

## ABSTRACT

Cleaning Skeletons from Our Closets:  
The Repatriation Movement in the United States of America, New Zealand and Canada

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This project explores the complex issues that still surround NAGPRA and offers current solutions to American museums struggling with them. The chapters examine the current state of repatriation efforts in the United States, New Zealand and Canada. The successful repatriation of remains in New Zealand and Canada is examined for key elements that made progress possible. The final chapter offers recommendations to American museums based on success in New Zealand and Canada.

Cleaning Skeletons from Our Closets:  
The Repatriation Movement in the United States of America, New Zealand and Canada

by

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A Project

Approved by the Department of Museum Studies

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## DEDICATION

For all those who struggle to find their voice  
Keep going  
Do not give up

## CHAPTER ONE

### Introduction

Humans have always had a need to collect, and museums are an extension of that need. From the cabinets of curiosity to the rise of the large art museum, museums have served as warehouses for stuff. But the birth of the academic discipline of anthropology in the nineteenth century brought about a change in the collecting practices of museums. Darwin's theories of evolution and natural selection, combined with improved means of travel across continents and oceans (and with a dash of old-fashioned racism), Western scholars set about trying to study and explain the different cultures that existed across the globe. European scholars went about their research with an underlying assumption that Anglo-European culture and cities were "the best" and then measured all other peoples and cultures against that Euro-centric standard. Societies that still used tools and weapons made from rock and animal bone were considered inferior to societies that used metal weapons and tools. Nomadic societies were seen as shiftless and without organization because they did not resemble the cities and villages of the European countryside. For many early anthropologists the color of a person's skin had implications for their intelligence and moral fiber.

The birth of the social sciences informed how anthropologists viewed their work. Botanists and zoologists studied plants and animals and went out to find new and exciting species. Similarly, anthropologists studied people as specimens. Unfortunately, the people being studied were treated like plant and animal specimens as well.

Anthropologists attempted to apply scientific principles of objectivity and Darwin's

theory of evolution which distanced them from the people they studied and possibly made it simpler for scientists and museums to collect human remains. The remains were not “people.” The remains were specimens without need for rights to dignity or a peaceful resting place. The scientific curiosity of Anglos overrode their ability to perceive their subjects as human beings.

Once this ideology was firmly in place, museums began collecting “dying cultures” with vigor. In the United States, once the Native American population was decimated by disease, starvation and warfare, anthropologists and archaeologists set about documenting and collecting these “dying” cultures. Often universities and museums looking for priceless objects for their collections funded these scientists. The practice of exhuming human remains was common even expected. This collecting trend continued well into the twentieth century.

The rise of the Civil Rights movement and alternative histories being told from the eyes of the invaded instead of the invader allowed indigenous populations to voice their opinions about the institutionalized racism that made collecting human remains for museums acceptable and the harm that practice had caused. Since that time the conversation between museums and indigenous populations has changed and new relationships have been born between museums and the indigenous communities they serve. The term “repatriation” developed when indigenous groups began making demands for the return of their family members.

The purpose of this project was to explore the status of repatriation in the United States, New Zealand, and Canada. All three countries have similar histories of colonized and subsequent marginalization of their indigenous populations. Relationships between

indigenous groups and museums in all three countries have encountered roadblocks in their journeys to repatriation. For example, the United States still struggles with the repatriation of human remains. Twenty-two years after the passage of the Native American Graves Protection and Repatriation Act (NAGPRA) the question must be asked: is NAGPRA still the answer to America's repatriation issues?

The constraints of NAGPRA are being felt as repatriation processes drag on for decades and lineal descendants ask for the return of their ancestors' remains from civic entities. This has led to suggestions that NAGPRA needs to be amended. In this thesis, I suggest that the time has come to seek repatriation without legislation, a theory that has worked in both New Zealand and Canada.

New Zealand is home to Te Papa Tongarewa, an internationally renowned museum that was jointly designed by Pakeha (citizens of European descent) and Maori (citizens of Maori descent) in an effort to create a collaborative museum that reflects the concept of bi-culturalism. New Zealand has a successful international, repatriation program that makes international headlines on a regular basis. While receiving government funding, representatives from Te Papa fly around the world to escort Maori human remains— more specifically *toi moko*, which are preserved, tattooed heads of Maori warriors—back to New Zealand. Once home, the *toi moko* are stored at Te Papa until they can be returned to their place of origin.

In Canada, the situation for most First Nations bands is rather desperate; yet, human remains are not a source of contention in news reports. While a severe lack of housing combined with extreme poverty has taken a toll on First Nations political activism in Canadian museums in the last few years, it appears to be understood that First

Nations remains are not disturbed if discovered or are promptly reinterred if dug up. The human remains currently in Canadian museums are being identified and returned. In Canada this advance in repatriation has been accomplished purposely without legislation.

For purposes of clarification, various terms used in this paper must be defined.

The term “Native American” refers to members of a group of people who claim an ancestral affiliation within the land of the United States that predates European contact.

The term “Maori” refers to members of a group of people who claim an ancestral affiliation with the land of New Zealand that predates European contact. The term “First Nations” refers to members of a group of people who claim an ancestral affiliation with the land of the modern country Canada that predates European contact. Also, the term “Amerindian” is sometimes used interchangeably with “First Nations.” The terms “indigenous peoples” and “aboriginal peoples” are used as general reference terms rather than specifically identifying any single group of people.

By exploring the history of repatriation in other countries and finding the successful components from their current repatriation programs, it is possible to find solutions to America’s ongoing issues with the repatriation of human remains and to strengthen the dialogue between American museums and Native Americans. This project endeavors to examine repatriation and the current state of affairs between museums and aboriginal peoples in New Zealand and Canada; find practical strategies and methodologies used in those countries that led to successful relationships between museums and aboriginal peoples; and to suggest applications in American museums.

## CHAPTER TWO

### The United States of America

NAGPRA has done much to change the way Native Americans view museums and to create a brighter future for the interplay between Native Americans and museums while acknowledging past mistakes. But twenty years after the passage of the Native American Graves Protection and Repatriation Act, it is clear that American museums still struggle to build and maintain a dialogue with Native Americans. This chapter explores the history of displacement of Native Americans, the rise of the modern Native American and the political activism that led to the passage of NAGPRA. It then looks at the current state of repatriation in American museums today, twenty-two years after NAGPRA was passed. Museums are still reluctant to return human remains to lineal descendants, and negotiations between museums and aboriginal peoples can still drag on for decades. NAGPRA is a huge step in the right direction but it is time that museums and Native Americans begin to explore other avenues of collaboration beyond legislation. If used correctly repatriation can be an opportunity for an exchange of ideas and cultures, creating educational opportunities and intercultural dialogues that are what modern museums are about.

The creation of NAGPRA comes from a tradition of grassroots organizations' support and lobbying. For example, Maria Pearson protested the unfair treatment of Native American human remains in Iowa, which was a contributing factor in the passage of the Iowa Burials Protection Act of 1976. This act was the first piece of legislation to

actively protect Native American graves and an important precedent for NAGPRA.<sup>1</sup> This desire for change and the birth of organized Native American activism brought Indians into direct contact with the American government and made the lobbying for NAGPRA possible.<sup>2</sup>

It was not until the late twentieth century that Native Americans had any codified protection for their religious practices, languages, lands, burials or belongings. The passage of the American Indian Religious Freedom Act (AIRFA) in 1978 provided Native Americans with tangible support from the United States government in reclaiming their history and “the Sacred.”<sup>3</sup> The legacy of reservations, forced marches, mission schools, poverty, and intolerance helps explain why Native Americans might define their history and spiritual experience as one of “spiritual genocide.”<sup>4</sup> In the decade after the passage of AIRFA the archaeological, anthropological and Native American communities held many conferences about the final disposition of Native American remains. All three communities were given the opportunities to fully explain their concerns and offer suggestions on specific repatriation situations. At times the meetings were adversarial in tone but many came to mutually agreeable conclusions.<sup>5</sup> These meetings were evidence of progress toward a changed attitude about repatriating human remains and reflected a

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<sup>1</sup>J.B. Thomson and M.J. Perry (2005). *Still Running: A Tribute to Maria Pearson, Yankton Sioux*. Special issue of the *Journal of the Iowa Archeological Society*. 52. Iowa City: [Iowa Archeological Society](http://www.iowaarchaeologicalsociety.org/).

<sup>2</sup> Frederick Hoxie, Peter Mancall, and James Merrell, Eds. *American Nations: Encounters in Indian Country, 1850 to the Present* (New York: Routledge, 2001), 100.

<sup>3</sup>Steve Talbot, “Spiritual Genocide: The Denial of American Indian Religious Freedom, from Conquest to 1934,” *Wicazo Sa Review* 21, no. 2 (Autumn 2006): p.8, <http://www.jstor.org/stable/4140266> (accessed February 7, 2012).

<sup>4</sup> Ibid. 9.

<sup>5</sup> Larry J. Zimmerman, “‘Tell Them About The Suicide’ A Review of Recent Materials on The Reburial of Prehistoric Native American Skeletons,” *American Indian Quarterly* 10, no. 4 (Autumn 1986): 333-43, <http://www.jstor.org/stable/1183841> (accessed October 2, 2012).

changing social climate. This progress gained momentum and an act of Congress established the National Museum of the American Indian in 1989. Finally, on November 16, 1990, Congress passed NAGPRA after years of lobbying and dialogue between Native American groups and Anglo American officials.<sup>6</sup> According to the National Park Service, “NAGPRA provides a process for museums and Federal agencies to return certain Native American cultural items --- human remains, funerary objects, sacred objects, or objects of cultural patrimony --- to lineal descendants, and culturally affiliated Indian tribes and Native Hawaiian organizations.”<sup>7</sup>

One of the most emotionally charged sections of NAGPRA deals with the treatment of human remains. During Congressional hearings in the 1980s, testimony was given that the United States government had been collecting artifacts of Native American culture since the 1880s.<sup>8</sup> Specifically, the government had been acquiring Native American human remains. This reflected an ingrained belief in the inferior status of Native Americans and indigenous people that was practiced at the governmental level. The belief was not just a sad, backward tenet of racism, but an institutionalized practice that was backed by the science of the time. Indeed, to the present day, there is still debate about the biological basis of race and the practice of racialism and racism.<sup>9</sup> The belief that people can be grouped according to distinct physical attributes directly contributed to

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<sup>6</sup> Julia A. Cryne, “NAGPRA Revisited: A Twenty-Year Review of Repatriation Efforts,” *American Indian Law Review* 34, no. 1 (2009-2010): 99-122, <http://jstor.org/stable/25684264> (accessed February 7, 2012).

<sup>7</sup> “National NAGPRA: Frequently Asked Questions,” [http://www.nps.gov/nagpra/FAQ/INDEX.HTM#What\\_is\\_NAGPRA?](http://www.nps.gov/nagpra/FAQ/INDEX.HTM#What_is_NAGPRA?) (accessed February 6, 2012).

<sup>8</sup> Nat’l Assn. of Tribal Historic Pres. Officers, Federal Agency Implementation of the Native American Graves Protection Act 7 (2008). <http://www.nathpo.org/PDF/NAGPRA%20Report/NAGPRA-Report.zip>.

<sup>9</sup> Roger Echo-Hawk and Larry Zimmerman, “Beyond Racism: Some Opinions About Racialism and American Archaeology,” in “Decolonizing Archaeology,” special issue, *American Indian Quarterly* 30, no. 3 (Summer-Autumn, 2006): 461-85, <http://www.jstor.org/stable/4139024> (accessed February 7, 2012).

the practice of collecting and studying human remains and still contributes to the arguments against repatriation. These beliefs prevent a dialogue from occurring between museums and Native Americans because they represent a belief that the individuals being studied are different from the researchers studying them and therefore can be treated differently and without the respect that would be afforded the remains if they were a part of another group.

Since the passage of NAGPRA, there have been many changes for Native American communities. Native Americans have exercised their autonomy as sovereign nations in the last three decades. One very important avenue of agency has been tribal gaming. The rise of casinos, bingo halls and card rooms on reservations has brought several tribes a great deal of income. Federal regulations mandate that income must be used for the welfare of the tribe, local agencies or individual tribe members.<sup>10</sup> This has led to improved conditions both on and off reservations in several states. Casinos and tribal gaming have given tribes the power to donate funds to politicians and institutions that support tribal interests. The money has also given tribes the ability to found cultural institutions of their own such as the Mashantucket Pequot Museum & Research Center on the Pequot reservation in Connecticut. This tribally owned and run museum has immersive exhibit environments, extensive programming and state-of-the-art research facilities.<sup>11</sup> This museum, and spaces like this museum, is a place for American Indians to tell their own stories and interpret their own history in the light they believe to be

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<sup>10</sup> Angela A. Gonzales, "American Indians: Their Contemporary Reality and Future Trajectory," in *Challenges for Rural America in the Twenty-First Century*, ed. David L. Brown and Louis E. Swanson with assistance from Alan W. Barton (Norman, OK: Pennsylvania State Univ Pr, 2004), 43-56.

<sup>11</sup> "Facts About the Permanent Exhibits," Mashantucket Pequot Museum & Research Center, <http://www.pequotmuseum.org/Home/AboutTheExhibits/> (accessed December 9, 2012).

appropriate. But tribes do not live in a vacuum entirely separate from the United States. Nor can their cultural centers live in a vacuum. Using cultural centers as a model, Anglo museums can find new methods of interpretation and partnership with their tribal communities. However, only half of the 500 tribes recognized by the federal government run casinos on their reservations and of that number 11% of those casinos produce 61% of the revenue.<sup>12</sup> Native Americans today have more options to create financial and economic prosperity on reservations but poverty, high-unemployment, and high crime rates still persist on reservations.

There have been several landmark cases that have refined the interpretation of NAGPRA and its enforcement. Perhaps the most well known case is the Kennewick Man. This case challenged the way the museum field and Federal agencies interpret NAGPRA. “Kennewick Man” refers to a set of remains found on the bank of the Columbia River near Kennewick, Washington in 1996. The remains were initially believed to be European but the discovery of a spear point in the pelvis led to speculation that the remains might be Native American and therefore subject to NAGPRA. In order for a determination to be made, the remains would have to be handled and tested to which Native Americans in the area strenuously objected. Eventually the remains underwent *some* scientific testing in order to determine exactly who (the scientists or the Native Americans) would have custody of the remains. The results of the tests dated the remains to a burial period before known European contact. Subsequently, the release of the remains to local tribes was scheduled. However, a group of scientists filed a claim that

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<sup>12</sup> Angela A. Gonzales, “American Indians: Their Contemporary Reality and Future Trajectory,” in *Challenges for Rural America in the Twenty-First Century*, ed. David L. Brown and Louis E. Swanson with assistance from Alan W. Barton (Norman, OK: Pennsylvania State Univ Pr, 2004), 43-56.

stopped the return of the remains and ultimately scientists were given the opportunity to study Kennewick Man.<sup>13</sup> This legal battle stretched over years and was one of the first widely publicized incidents involving NAGPRA.

Depending on the source this conflict can be defined variously as science versus religion; right versus wrong; Anglos versus Indians; fundamentally, however, this conflict is about two completely different cultures meeting in a highly charged atmosphere struggling to find common ground. Museums were involved tangentially in the conflict; the Burke Museum of Natural and Cultural History held the remains during the protracted legal battle. But this is important because here a museum is used as a neutral space. It was a place of containment that could guarantee the safety of the remains until an outcome was reached. The role of neutral ground where debate and thoughtful discussion can happen is an important one and it is unfortunate that the Kennewick Man case left so many people outraged.

When cases like Kennewick Man occur with such acrimonious results, they beg the question: “After the passage of NAGPRA how can such problems still arise?” The main problem with the act is that it is “a law almost entirely without teeth”<sup>14</sup> or means of enforcement. The act spells out what museums need to do to compile their inventories, produce notices of intent to repatriate and how to contact tribes, but there are no exact time limits named in the legislation. There are no penalties spelled out beyond civil penalties for museums. The objects that are covered by NAGPRA are also limited by

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<sup>13</sup>Karen Coody Cooper, *Spirited Encounters: American Indians Protest Museum Policies and Practices*. Lanham, MD: AltaMira Press, 2008. 102.

<sup>14</sup> Julia A. Cryne, “NAGPRA Revisited: A Twenty-Year Review of Repatriation Efforts,” *American Indian Law Review* 34, no. 1 (2009-2010): 109, <http://jstor.org/stable/25684264> (accessed February 7, 2012).

their location. Only items found on federal or tribal land or stored in a museum that receives government funding are subject to NAGPRA. Also a tribe must be federally recognized in order to submit a NAGPRA claim. According to a survey in May 2008, there are still institutions that have not completed an inventory of their Native American holdings.<sup>15</sup> There is no money and no personnel to devote to NAGPRA implementation within museums. Most museums are underfunded and understaffed and are mainly concerned with staying afloat rather than spending precious funds inventorying their collection. There is also no incentive to conduct inventories in a timely manner. This is another reason why repatriation requests can take decades.

These developments in the implementation of NAGPRA are being played out in museums and courtrooms across the United States. It has been suggested that another pressing problem is that courts are not making decisions “in the spirit of NAGPRA.”<sup>16</sup> It is important to realize that NAGPRA did not fix past wrongs simply by being passed. As museums and Native Americans move into the future, further interpretation of NAGPRA will be required and both groups will have to grow and change in order to make a continued dialogue possible. It is not possible to live in a world isolated from other cultures in today’s interconnected society, therefore when a museum or tribe simply refuses to communicate with each other; they are effectively turning their backs on progress and the future. This action is a fatal mistake.

Until recently determining cultural affiliation was a significant stumbling block on the road to repatriation. But the ruling on the disposition of culturally unidentified

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<sup>15</sup> Ibid, 119.

<sup>16</sup> Ibid, 120.

remains published in March 2010 and effective as of May 14, 2010, has spurred on new movement within museums.<sup>17</sup> Museums are hiring new staff to aid with producing inventories and writing official notices to the tribes affected by this new development. One such entity that has been touched by these changes has been the University of Michigan. On January 12, 2012, the University of Michigan announced that it had written formal policies and procedures for repatriating objects that are subject to the NAGPRA. The university is now planning on returning 1,600 people and 16,000 funerary objects that have been stored in the university's on-campus museum for the last 30 years. The university will return the remains to thirteen Native American tribes and will then step back and let the tribes decide who will take custody of what remains. Once the university has relinquished custody of the remains they are no longer involved in any negotiations about where the remains will be re-interred or disposed of. The tribes will be solely responsible for that. The University's actions suggest an attitude of "let's get this over with." NAGPRA can be a public relations nightmare for museums and the entire exchange seems to hint at a willingness to part with human remains in order to avoid scandal. The ultimate outcome in this situation is, of course, desirable; but the thought process that lies behind it goes against the spirit of the NAGPRA. It is possible that the University's actions are purely benign but its history with original peoples begs to differ.

The University of Michigan has an interesting history when it comes to repatriating human remains to tribes. The important information is not about to whom the University repatriated the remains but the manner and attitude in which the interaction was accomplished. The University has proven slow and unwilling to cooperate with any aboriginal group, not just Native Americans, who approached the University about

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<sup>17</sup> 43 C.F.R. §10.11

human remains in the school's possession. In 2005 the University returned the remains of 16-18 people to the Whitefish River band, members of the Ojibwe Great Lakes Tribe. The remains had been excavated from a cemetery in Canada in 1938 by a university archaeologist and stored in the Museum of Anthropology on campus. In 1983, the Whitefish River people approached the university about returning the remains. The negotiations continued until 2005 when "both sides reached an agreement that satisfied both sides."<sup>18</sup> However, it took years to get the university to recognize the band's claims and the university did suggest that the excavated remains were not ancestors to the modern Whitefish River band. This suggestion came in spite of an original report by Professor Emerson Greenman that "the ancestors he found on Old Birch Island were more than likely the ancestors of the people of present day Old Birch Island."<sup>19</sup> The cemetery on Old Birch Island is a part of the band's current lands. John O'Shea, the curator at the Museum of Anthropology, also let it be known that he did not believe the remains were the ancestors of the band. These comments and actions cast the University and its staff in an unpleasant light and the emotional damage done to the Whitefish River band could have been avoided. But both sides of the dispute came out relatively happy with the proceedings and the band's representative expressed hope that "they do understand, they have finally come to understand, that the first nation will not go away, the first nation has a great responsibility and I think somehow [the University] began to see this and how to help us."<sup>20</sup>

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<sup>18</sup> Michael Kan, "U. Michigan to Return Burial Remains to Tribe," *Michigan Daily*, March 18, 2005, <http://lexisnexis.com/lncui2api/delivery> (accessed August 23, 2011).

<sup>19</sup> Ibid

<sup>20</sup> Ibid

This positive outcome could have been a great gift to both the tribe and the museum. This repatriation effort is an invaluable opportunity for the university to study First Nations culture in its current form. Karen Coody Cooper makes the argument that Native American culture is not dead; neither is First Nations' culture. It is vibrant and alive and the Museum of Anthropology can take advantage of this exchange and mount exhibitions about the cemetery at Old Birch Island, Emerson Greenman, and the Whitefish River band, the Ojibwe Great Lakes tribe or even NAGPRA. It is possible to use these exchanges as opportunities for learning. Museums are supposed to be inherently educational and it makes no sense for repatriation not to be discussed in a museum setting. Museums can take control of a situation and build a working relationship with the tribes with whom they come in contact. Both sides walked away from this exchange happy, but the chance for growth and change was missed. The tribe will not cease to exist and the museum will not close because of this repatriation. Still the experience could have been fuller and richer for both sides. Often repatriation ceremonies are emotional for the indigenous peoples involved and are described as healing or cleansing for group. Museums do not have to walk away empty handed from these exchanges. The sharing of knowledge and improved lines of communication could lead not only to opportunities within the museum but also within the university's education programs as well.

It should be noted that the Whitefish River band does not maintain holdings in the United States and NAGPRA does not apply to discoveries made outside the United States or objects kept in private collections. There is no legal recourse in these cases for the tribes or bands involved. However, the university's actions in 2005 present an interesting situation where poor communication and slow response time were detrimental to the

repatriation process. Ultimately, with proper communication and an honest dialogue between museum and tribe, the remains were repatriated and both parties felt satisfied.

Not all NAGPRA claims end well and sometimes the proceedings extend for years. It is important to realize that twenty-one years after the legislation was signed, NAGPRA is not a thing of the past. On June 24, 2010, John Thorpe, the son of Jim Thorpe, a Native American Olympic athlete, filed a complaint against the Borough of Jim Thorpe, Pennsylvania citing NAGPRA as the basis of his suit. Mr. Thorpe is asking for the return of his father's remains to his lineal descendants, Mr. Thorpe and his two brothers, from the Borough.

Jim Thorpe was an Olympic athlete who was born in 1888. He was a registered member of the Sac and Fox Nation of Oklahoma and, according to the legal complaint of his sons, was “an advocate for the rights of Indian people.”<sup>21</sup> He died in his trailer home in California on March 28, 1953. His remains were taken back to Oklahoma to be buried according to traditional practices. Mr. Thorpe had been married several times and according to court documents, his third wife obtained a court order and seized Mr. Thorpe's remains in the middle of a traditional Sac and Fox burial/ memorial ceremony in April 1953. According to the complaint of his sons, his remains were then “shopped to several cities” until his remains were “offered to the leaders of two former coal mining communities, the Boroughs of East Mauch Chunk and Mauch Chunk, for inclusion in a “public shrine under borough supervision” intended to further the communities’ economic development initiatives. In 1954, residents of the two boroughs approved a

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<sup>21</sup> John Thorpe, Richard Thorpe, William Thorpe, and the Sac and Fox Nation of Oklahoma v. Borough of Jim Thorpe, Richard Caputo (U.S. District Court, M.D. Penn. 2011).

consolidation under a new name, the ‘Borough of Jim Thorpe’.<sup>22</sup>

The sons of Jim Thorpe repeatedly requested the return of their father’s body in order to inter his remains in his home of Oklahoma. The borough refused on various occasions to return his remains. The original complaint filed by John Thorpe requested the return of his father’s remains, the awarding of monetary damages (including legal fees and expert witness fees), and the hiring of a consultant to aid the Borough in assembling an inventory of Native American human remains. The initial complaint cited several laws as the basis of Thorpe’s complaint, but as of January 23, 2011, the only part of the complaint that will be going to trial will be the charges filed under the NAGPRA. The Borough of Jim Thorpe has alleged that it is not a museum and therefore not subject to the NAGPRA. However the wording of NAGPRA is very clear on this definition. “Museum means any institution or State or local government agency (including any institution of higher learning) that receives Federal funds and has possession of, or control over, Native American cultural items. Such term does not include the Smithsonian Institution or any other Federal agency.”<sup>23</sup>

This court case could lead to a clarification of what it means to be a “museum” not only according to NAGPRA but also across the museum field. The American Alliance of Museums defines a museum as “ an organized and permanent non-profit institution, essentially educational or aesthetic in purpose, with professional staff, which owns and utilizes tangible objects, cares for them, and exhibits them to the public on some regular

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<sup>22</sup> Thorpe First Amended Complaint, filed 5/2/2011 by John Thorpe, Sac and Fox Nation of Oklahoma, William Thorpe and Richard Thorpe. Page 5.

<sup>23</sup>25 USCA § 3001. Definitions

schedule.”<sup>24</sup> This court case could force members of the museum community to change the way they perceive museums. The Borough of Jim Thorpe has little in common with modern museums. Its creation was meant to attract tourism, make money, and revitalize two struggling towns in Pennsylvania. The monument to Jim Thorpe was never meant to be educational. Museums are educational, non-profit institutions that hold collections in the public trust. The spirit is completely different but under NAGPRA, both the Mayborn Museum of Natural Science and Cultural History at Baylor University and the Borough of Jim Thorpe are museums. They are institutions that receive federal funds and have possession of, or control over Native American cultural items. If this court case finds that definition to be too broad, then the findings could change the way museums are defined. If that definition changes then that could have implications for private collections and international collections.

The Jim Thorpe case could open up private collections and international museums to a new era of repatriation requests. It is not unheard of for countries to make requests of one another and the Jim Thorpe court case points to the progression that the repatriation movement has made in the United States since the passage of NAGPRA. However, it is clear from the current state of affairs that NAGPRA has not been the success story that so many involved had hoped it would be. Many in the museum community have praised the advances made in the twenty-two years since the passage of the NAGPRA. Despite its problems, NAGPRA was and still is a great victory for Native Americans. NAGPRA is a codified set of rules that acknowledge Native American sovereignty over Native

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<sup>24</sup> Edward P. Alexander and Mary Alexander, *Museums in Motion: an Introduction to the History and Functions of Museums*, 2nd ed. (Lanham: Altamira Press, 2008), 2.

American history.<sup>25</sup> NAGPRA opened a door that Native Americans had been knocking on for decades. Karen Coody Cooper is a Native American museum professional who has published a pivotal book detailing the current status of Native Americans and museums. She served as the museum training program coordinator at the National Museum of the American Indian. There has been a steady rise in Native American-generated scholarship about museums since the passage of NAGPRA. Cooper is only one of those museum professionals who bridge the gap between Native Americans and modern museums. Others include James Riding-In and Roger Echo-Hawk. But there are an equal number of detractors who are quick to point out the failings of the legislation. Indeed the Jim Thorpe case indicates that Native American remains are still objects of contention in the United States. It is time to consider the possibility that NAGPRA has reached its limit of usefulness and that alternative solutions to the repatriation of human remains must be considered. These solutions can be found in other countries grappling with the difficult questions of repatriation that have overcome the stumbling block of human remains.

New Zealand has a long and similar history to the United States and happens to have a very successful international repatriation record. The Maori and Pakeha of New Zealand appear to have a more harmonious relationship than Native Americans and Americans. There are many lessons to be learned from New Zealand and those lessons are applicable to the United States.

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<sup>25</sup>Cooper, Karen Coody. *Spirited Encounters: American Indians Protest Museum Policies and Practices*. Lanham, MD: AltaMira Press, 2008. 100.

## CHAPTER THREE

### New Zealand

New Zealand has a colonial history similar to that of the United States. The indigenous populations of both countries face similar struggles for agency in the museum world. Recently, the Maori have made great strides toward having their own voice in the New Zealand museum profession with the creation of specially designated Maori museum professionals, partnerships with New Zealand's government, and the development of relationships with museums around the world.

Traditional Maori lore traces the origins of the Maori to a man named Maui who came from a land called Hawaiki. He is believed to have sailed the islands now called New Zealand in a canoe and to have enticed the islands to the surface with a jawbone smeared with his blood.<sup>1</sup> The Maori divided themselves into kinship groups based on birth. An *iwi* is a group of people all descended from the same founding ancestor; *hapu* is a group of people all directly related to each other and *whanau* is the family unit. For the purposes of the discussion in this chapter, the *iwi* will serve as the tribal unit because all members of the same *iwi* normally own land communally. The Maori did practice some ritual cannibalism, mainly the consumption of enemies at ritual feasts. It was not an every day occurrence for human flesh to be consumed. The advent of missionaries in New Zealand brought the practice into disuse by the 1830s.

There were chiefs among the Maori though they had jurisdiction over areas of land, not people and they only ruled as long as they had a majority vote backing them. Most chiefs were covered with *moko*, the blue ink tattoos that covered large portions of

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<sup>1</sup>Dora Alves. *The Maori and The Crown: An Indigenous People's Struggle for Self-Determination*, (Westport CT, Greenwood Press), 1999. 3.

their bodies. The *moko* were incredibly painful to receive and were a sign of respect and power. When chiefs died in battle, the heads would be removed for burial; the heads of enemies were ridiculed and abused as trophies of war. The tattooing on the heads was unique and distinctive enough to identify a person simply by the pattern. A trade in *toi moko*, the preserved and tattooed heads of Maori chiefs, had sprung up by the mid nineteenth century. The heads were popular with the whalers who lived on the shores of New Zealand; after European contact and settlement, the Maori started selling the heads as a way to earn income. Some scholars argue that the Maori began tattooing prisoners of war in order to sell their heads for a profit.<sup>2</sup> The *toi moko* were made through a process of steaming, drying and oiling that shrunk and preserved the head while keeping the design intact enough to be decorative. These *toi moko* proliferated through Europe as the rise in collecting “dying cultures” came in vogue.

The Treaty of Waitangi was drafted and signed in 1840. Since that time it has been a source of contention between the Maori and Pakeha. Pakeha is a term for any New Zealander who defines him or herself as European in descent or origin. There are two versions of the treaty, one written in Maori and the other written in English. The treaties are different in several places because of word choice and translation. There are words and concepts in English—such as land ownership and family lineage—that do not translate into Maori and vice versa. The differences have caused such problems that a tribunal was set up in the 1980s to make rulings on cases pertaining to the treaty. Obviously, the relationship between the Maori and Pakeha has been a contentious one. Today, there is a Ministry of Maori Affairs and a Minister of Maori affairs who are in

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<sup>2</sup> Ibid, 50.

charge of Maori public policy and Maori take an active part in New Zealand's government.<sup>3</sup>

It would make sense to ask the question: Why compare the United States and New Zealand? The two countries sit on opposite sides of the globe, and are different sizes in both population and land mass. But they have a similar history of colonization and the systematic oppression of indigenous populations. In both countries that oppression led to massive population losses, loss of culture and the economic and social ills that arise as the result of prolonged systematic marginalization of a population segment.

The Maori population suffers from many of the same problems as Native American communities. Drug addiction, alcoholism and poverty are all major problems for both populations. Maori also deal with gang violence, due to the high numbers of Maori living in urban settings. These circumstances create a museum community with a very small number of Maori. But, museums are places where two cultures intersect and thus are a means of connecting Maori with Maori *taonga*, which is a term for history and culture. The concept of *taonga* also implies agency or power over Maori voice. Museums are no longer repositories for Pakeha and European history. Instead museums have become bridges between Maori and European worlds.

One major problem with museums identified by Maori critics is the lack of Maori museum professionals. The prevailing thought is “who better to take care of Maori objects and culture than the Maori themselves?” Over the last twenty years, more Maori have come into the museum field and have spoken widely about their experiences as both Maori and museum professionals. These ‘kaitiaki Maori’ (Maori guardians/ caretakers)

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<sup>3</sup>Ibid. p. 120.

are intimately involved with the objects they care for and feel an emotional attachment to them. They integrate current museum practices and cultural practices into a new form of museology that is applicable in the United States.<sup>4</sup>

*Te Maori* was a defining museum exhibition that travelled internationally and changed New Zealand museum practices. This exhibition was a moment in time where political and social forces came together to change the way museums experienced and displayed Maori taonga. A quote from the *Te Maori* exhibition's catalog says, "With art, comes human dignity" and when the National Museum in Wellington aestheticized Maori ethnographic objects (which may also be referred to simply as Maori culture) they "humanized" the Maori. The museum gave value and meaning to Maori culture *in a Western context*. It should not be misunderstood that this statement suggests Maori culture had no value before the exhibition, but that it is an example of the power a museum can wield on society's perceptions.

*Te Maori* emphasized "spiritual ownership" of the objects in the exhibition. It clearly illustrated that it was vital to the integrity of the exhibition to not only consult with Maori but to actively include Maori in the concept, planning, and design of *Te Maori*. The rise of decolonization in the 1960s and 1970s gave birth to the idea of indigenous groups practicing self-determination: telling their own story on their terms. *Te Maori* was built on the idea that *who* was telling the story behind the exhibition is just as important as *what* objects were telling the story. The building of *Te Maori* gave birth to the idea of "cultural ownership". This concept forced museum professionals to reassess how they did business with their objects. The emphasis was not on signing a loan

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<sup>4</sup>Conal McCarthy, *Museums and Maori: Heritage Professionals, Indigenous Collections, Current Practice* (Walnut Creek CA: Left Coast Press, 2011), 104.

agreement, but *who* can legitimately sign the ownership agreement. “This was the first time that negotiations with all the tribes had been carried out, yet now ‘you have to do it all the time’”.<sup>5</sup> The negotiations with tribes (*iwi*) created the expectation that *iwi* would always be consulted in any exhibition. This idea of cultural ownership implies that tribes *should* always be consulted before an exhibition because it is up to the indigenous group to control its history. That control is a symbolic acquisition of power from the non-indigenous (Pakeha) majority. This belief has become a museum standard practice.

The importance of *Te Maori* is not in its final product. The catalytic component of *Te Maori* was the planning process. “The exhibition development process for *Te Maori* was one of the first and best-known examples internationally of community collaboration”.<sup>6</sup> This collaboration has become a standard part of New Zealand museum practices. Maori involvement is critical to the continued success of biculturalism in New Zealand. After *Te Maori* traveled through Australia, Europe, and North America, the exhibition returned to New Zealand, where the success of the exhibition influenced the establishment of the Museum of New Zealand, Te Papa Tongarewa, affectionately known as Te Papa. The museum could not have happened without a strong cultural movement behind it. New Zealand had to deliberately embrace its “bicultural” heritage in order for the museum to happen. Strong tribal organizations had to be in place before the planning for the museum even started. This means that the government of New Zealand would have to have supported *iwis* and given great backing to tribal groups. The Museum of New Zealand Te Papa Tongarewa, which is affectionately known as Te Papa.

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<sup>5</sup> Ibid, 60.

<sup>6</sup> Ibid, 62.

The organization of Te Papa required “a new way of thinking about the relationship of museums and source communities in which anyone who has collections in a museum has the right to participate in their management”.<sup>7</sup> This concept gives indigenous groups an agency that they have never had before. The image of “museum as temple” is completely discarded in this idea and replaced with the new, viable image of the “museum as forum.” Te Papa is a physical embodiment of this change. The layout of Te Papa represents the collaborative nature of the museum between Pakeha and Maori. A traditional *marae* marks the north entrance of the building and faces the sea and is called the Maori side of the building. The south face of the museum is the Pakeha side and faces the city of Wellington. The two cultures collide in the center of the building; a collision which is represented by a wedge that contains an exhibit on the Treaty of Waitangi, which united Maori and Pakeha into one country. There are also three boulders that sit outside the main entrance that represent Pakeha, Maori and the “Earth Mother,” which joins the two groups together. The building is meant to symbolize two groups meeting and coexisting in one space.

At the end of the day, it is not necessarily *just* about the human remains but about the countries, attitudes and institutions involved. Te Papa is the result of a nation committed to creating a future with its indigenous peoples; this is why New Zealand has such a successful repatriation program. It does not have to do with the tribes, nations and institutions involved but the attitudes the participants bring to the situations in question. The better and more educated the participants, the more successful the repatriation will be.

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<sup>7</sup>Conal McCarthy. *Museums and Maori: Heritage Professionals, Indigenous Collections, And Current Practice*. Walnut Creek, CA: Left Coast Press, 2011, 97.

In early 2012, twenty *toi moko* were returned to New Zealand by France and placed in the care of Te Papa Tongarewa for identification and return in the single largest repatriation event yet for the country. This was an occasion for celebration and a true success for New Zealand's repatriation program. The repatriation received international attention and was a sign of progress, not only for New Zealand, but also for original nations all over the world still struggling for repatriation. This event had been at least six years in the making and had its setbacks. New Zealand made an official request to the city of Rouen, France, for the return of at least one *toi moko* in 2007. This forced an answer to the question of whether *toi moko* are human remains or museum objects. France passed a law in 2002 that "enshrines the principal of inalienability of cultural objects held by museums".<sup>8</sup> This debate grew out of a fear that if France returned these human remains it would open the door for other non-human cultural objects to be returned and would "set a dangerous precedent for a country bursting with antique treasures and colonial-era loot".<sup>9</sup> *Toi moko* were defined as "art objects" and not as human beings. In 2010, Catherine Morin-Desailly, a member of France's national assembly, wrote a piece of legislation that called for the return of *toi moko* to New Zealand. This legislation codified a shift in thinking about human remains as artifacts to human remains as people. The legislation passed and sixteen *toi moko* were subsequently returned to New Zealand in 2010.

A year later in May 2011, another *toi moko* was returned to New Zealand from Rouen. This *toi moko* was given to representatives from New Zealand in France and was

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<sup>8</sup> Yvonne Tahana, "Long Road Home For Maori Severed Heads," *New Zealand Herald*, May 14, 2011, under "News; General," <http://www.lexisnexis.com/lxacui2api/delivery/> (accessed February 14, 2012).

<sup>9</sup> Lizzy Davies, "France Approves Return of Maori Warrior Heads: Artefacts to Be Sent Home to New Zealand," *Guardian (London)*, May 5, 2010. [www.lexisnexis.com/lxacui2api/delivery/](http://www.lexisnexis.com/lxacui2api/delivery/).

then transferred to the care of Te Papa Tongarewa for identification and return to the *iwi* of origin.<sup>10</sup> While these transactions with France have not always been pleasant, there is a level of diplomacy, if not respect, that is always present.

The repatriation process can be very straightforward for Te Papa. They send letters of introduction to institutions known to house *toi moko* or *koiwi tangata* broaching the subject of repatriation. Based on a museum's response, an agreement is negotiated and the remains are ultimately relinquished to Te Papa. A cultural representative then travels to the museum of origin. That individual travels with the human remains from the time they are released, packed, passed through customs, and delivered to the grounds of Te Papa. They are then quarantined in a sacred room (*wahi tapu*) while their provenance is researched. The ultimate goal of this process is to return the remains to the *iwi* of origin and have the remains re-interred.<sup>11</sup>

The Field Museum of Chicago returned fourteen *toi moko* to New Zealand in 2007 after three years of negotiations. The remains were purchased by the Field Museum in the late nineteenth century from a company in New York. The museum knew little about the remains in question except that they were Maori. The curator at the Field, John Terrell, is quoted as saying, "We don't know whom they [the fourteen *toi moko*] are—in most cases we don't even have a clue. But the reality is they need to go home".<sup>12</sup> It is

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<sup>10</sup>Tom Hunt, "Maori Remains Welcomed Home at Te Papa Ceremony," *Dominion Post (Wellington New Zealand)*, May 13, 2011, under "News section," <http://www.lexisnexis.com/lxacui2api/delivery/> (accessed February 14, 2012).

<sup>11</sup> Process taken from Rosa Shiels, "The Homecoming," *Press (Christchurch, New Zealand)*, January 15, 2010, under "Features; Arts," <http://www.lexisnexis.com/lxacui2api/delivery/> (accessed February 14, 2012).

<sup>12</sup>Colin Espiner, "Maori Artefacts Abroad: Museum to Give Back 14 Heads," *The Press (Christchurch, New Zealand)*, March 24, 2007, under "News; National," <http://www.lexisnexis.com/lxacui2api/delivery/> (accessed February 14, 2012).

important to note that this is an American museum professional espousing the ideals of repatriation in a public forum. The negotiations about the return did take three years but compared to how long other repatriation processes can take that is relatively brief. As the Field Museum example demonstrates, it is possible to have successful dialogue between original nations and museums.

Unfortunately, there was some dispute about other cultural items that the Field Museum was not willing to return but in this case we see an amicable, functional relationship between the Field Museum and New Zealand. The Field Museum also has in its possession a full size *marae* (meeting house) of which there are only three in the world that exist outside of New Zealand. The Ruatēpūpū *marae* was left at the museum to be “a place for Americans to learn about their values, customs and language”<sup>13</sup> The Field Museum wanted to get “more Maori input and visitors since there was no Maori community in Chicago”<sup>14</sup> before deciding the fate of the cultural items. A profoundly different interaction can be seen in this instance from any of the cases reported from within the United States. A spirit of collaboration and the idea of giving a voice to a group of people who are not typically present in a museum’s setting are crucial to improving Native American/museum relations. This particular example shows that such interactions are possible.

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<sup>13</sup> Andrew Herrmann, “Field to Return Bones of N. Zealand Natives: Maori Remains Will Go Home After Years of Talks,” *Chicago Sun-Times*, March 27, 2007. [http://infoweb.newsbank.com.ezproxy.baylor.edu/iw-search/we/InfoWeb?p\\_product=AWNB&p\\_theme=aggregated5&p\\_action=doc&p\\_docid=11825046C0E4D608&p\\_docnum=3&p\\_queryname=1](http://infoweb.newsbank.com.ezproxy.baylor.edu/iw-search/we/InfoWeb?p_product=AWNB&p_theme=aggregated5&p_action=doc&p_docid=11825046C0E4D608&p_docnum=3&p_queryname=1) (accessed May 13, 2012).

<sup>14</sup> Colin Espiner, “Maori Artefacts Abroad: Museum to Give Back 14 Heads,” *The Press (Christchurch, New Zealand)*, March 24, 2007, under “News; National,” <http://www.lexisnexis.com/lxacui2api/delivery> (accessed February 14, 2012).

New Zealand has marked differences from the United States in its dealings with repatriation and the Maori. The government of New Zealand has allocated funds and set up committees devoted exclusively to the repatriation of Maori cultural treasures. The government supports its indigenous cultures and actively participates in facilitating repatriation efforts. The procedure for bringing remains back is also very interesting. Researchers and museum staff escort remains back to the country and then they are temporarily housed at Te Papa until their origin can be determined. The museum acts as an intermediary between *iwi* and other countries. This relationship of institution as facilitator instead of gatekeeper is incredibly important. American museums have to change the way they are run in order to improve their ability to dialogue with Native Americans.

The Maori have managed to accomplish a great deal of progress in the museum world without using legislation or the New Zealand legal system. The renaissance of Maori culture in New Zealand and political activism made *Te Maori* and Te Papa Tongarewa possible. The important factor is cultural change as opposed to legal change. If aboriginal people can change the way museums and Anglo society see indigenous peoples, museums will start to reflect that change. The human remains involved are not the true crux of the dilemma; rather it is the attitude behind museum collecting that is the problem.

Canada is another country that has an excellent track record of return of human remains to its indigenous peoples. One Canadian museum has also taken steps to form a collaborative relationship with a First Nations band, thus changing the way that Canadian

museum professionals design exhibits and work with First Nations. All of these achievements have happened in Canada without legislation for repatriation.

## CHAPTER FOUR

### Canada

First Nations in Canada have walked a difficult road to self-sufficiency in Canada. Their struggles with European colonizing forces and the Canadian government mirror the journeys of the Maori and Native Americans. But First Nations are pursuing a different path to repatriation. They are eschewing legislation for an approach that involves partnership between First Nation bands and Canadian museums. They emphasize relationships of mutual respect and understanding born out of the spirit of repatriation.

Before exploring the current relationship between First Nation bands and museums, it is important to understand the history behind First Nations and the Canadian government. The British North America Act created the country known today as Canada in 1867. From that time until 1921 the Canadian government started making treaties with various First Nations about lands rights such as hunting, fishing, mining, and oil. There were also violent conflicts in several provinces of Canada between Anglos and First Nation bands. Government schools were set up on reserves and have a similar history to American Indian schools. The Canadian legal system has not been kind to First Nations in land disputes, taking a paternalistic tone toward First Nations and suggesting that the British Crown has ultimate control over Canadian lands by right of conquest.<sup>1</sup> First Nations' people have not had any other route for repatriation efforts other than social activism. They have had to work outside the constructs of Canada's government and affect change from the ground up.

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<sup>1</sup> Catherine Bell, "Aboriginal Claims to Cultural Property in Canada: A Comparative Legal Analysis of the Repatriation Debate," in *American Indian Law Review* 17, no. 2 (1992): 311.

These land disputes played a key role in bringing First Nation issues into museums. *The Spirit Sings: Artistic Traditions of Canada's First Peoples* was a controversial exhibit at the Glenbow Museum in Calgary, Alberta, Canada. It was designed in conjunction with the 1988 Winter Olympics. The exhibit showcased artifacts from the various First Nations of Canada. The committee in charge of designing the exhibit was assembled from both American and Canadian institutions. A member of the Haida tribe did attend some meetings of the committee. Realistically the majority of the designing committee consisted of people of European descent who had knowledge of the whereabouts of various objects that were removed from Canada and from the possession various First Nations.<sup>2</sup>

Protests sprang up around the exhibition due to a lack of First Nations involvement in borrowing objects from museums and consultation about the exhibition. The exhibition also used money from sources that were in direct conflict with several First Nations at the time and ignored contemporary issues such as poverty and alcoholism. The Lubicon Lake Band of Cree of Peace River decided to boycott the 1988 Winter Olympics due to a land dispute with Shell Oil Canada Limited. Shell Oil was drilling on land claimed by the band. Shell Oil was a major financial contributor to the Glenbow's *The Spirit Sings*. The Lubicon band objected to this support and attempted to negotiate with the museum without success. Once negotiations with the Glenbow Museum failed, the band contacted the museums that had received requests for objects. The protestors generated a great deal of controversy, division and discussion within the international museum community. In the end, approximately 160 objects were withheld

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<sup>2</sup> Karen Coody Cooper, *Spirited Encounters: American Indians Protest Museum Policies and Practices* (Lanham, MD: AltaMira Press, 2008), 21.

from the exhibition and a great deal of scholarship was generated. In the aftermath of the exhibit a task force was set up. They composed a report, published in 1991, detailed changes that could be made in how museums interacted with Canadian museums. The report was called *Turning the Page: Forging New Partnerships Between Museums and First Peoples*.<sup>3</sup>

Before *Turning the Page* was released at least one Canadian museum was starting to explore repatriation. The Peterborough Centennial Museum announced its decision to return “two skeletons and associated grave goods to the Curve Lake First Nations for reburial” in May 1991.<sup>4</sup> This came after a year-long debate about repatriation and First Nations in the aftermath of the uproar caused by *The Spirit Sings*. Representatives of both the Canadian Museums Association and the Ontario Museums Association stated that both associations were drafting policies “to deal with requests for the repatriation of native remains and artefacts.”<sup>5</sup> The motives for the repatriation were cited as respect for the skeletonized individuals and the culture they came from.

The report was revealed at the International Council of Museums convention in Quebec in September of 1992. A news article from *The Globe and Mail* states that “native leaders have agreed with the Canadian museum community that they will not seek legislation forcing museums to return artifacts, provided museums negotiate in good faith to do so on their own.”<sup>6</sup> The report was a landmark effort between two traditionally

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<sup>3</sup> Ibid, 24-26.

<sup>4</sup> Darcy Henton, “Museum Praised For Return Of Bones,” *The Toronto Star*, May 4, 1991.

<sup>5</sup> Ibid.

<sup>6</sup> Ray Conlogue, “Legislation to Return Native Artifacts Not Needed, Report Says,” *The Globe and Mail*, September 22, 1992.

opposed groups---museums and aboriginal people---working together to achieve a common aim. It recognized the collaborative nature of repatriation efforts and made recommendations on three major issues: how to involve aboriginal people in the interpretation of artifacts held by museums; how to bring native people onto governing boards and museum staffs; and the return of human remains in a timely manner. All of these conclusions were reached without legislation and the report suggests “an equal partnership is likelier to develop between native groups and museums if coercion is not used.”<sup>7</sup> Canadian museums and First Nations pointedly reject the idea of legislation and laws in favor of a more informal approach. This is the first hint that NAGPRA might not be the only way to a successful course of action for repatriation. This attitude and the various successes and failures of the Canadian museum community are a case study in repatriation without legislation. The idea of repatriation is fundamentally a humanitarian one, based on abstract concepts of respect and community.

Later repatriation efforts in Canada have continued this spirit of collaboration. In August of 1998, the Nisga’a people signed a treaty with the government of British Columbia that provided “for the return by Canadian museums of more than 250 Nisga’a artifacts.”<sup>8</sup> The treaty to return 150 Nisga’a items and 107 items bound two museums, the Royal British Columbia Museum and the Museum of Civilization, respectively. The manager of anthropology, Alan Hoover, gave a statement that embodies exactly what the repatriation process is about: “[W]hen you look at the bigger picture, it’s an opportunity

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<sup>7</sup> Ibid.

<sup>8</sup> Deirdre Kelly “A Time For Giving Back When The Nisga’a Sign Their Long-Awaited Treaty Next Week, It Will Represent A Watershed In The Struggle For The Return of Native Artifacts. It’s An Issue That Has Rocked The International Art And Museum World-And One In Which Canada Is Taking A Conciliatory Approach,” *The Globe and Mail*, August 1, 1998.

for growth. We will have a new relationship with the Nisga'a people. And I see it as very positive. It's a relationship based on an equal footing."<sup>9</sup> A museum professional is espousing the ideals that repatriation is based on and that is an important step for repatriation efforts in Canada. The Nisga'a also started negotiating with the Royal Ontario Museum in Toronto, which was not governed by the treaty for the return of the museum's entire collection of Nisga'a artifacts.

In August 1999, the remains of 500 Huron Indians were reinterred at a site near Midland, Canada. The remains had been excavated in the 1940s and stored at the Royal Ontario Museum. The repatriated remains were buried in a large pit that was first lined with beaver skins. The remains were then placed on top of the skins after being blessed by a Huron elder. After all 500 individuals were placed in the pit; sandy soil was placed on top. Huron people traditionally buried their dead and before their village moved on to a new place, dug up the remains and placed the bones of all individuals who had died in that place together in an ossuary during a ceremony called the "Feast of the Dead". The Royal Ontario Museum also gave the tribe the deed for the land the ossuary is placed on and it became a protected native cemetery.<sup>10</sup>

Another success story about the collaborative efforts between First Nations and museums is the study of Kwaday Dan Sinchi ("Long Ago Found Person"). A 550-year old man found frozen in ice by three hunters was studied at Victoria's Royal British Columbia museum until January 1, 2001. After that date, the Champagne and Aishihik First Nations could claim the remains for reburial. The agreement did leave room for

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<sup>9</sup> Ibid.

<sup>10</sup> Jim Wilkes, Up Front, *Toronto Star*, August 27, 1999. <http://www.lexisnexis.com.ezproxy.baylor.edu/hottopics/lnacademic/> (accessed December 10, 2012).

deadline extensions and as of November 25, 2000, no plans for reburial had been made. The agreement was lauded as the model of cooperation that museums and First Nations had been seeking for so long. The level of communication between the parties involved and the willingness to stay flexible was essential.<sup>11</sup>

Human remains are found in Canada on a fairly regular basis but they appear to be repatriated in a prompt manner. According to the *National Post* in an August 17, 2002 article, “since the legislation (the Cemeteries Act) was enacted in 1979, no ancient remains have been taken into any kind of long-term storage.” The same article discusses a plan the Ojibwe of Ontario have come up with to raise money for a repository for ancient First Nations remains. This repository would also arrange the reburial of the remains. Te Papa has adopted this system and the success of that institution is proof that such an idea can work.

Most press reports from Canada in the last twelve years report the return and reburial of First Nations remains as being fairly commonplace. This practice seems to have become widely accepted and objections are the oddity rather than the norm. For example, an article from *The Gazette*, a newspaper in Montreal, reported the objections of Dr. Susan Pfeiffer, an anthropologist, to the reburial of 90 sets of remains, some at least 5,000 years old. The fact that a newspaper would report something like that is an indicator that these types of “science vs. sentiment” arguments have fallen to the wayside. The agreement is best defined by the statement from the museum’s chief archaeologist “concerns about the loss of an important scientific resource had to be balanced with the fact that ‘our museum depends on good relationships with aboriginal

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<sup>11</sup> Kim Lunman, “Iceman Provides Clues To Life Before Columbus; Scientists Using DNA To Find Aboriginal Descendants of Kwaday Dan Sinchi, Or Long Ago Person Found,” *The Globe and Mail*, November 25, 2000.

communities' to conduct new research.”<sup>12</sup> The museum needed the tribes' good will, which provided enough incentive to complete the repatriation. It is not that Canadians are morally better than Americans. Rather their relationship with aboriginal people is more symbiotic than adversarial. Legislation can create an environment of hostility and give the parties involved a sense of being coerced into a repatriation dialogue; the relationships that Canadian institutions are forming with First Nations tribes are built on mutual respect and good will and they leave the relationship open-ended. It is possible for either entity to reach out and work together. The attitude of distaste and rueful acceptance that can be found in many American institutions, such as seen at the University of Michigan, does not appear to be present in Canada. These attitudes are a key component to improving repatriation in America.

There are examples of collaborative relationships between local tribes and museum in Canada. The University of British Columbia Museum of Anthropology opened *Written in the Earth*, an archaeological exhibition featuring First Nations artifacts in October 1996. Obviously the exhibit did not feature any human remains but it is illustrative of how a museum can have successful dialogue and work effectively with a native group. This exhibit featured a great deal of communication between the museum and First Nations and “brought forward long-standing concerns about the ownership and management of archaeological collections as a whole, and the museum's legal, ethical, and professional obligations to the collections and their originating communities.”<sup>13</sup>

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<sup>12</sup> Randy Boswell, “Scientists Mourn Reburial of 5,000-year-old Bones, Artifacts; Gatineau's Museum of Civilization Returned Stone Age Remains To Aboriginal Group,” *The Gazette*, June 21, 2005.

<sup>13</sup> Margaret Holm and David Pokotylo, “From Policy to Practice: A Case Study in Collaborative Exhibits with First Nations,” *Canadian Journal of Archaeology* 21, no. 1 (1997): 33-43.

The participation of the tribe dramatically influenced the construction of the exhibit and changed the way the museum staff designed exhibits. The experience provided the museum professionals involved with a protocol to follow when working with aboriginal peoples in a museum context. There were five main issues that the museum dealt with while designing the exhibit: protocol agreements, ownership of archaeological collections, liability and responsibility for collections, approval of exhibit thematic content, design and text, and artifact replication. The most important in repatriation would be the protocol agreements and approval of content and artifact replication. The museum gave First Nations' members almost complete editorial control of the exhibit and signed an agreement that stated the tribe could pull objects from the exhibit at any time, which would effectively shut down the exhibit. The artifact replication provided an opportunity for native artists to replicate pieces too delicate for travel or exhibit, which once again placing the power back into the hands of aboriginal people. All of these events occurred without repatriation at a national level.

A theme that is lost in the American discussion about repatriation is *why* repatriation is so important. Native Americans have been marginalized and much of the late nineteenth and early twentieth century was devoted to the theory that Native American cultures were dead or dying. These repatriations are a way of keeping culture alive. There are studies that suggest children who learn a heritage language and have a sense of cultural identity are less likely to develop drug and alcohol problems, more likely to graduate high school, and generally lead a more productive, happy life. Most of the First Nations' issues in Canada are about housing crises and the return of cultural objects. Members of First Nations are still struggling for self-determination and self-

government in some provinces. It is standard for human remains to be automatically returned to the tribe of origin. Repatriation does not solve the social ills of one group of the marginalized people but it can give a marginalized group of people hope for the future.

## CHAPTER FIVE

### Conclusions and Recommendations

The United States, New Zealand, and Canada are all navigating the tricky path to a better understanding of and relationship with aboriginal cultures. While there are similarities among the three countries, only New Zealand and Canada have created successful repatriation programs. New Zealand and Canada both have records of success in the repatriation of human remains, and both countries have achieved this goal without extensive legislation. In the United States, however, NAGPRA has shown itself to be an inefficient and incomplete tool for Native Americans in the struggle to find and claim human remains currently in museum collections.

The examples provided by Canada and New Zealand would suggest that the time has come to look beyond NAGPRA and additional legislation and begin to pursue other avenues of communication between Native Americans and museums. The United States has taken a top-down approach to affect change in the museum community and it has met with some success; now it is time to go back to basics and begin instituting change inside museums themselves. It is apparent that the problem is not returning human remains, but the contentious relationship between Native American communities and museums.

In Canada and in New Zealand, large exhibits initially sparked great changes in the way museums looked at aboriginal people. In New Zealand it was “*Te Maori*”; in Canada it was “*The Spirit Sings*.” The former was a popular exhibit that travelled all over the world and changed the museum community on an international scale. The latter was a major source of controversy that created a conversation on the international level about

museum objects and the relationship between aboriginal people and museums. A large travelling exhibit with objects from collections all over the world would be an excellent start for American museums seeking to improve their relationship with indigenous peoples. This exhibit could be organized an institution like the National Museum of the American Indian. The board of the NMAI is primarily composed of Native Americans and many of the staff are members of Native American tribes, thus an exhibition produced by the museum would incorporate the Native American voice far more than any other institution.

Canada's most important contribution to this debate is the attitude behind the interactions between First Nations and the Anglo museum community. It is in Canada that the idea of working towards repatriation without the emphasis of legislation takes center stage. It is possible that working without legislation would take longer but the lines of communication would be stronger. Forcing an entity like a museum into a dialogue with another entity, whether a tribe or a lineal descendant, automatically creates an environment based on confrontation. It has already been proven that when Anglo and aboriginal cultures meet in a legal battle, the outcome is rarely satisfactory for aboriginals. Therefore it may be in aboriginal groups' best interest to meet with museums outside of a courtroom.

In New Zealand, the Te Maori exhibit spawned a new era of scholarship about how museums interact with aboriginal peoples. It is important to remember that New Zealand is much smaller than the United States, which makes it easier to network with people, but there are several options that the American museum community could take from this example. Museums that specifically serve Native American communities could

institute cultural awareness training with their staff. New hires could go through this training while going through orientation at the beginning of their tenure. Museums could reach out to Native American communities for suggestions about the content of the training or possibly contract a member of a local tribe to design the awareness training. This would create an opportunity for communication and exchange of ideas between a museum and its community. It would change the role of Native Americans in a museum setting from passive to active.

Another change that could be made would be to have collections professionals who have extensive experience with Native American objects and NAGPRA-related collections start training people, both Native American and Anglo, in the United States to have roles much like the kaitiaki Maori in New Zealand. Kaitiaki are considered to be caretakers for “taonga” or Maori culture, values, and objects. There is a network of kaitiaki throughout New Zealand and many institutions in the country have made an effort to increase the number of Maori on their staff. These training courses could be integrated into museum studies’ academic programs, offered by the National Park Service as part of their annual NAGPRA seminars or sponsored by museums for their staff as a part of professional enrichment activities.

Museum studies programs could offer an ethics or Native Studies class as part of the core curriculum for their students. The graduates of these programs work all over the country and an in-depth understanding of Native Americans’ historic struggles and contemporary issues would be of great value to these emerging museum professionals. Universities could also use their NAGPRA collections as an opportunity to build relationships between local tribes and students. Native Americans are still a vibrant part

of the population and their various cultures continue to grow and change; they can be valuable resources to students for research. Repatriation efforts can be a chance to open the lines of communication and possibly build positive relationships. If an attitude of collaboration is developed while students are still in school, when they graduate those attitudes carry on into the professional world.

Additionally, if a university museum made the effort to include local tribes in academic programming it can create a channel of communication. The ability to interpret a tribe's history and giving Native American youth a sense of connection to their heritage could be a stepping stone to bringing Native Americans into Anglo American consciousness. An archaeological field school at Colgate University was offered to teenage members of the Oneida Indian Nation in New York to strengthen ties between the university and the local tribes by bringing diverse groups together for an educational opportunity. The field school's director, who is also a museum professional, also hoped it would give the students a greater sense of connection to their ancestors. He admits that the results on that front were mixed and not every participant walked away with that experience. But all items found were placed in the Oneida's cultural center and the program attracted a sizeable amount of media attention both locally and regionally.<sup>1</sup> Programming like this in a museum setting could achieve the same goals and attract positive media attention for the institution. Funding for the project came from several sources but one of them was the Oneida tribe itself, which was eager to supply the funds

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<sup>1</sup> Jordan E. Kerber, "Community Based Archaeology in Central New York: Workshops Involving Native American Youth," *The Public Historian*, Vol. 25 no.1 (Winter 2003): 83-90, <http://www.jstor.org/stable/10.1525/tph.2003.25.1.83> (accessed August 28, 2012).

for the program after several successful digging seasons.<sup>2</sup> In order to find new avenues of education, museums need to look to other disciplines for inspiration.

One source of information and education could be Native American-run museums. The Museum of the Cherokee Indian offers a variety of courses on Cherokee culture. This model could be used by Anglo museums as well. The Museum of the Cherokee offers genealogy services, supports a Cherokee dance troop, language training courses and intensive education courses on Cherokee culture. Tribal members educate non-members on their culture and traditions.<sup>3</sup> Museum professionals can attend training courses at the museum and then use that knowledge in their home institutions. Here again American Indians are using agency to determine how and when their history is told.

The American Association of Museums could start a database of Native American museum professionals (voluntarily of course) who may be available for brief questions about objects and repatriation issues. The database could have professional contact information and tribal affiliation listed which would give museums an opportunity to contact whatever tribe they needed to, regardless of location.

Museum professionals can also educate themselves about American Indians in their area. When the Pequot people established their tribal museum they contacted a professor from the nearby town of the University of Connecticut to assist them with an Ethnohistory project that is described on the museum's website. The Pequot tribe sought out historians and museum professionals to assist the tribe in designing and fabricating the exhibits for their cultural center. Museum professionals were able to be of service to

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<sup>2</sup> Ibid.

<sup>3</sup> "Education & Outreach," The Museum of the Cherokee Indian, <http://www.cherokeemuseum.org/education-warriors.htm> (accessed December 9, 2012).

the tribe and to assist the tribe in researching exhibits and creating immersive environments. Here the tribe is autonomous and using agency to use the American Indian voice to tell their tribe's story.<sup>4</sup>

There is the question of incentive: what would motivate museums to work with Native American tribes? These new interactions could provide fodder for new exhibits about current issues for Native Americans and the current state of reservations and Native American culture. The modern museum audience is educated and familiar with the rise of social history. Visitor studies show that visitors attend museums to be entertained, to be informed, for social interaction and to establish or maintain a sense of personal identity. American audiences are going to be mostly non-Indian. Exhibits need to move in a new direction. They need to go beyond victims and villains if they are going to be a means of dialogue between Anglos and Native Americans. Exhibits and interpretation must go beyond Anglo stereotypes of Native Americans while attempting not to villainize Anglo visitors. Building new relationships with tribes would give museums the opportunity to create those exhibits that are interesting and entertaining and still true and factual. The path for museums and NAGPRA in the next twenty years promises to be as exciting as the last but the solution to these ongoing issues most likely will not be found in legislation such as NAGPRA but looking beyond it to the people it affects.

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<sup>4</sup> "Mashantucket Ethnohistory Project," Mashantucket Pequot Museum & Research Center, [http://www.eturabian.com/turabian/school\\_Website.html](http://www.eturabian.com/turabian/school_Website.html) (accessed December 9, 2012).

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