

## Repatriation of Human Remains

*Summary: In 1990, after centuries of struggle to protect the integrity of the dead and material items of religious and cultural significance, Native communities witnessed the creation of an important process for protection: the Native American Graves and Repatriation Act (NAGPRA). However, the application of the act has been difficult, as it raises questions regarding Native American sacralty and requires a willingness to expend resources and negotiate between many parties.*

In 1989 Harvard University's Peabody Museum responded to formal requests by the Omaha Nation that it return a sacred staff entrusted to the museum a century ago by its Omaha keeper. Called "the real Omaha" in the Omaha language, the sacred pole symbolizes the unity of creation. Its ceremonious return to the reservation community in Nebraska seemed to inspire the very unity the sacred pole is believed to represent. With tears of joy and spiritual renewal, members of this community honored the returned staff at a feast at their powwow grounds, touched it, and offered prayers beside it.

In the last two decades of the 19th century, disease, hunger, and poverty brought the numbers of Native Americans to a statistical low point. Combined with official U.S. policies of cultural assimilation, this decline generated the popular image of the "vanishing Indian" and led to a flurry of efforts to collect artifacts, remains, and mementos of Native cultures before they were lost. Today, museums, government agencies, and private collectors have the human remains of between 300,000 and 2.5 million Native Americans, many gathered in the name of government-sponsored scientific research. Statutes in each of the fifty states prohibit grave desecration, but have not been sufficient to protect Native American graves, considered "non-renewable archaeological resources," a phrase which likens them to other precious non-renewable resources. Similarly, many medicine bundles, pipes, staffs, ceremonial drums, and other objects connected with religious practices are locked up in the display cases or storage rooms of museums and private collections across the United States.

"[W]hen these archaeologists come here and steal the ancestors, they've stolen these people's souls. They're holding their souls captive within some cardboard box that they call a repository," explained Billy Tayac, Chief of Maryland's Piscataway Nation. Chief Tayac continues, indicating the extent to which the taking away of the remains of their ancestors for display or study is considered sacrilegious to his community:

*A remain is all that remains of every time that you moved your lips, you blinked your eyes, you moved your legs, you said a word, you turned your head. No matter what you went to, whatever you did in your entire life, from the day you were born, the day you were conceived, until the day you died and were put into the earth: that's what a remain is. It's all that remains of you. And that's what these people have the audacity to take away. They wouldn't dare go to their own people's grave and dig up it up for study. George Washington had the best reputation, but to dig him up for study would be an outrage. Well, you know, we feel the same way.*

Native communities have long fought against the outrage and the double standard of which Billy Tayac speaks. Since the 1970s, a more organized national voice has brought heightened public attention to the long-standing injustices of grave-robbing, skeleton collecting, and the storage and public display of sacred objects. In 1990, after centuries of struggle to protect the integrity of the dead and material items of religious and cultural significance, Native communities witnessed the creation of an important process for protection: the Native American Graves and Repatriation Act (NAGPRA). The act requires museums and other institutions in the United States receiving federal monies to share with relevant Native tribes inventories of their collections of Native human remains, funerary objects, sacred objects, and objects of “cultural patrimony” (that is, objects that were acquired from individuals, but which had belonged not to individuals, but entire communities), and to return them on request to lineal descendants or federally recognized tribes (or Native Hawaiian organizations) in those cases where museums can determine cultural affiliation or, as often happens in the absence of sufficiently detailed museum data, to a tribe that can prove its cultural affiliation. The law also specifies that affiliated tribes own these items if they are discovered in the future on federal or tribal lands.

The act prohibits unauthorized excavation of Native American burial sites and calls for the return of human remains and certain funerary, ceremonial, or culturally significant objects from museums in the United States. Museums must provide recognized tribal governments with inventories of the human remains and cultural materials in their collections pertaining to those tribes. Tribal governments are then to respond, either negotiating for the return of objects and remains, or approving continued museum safekeeping.

The process has given rise to a number of ambiguities. For example, as Trope and Echohawk explain in their chapter in *Repatriation Reader* (2000), the term “sacred objects,” by definition, pertains to objects “needed for traditional Native American religions by their present day adherents.” Even if they are needed for the renewal of old ceremonies, there must be present day adherents. More vexing still has been the question of what constitutes “cultural affiliation,” both in cases where scant museum documentation makes it difficult to determine, where there are claims by different Native communities, and where there are conflicting cultural assumptions about relationships with the dead. As has been seen in the case of the 1996 discovery of Kennewick Man in Washington state, the “relationship of shared group identity” determined scientifically by an archaeologist may or may not correspond to a Native community’s understanding of its relation to the dead on its land. Even what constitutes an “object” can be at issue, as was seen in the case of Zuni Pueblo’s concern for the return of “replicas” of sacred *Ahayu:da* figures made by boy scouts. *Repatriation Reader* contributors Ferguson, Anyon and Ladd note that, for the Zuni, these figures contained sacred information that was itself proprietary.

When disputes arise, even between different Native communities claiming cultural affiliation, they are adjudicated through a NAGPRA Review Committee. The Committee is convened of three representatives from Native communities, three from museum and scientific organizations, and one person appointed from a list jointly submitted by the other six. Much of the actual work of NAGPRA takes place in this negotiation process, since each Native community brings different traditions concerning the treatment of the dead and different levels of knowledge concerning sacred objects from centuries past. Moreover, there are often divergent stances toward traditional religions within many Native communities, raising the question of who appropriately speaks for the traditions.

Matters are further complicated by the fact that many objects and remains were collected with little careful attention paid to the details of their provenance. Brokers and adventurers who “collected” such objects typically identified them simply as, for example, “an Indian pipe” or “an Indian drum.” Many museums lack the financial means to undertake an extensive object-by-object search. Native people find some museums only grudgingly cooperative. However, many museums clearly welcome the NAGPRA procedures as opportunities to involve Native communities more integrally with their cultural artifacts and to learn more about their cultural collections.

In 1993, as a result of NAGPRA, the Smithsonian Institution in Washington D.C. sent the remains of 25 Cheyenne Indians home to Montana in cedar chests. The Cheyenne had been forced from their homeland to a reservation in Oklahoma in the mid-19th century. When a group of Cheyenne tried to escape from the reservation and return to the area of Montana that had been their home, they were pursued and nearly 100 of them killed by U.S. soldiers in January of 1879. After more than a century, their bones were finally sent home for burial in Busby, Montana. Said the Cheyenne tribal chairman, as reported by the *New York Times*, “They wanted to get back to their homeland. That’s why they lost their lives. I think it’s only appropriate for us to follow through, to take them home where they wanted to be so they can rest in peace.”

NAGPRA carries with it the possibility of many such solemn occasions with their stories of community healing and spiritual renewal. For that potential to be realized, however, museums must continue to review their institutional mission as well as their collections. And Native communities, struggling to contend with a host of other issues, must find the resources and energy necessary to devote to the repatriation of sacred artifacts and remains.