, Kyoto Imperial University. His mentor Dr. Buntaro Adachi met him to Dr. Kenji Kiyono, the professor of Pathology, in the middle of present scandal of the Dr. Kiyono's human remains collection (See note #23). Then Dr Kiyono met him also Dr. Kosaku Hamada, a famous archaeologist at that time, who evoked him to be interested in folklore sciences. In Taiwan, Dr. Kanaseki had made broad achievements in physical anthropology, ethnology, folklore, and ethnology. He was famous academics to participate in various debates on “NIHON-JIN NO KIGEN-RON” (the Origin and Nature of the Japanese) until end of his life in 1983.

- 20) The “*Okinawa-Kenritu Maizo-Bunkazai Senta*” in Japanese can be also translated as the Okinawa Prefectural Archaeological Center.
- 21) (Ikeda online-d); (Ikeda online-e).
- 22) In the period of the Empire of Great Japan, the colonized Rykyuan had been shocked to hear that the stone age Rykyuan are same as the ancient Ainu, that means both were “primitive races.” Dr. Kanaseki's sworn friend, Dr. Muneyoshi Miyake (1905–1944) once had mentioned as “this old-fashioned and non-authentic theory suffered mentally southern islanders with pain that other local people of the Empire could not imagine.” In 1950, Dr. Akiyoshi Suda had certified that southern islanders were authentic Japanese who lived southern limit. But in 1954, Dr. Kanaseki newly asserted that the Ryukyuan and Amamian had migrated from Paleo-Indonesian areas, that evoked academic debate against Dr. Shiro Hattori, linguist of Japanese.
- 23) (Ikeda online-d)
- 24) Dr. Kenji KIYONO (August 14, 1885 - December 27, 1955) was pathologist and anthropologist, who had collected huge amount, estimated over 1,500, of human remains before 1945. See also note #19.
http://www.cscd.osaka-u.ac.jp/user/rosaldo/kenji_kiyono1885-1955.html (retrieved in 31 July, 2019)
- 25) Matsushima, Y., RYUKYU UBAWARETA HONE (*Rykyu, Stolen Bones: The colonialism that inscribed in remains*), p.vi, Tokyo: Iwanami-shoten, 2018.
- 26) After opening the case in Kyoto District Court, Between the recipient side, the Prefectural Board of Education and the donner side of the *Momojyana* remain, the National Taiwan University have secludedly agreed not to rebury remains in the place of origin. Reported by the *Ryuku-Shnipo*, October 27, 2019.
- 27) National NAGPRA. <https://www.nps.gov/nagpra/> (retrieved in 25 October, 2019)
- 28) Is Japanese situation retarded from U.S. condition of “well-organized” NAGPRA as many plaintiffs and liberal-minded intellectuals think? I really do not think so because of the difference between Japanese “endo-colonialism” against the Ainu, the Ryukyuan, and other people of ex-

colonial territory and North American “endo-colonialism” against Native Americans/ First Nations.

- 29) Ikeda, M., *An Indigenous Studies Curriculum in Post-graduate course, by the Indigenous Studies Group (ISG) of Japan*. http://www.cscd.osaka-u.ac.jp/user/rosaldo/Indigenous_studies_Japan.html (retrieved in 31 July, 2019).
- 30) The terminology of “mindful body” is borrowed from the pivotal paper in medical anthropology, entitled as “The Mindful Body: A Prolegomenon to Future Work in Medical Anthropology” (Medical Anthropology Quarterly 1/1 (March): 6-41.) by Nancy Scheper-Hughes and Margaret Lock. The central issue of this paper is the imaginative/symbolic position of “human remain” from the different levels of individual/material, social/familial, and political/collective bodies.
- 31) I have examined the ethical, legal, and social aspects (ELSA) of the debates on the repatriation of human remains of indigenous people. (i) Ethical aspect of this case tells us that we are now confronting with new social relationship between indigenous and non-indigenous Japanese that recalls various painful social memories of discrimination against indigenous people; (ii) Legal aspects reflects that there is nothing more important than legalization of indigenous autonomy rights; (iii) Social aspect also proposes Japanese social scientists to ought to write and to rewrite the history of indigenous bones. Every human remains and their burial materials has own history not for academics but for themselves.
- 32) I have pointed out the need for Indigenous people’s collective rights legislation. I will repeat two propositional phrases and say my inclusive proposition. (1) Indigenous people (plaintiffs) insist that human remains are not property but a part of a whole body, a painful body, and a mindful body that will never be recuperated. (2) For government and universities officials(defendants) human remains should be treated as objects that must be returned to the appropriate stakeholder.
- 33) Ikeda, M., *Introduction to Research Ethics for Young Students* (in Japanese), https://www.cscd.osaka-u.ac.jp/user/rosaldo/101214R_Ethics.html (retrieved in 25 October, 2019)

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先住民の遺骨と副葬品の返還について： 誰が文化遺産と尊厳を所有（保有）するのか？

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要旨

この論文を通して、筆者はアイヌと琉球＝沖縄の人びとの遺骨と副葬品の返還に関する倫理的・法的・社会的課題（ELSI）について論じる。この社会的課題は、法廷における原告（先住民とその末裔）と被告（遺骨と副葬品を保管する大学と政府）に擬することができ、かつ現実には、訴訟問題になり司法に裁定が委ねられているものもある。遺骨返還を含む先住民のさまざまな権利は「国連先住民に関する権利宣言（2007）」以降、復権しつつあり、この政治的環境の下で、筆者は論文中で集団的先住民権を含めた4つの課題について問いかつ答える。最後に、返還問題における実行可能な解決に関して文化人類学の寄与について考察する。

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