

The act of burying deceased persons and caring for their graves is a time-honored and universal expression of reverence. For Native Hawaiians, iwi kupuna (ancestral remains) and their associated moepu (funerary objects) possess profound cultural and religious significance. However, respect for the dead and their burial goods has commonly been denied to America's indigenous peoples. Skeletons of Native Americans and Native Hawaiians have routinely been exhumed, damaged, publicly displayed, and destroyed. As a result of outraged protests against such desecration, both the U.S. government and the State of Hawai'i have enacted legislation to protect iwi kupuna. The most important federal law is the Native American Graves Protection and Repatriation Act, which also applies to certain Native Hawaiian burial sites and remains. In Hawai'i, the State Historic Preservation Division and Island Burial Councils each have responsibilities for determining the proper treatment of iwi kupuna and moepu. This often becomes a complex issue, involving disputes regarding such matters as the inadvertent discovery of remains, the question of whether to preserve remains in place or relocate them, the role of lineal and cultural descendants, and the duties of museums that currently possess iwi kupuna and moepu. This chapter guides reader through a comprehensive explanation of the relevant concepts and laws, and describes numerous cases in which conflicts have been decided by federal and state courts. "Iwi Kupuna: Native Hawaiian Burial Rights" is Chapter 16 of Native Hawaiian Law: A Treatise, a volume that updates and expands on the seminal work of the 1991 Native Hawaiian Rights Handbook. The publication is a collaborative effort of the Native Hawaiian Legal Corporation, Ka Huli Ao Center for Excellence in Native Hawaiian Law at the William S. Richardson School of Law – University of Hawai'i at Manoa, and Kamehameha Publishing.

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