

**Second Conference on Partnership Opportunities for Federally-Associated  
Collections, San Diego, CA**

**“Intercultural Partnerships and the Private Sector”**

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**ABSTRACT**

The repatriation movement cannot be separated from the history of these United States. To the contrary, we are at an historical transition and assumptive behavior of the past is no longer valid. This paper explores the results of the economic invasion in to the sacred space of art and spirituality and suggests modalities for the potential multiple benefits of intercultural communication, education, and redress.

**INTRODUCTION**

I would like to thank the San Diego Natural History Museum and the San Diego Archaeological Center for the invitation to participate in this conference. Investigating partnership opportunities, planning strategies for inter-disciplinary, inter-institutional, and inter-cultural relationships and attendant issues are critical at this time.

Our presence here in San Diego feels significant -- the San Diego Union-Tribune was the second newspaper in the nation to announce the passage of the 1990 Native American Graves Protection and Repatriation Act. Although NAGPRA was signed into law November 16th, it did not hit the newsstands, as it were, until late January, 1991. Tribune staff writer, John McLaren began his article, “A new and little-noted federal law requires museums around the country...” Little noted by newspaper journalists and media.

As we know, though McLaren had accurately described NAGPRA as a “little-noted federal law” by the press -- it is legislation of great magnitude, most significantly recognizing the sovereignty of Native Nations as well as influencing a gamut of disciplines, and fields.

NAGPRA has created arduous work, as well as enlightenment for museum personnel.

NAGPRA ripples into museum's exhibitions of American Indian artifact. It has raised questions about museology itself -- the purpose, the function.

NAGPRA has changed the face of archeology and anthropology, paving the way for dialogue and debate amongst scholars, historians, lawyers and advocates.

NAGPRA has opened new fields of study for law students and early on, a flurry of legal briefs on NAGPRA and interpretations of the Constitution.

NAGPRA outlines the rights and responsibilities of Native Nations. Most importantly NAGPRA provides the First Peoples, for the first time in 500 years, with the opportunity to bring home grave goods, cultural patrimony and ceremonial material and their ancestor's remains which, as McLaren described in 1991 as a "highly charged issue". To quote McLaren: "Desecration of Indian grave sites was permitted, even encouraged, for many years. In 1868, according to a Congressional Report, the U.S. Surgeon General ordered Army officers in the field to send him any Indian skeletons they encountered so he could measure the skulls." McLaren had done some homework. He refers, of course, to the Cranial Studies; one of the bleakest federal policies promoting the de-capitation of American Indian people from the battlefields to burial grounds.

NAGPRA is potentially no less than a turning point in the history of this country.

## **CONTEXTUALIZATION**

In 1492, it is estimated that nearly 100 million people populated the Western Hemisphere. Archeological evidence of visitations and indeed settlers to South and Central America from Africa and the Far East preceded Columbus by centuries.<sup>i</sup> Columbus' arrival, however, was neither conceived nor carried out as exploration. Columbus arrived with the latest armaments resulting from a military build up in economically depressed Spain. Convinced of the economic possibilities, gold in particular, that the New World held, Columbus returned in 1493 armed with shackles and chains, dogs and cannons, the 1455 Papal Bull of Pope Nicholas and the 1493 Bull of Pope Alexander V. Together, they positioned Christian nations as having "rightful" domination over non-Christian nations. In 1455 granting permission "to invade, search out, capture, vanquish, and subdue the Saracens, pagans and other enemies of Christ [and] put them into perpetual slavery."<sup>ii</sup> In 1493, granting Spain "any lands that

Christopher Columbus had discovered, and any lands that the Spanish might discover in the future, provided they were ‘not previously possessed by any Christian owner.’”<sup>iii</sup> In addition, it ordered that “...the Catholic faith and Christian religion be everywhere increased... barbarous nations subjugated and brought to the faith itself.”<sup>iv</sup>

By 1600, the population of North, Central and South America had plummeted from 100,000,000 to 9,000,000<sup>v</sup> and by 1892 to 5.6 million.<sup>vi</sup> In the continental United States the population dropped from approximately 14,000,000 to 2,000,000 by 1840, to 250,000 by 1900.<sup>vii</sup> At the same time European populations that began as a handful of people were growing: 250,000 by 1700, to more than 5,000,000 by 1800,<sup>viii</sup> to nearly 23,000,000 by 1850.<sup>ix</sup>

The horrors that Indigenous people of this continent suffered at the hands of conquistadors, cavalry, and missionaries cannot be overstated. Although it was the epidemics of European disease that extinguished 90% of the Indigenous population the Indian slave trade, the westward movement, treaties in exchange for land (the ignorance and denial of their existence), and federal policies of genocide were ferocious and unrelenting.

When Laws replaced guns, spiritual ceremonies were outlawed, forced land allotments attempted to displace communal ownership values, forced relocation, reservations, punitive boarding schools, threat of termination. The list goes on and on.

The historic facts upon which this country is built, the nerve fiber that surrounds us and the context out of which NAGPRA emerged. Unceasing racism, cultural genocide, and exploitation of American Indian people are the human conditions and inhumane restraints that bring about the NAGPRA and the repatriation movement.

No longer will human remains be displayed in museums. Items buried with the dead of living peoples’ ancestors are to be returned. The sensitivity of specific ceremonial material, their use and importance by living cultures, is now acknowledged.

History may be the polemic of the victor but NAGPRA, as a human rights bill, acknowledges the unacceptable behavior of the past and offers redress for Indigenous cultures.

The study of human remains and cultural artifact to attain knowledge is one approach and cultural worldview. American Indian Peoples’ knowledge is handed down

through oral tradition and the value of the past only relevant insofar as it is relevant to the present. What I observe, is a distinct cultural difference between the Western worldview and the Indigenous worldview in relation to the dead, spirituality, and priorities. Two antithetical worldviews are intersecting. It is in those places, disparate and often contradictory, that NAGPRA demands us to rise above self-righteousness and hierarchical thinking and have respectful dialogue and cooperative relationships.

## **THE INDIAN ART MARKET**

And what of the private sector? In the 1970's the art market began to sell Indian artifact, previously considered an archeological curio, to collectors. As a commodities trading and market indicator, Indian art as an investment opportunity began its rise in 1980. A new economic exploitation of American Indians was underway.

Observation of the indifferent attitudes with which the art market sells and collectors buy spoils of war, spiritual items belonging to living cultures, and older items sold by families in desperation, is startling. The sale of children's moccasins, beaded vests, personal items with information announcing provenance, such as the Cheyenne leggings and a Sioux beaded tobacco bag "Collected by Captain Alfred Mason Fuller (1852-1902) while serving with the Second Cavalry in Montana and Wyoming between 1876 and 1882."<sup>x</sup> is not unusual. A gulf exists between the aesthetic or commodity value and the item itself --from whence it cometh, off a body or by trade, what was (is) its purpose, its context. The cloudy means of acquisition and the sensitive nature of specific Indian artifacts have caused auction houses and dealers to be circumspect and vague in response to questions of provenance and acquisition.

Identical ethical concerns should exist in the private sale, trade, and collections of sensitive material in the private sector as are presently required by NAGPRA. However, because private auction houses and art dealers are not bound by NAGPRA and many are solely "bottom line" driven, the sale of sensitive items continues.

It is extremely important for Native Nations to be on the mailing lists of Auction Houses in order to receive catalogues. This allows for a timely review of items for sale and the opportunity to make written requests regarding the removal of a sensitive item from the auction block. Time in the auction world, is of the essence.

The Art Market has not been critiqued adequately for this exploitation.

## **THE AMERICAN INDIAN RITUAL OBJECT REPATRIATION FOUNDATION**

Since 1992, the American Indian Ritual Object Repatriation Foundation has created an intersection modality, a place of dialogue, and standards and procedures enabling the return of ceremonial materials from the private sector to clans, societies, individuals, nations, or origin, according to Native ceremonial requirements. Given the historical disingenuous behavior of non-Indians, each case is approach gingerly; optimistic participants interested in intercultural participation in anticipation of a fundamental transformation buoys our successful outcomes.

Our mission statement describes us as a non-federally funded intercultural partnership committed to assisting in the return of sacred ceremonial material to their nations of origin and educating the public about the importance of repatriation. We are Provisionally chartered by the Board of Regents of the State of New York.

The Foundation's strategy emerged from the premise that the sale of ceremonial material from auction houses and dealers, the education of collectors, and the return of ceremonial material from the private sector is best achieved through intercultural cooperation -- indeed that it is dependent upon it. Our Board members, National Support Committee and native Advisors hail from different American Indian Nations and religious/cultural backgrounds. It is this intercultural union that ideally positions us to be heard in the art auction, museum and scholarly world, and in Indian Country.

The Repatriation Foundation assists Native Peoples in strategies to effect the return of spiritual materials from collectors who contact us with a piece or item they want or believe should be returned. We turn to our Indian partners, sometimes regionally, more often representatives within nations, who determine, according to their process, if the item is desired home, where and to whom. The donor deeds it to the Foundation, may choose to receive a tax deduction allowable by law, and we, in turn, deed the item to the appropriate individual, clan, or society. Sometimes collectors prefer to return item directly -- we do a lot of liaison work. Repatriations from non-Indian donors in the private sector over the last year indicate an optimistic future.

The Repatriation Foundation never purchases items.

The Foundation receives calls from the media about repatriation. We connect museum curators with tribal representatives to answer questions about the appropriateness of the inclusion of an item or its display.

The Repatriation Foundation has made some headway against the “bottom line” attitude of auction houses. On February 12, 1995, for example, three months after the Foundation returned Seneca False Face Masks originally consigned to Sotheby’s for sale, Ellen Taubman, vice-president and Chair of the American Indian Art Department announced Sotheby’s new policy. Sotheby’s has stated they would contact the appropriate Indian tribe notifying them of any object(s) consigned for auction that might be considered culturally sensitive.

Three essential elements guide the Foundation toward these goals:

The Board is a partnership balanced by equal numbers of Indian and non-Indian people, and of men and women

We apply consensual decision-making processes from indigenous models. We have a fiduciary responsibility to white man’s law, a moral commitment to Indigenous decision-making process, and turn to the People for instructions of care and return of material.

*Mending the Circle: A Native American Repatriation Guide (Understanding and Implementing NAGPRA and the Official Smithsonian and other Repatriation Policies.* published by the Repatriation Foundation, is a definitive guide for both Native Nations and Museums. 1500 have been disseminated or sold. It is still available.

## **CONCLUSION**

It is not possible to find common ground without dialogues about the worldviews that separate us.

It is not possible for this country to leave racism, bigotry, and hate without recognizing the rights of all people who live on this continent.

It is not possible to become more enlightened as human beings until we relinquish the strongholds on outmoded ways of thinking and being.

We all, native and non-native alike, have a rare opportunity to reflect on the past, weigh what is in the balance, and determine priorities and ways in which we choose to behave in the future.

Repatriation is about people. It is about the wise and wonderful Indigenous Peoples of the Americas and their living, albeit struggling, cultures -- and what is owed to them. The Repatriation Foundation has developed a paradigm, an intersection, where individuals from distinct or antipathetic cultures can meet, discuss, and share information to transform contrasting worldviews into harmonious working partnerships. Repatriation is the cornerstone by which the return of human remains and spiritually sensitive material taken from The People into an alien culture can be returned home.

It is not possible to begin to heal wounds without acknowledging the past.

It is possible, and it is time, to apologize.

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<sup>i</sup> James W. Loewen, Lies My Teacher Told Me, Everything Your American History Textbook Got Wrong, (New York: The New Press, 1995),

<sup>ii</sup> Oren Lyons, "What They Never Told Us," The American Indian Law Alliance, (March 1993), 1-11, citing European Treaties Bearing on the History of the United States and Its Dependencies to 1648, (Washington D.C., Carnegie Institution of Washington, 1917), 23.

<sup>iii</sup> Steven T. Newcomb, "The Evidence of Christian Nationalism in Federal Indian Law: The Doctrine of Discovery, Johnson v. McIntosh, and Plenary Power," New York University: Review of Law & Social Change Volume XX, No. 2, (1993), 310.

<sup>iv</sup> Lyons, 61.

<sup>v</sup> Ronald Wright, Stolen Continents, The "New World" Through Indian Eyes, (New York: Newton Mifflin Co., 1992), 14.

<sup>vi</sup> Georges E. Sioui, (translated by Sheila Fischman) For and Amerindian Autohistory (Montreal: McGill-Queen's University Press, 1992), 3.

<sup>vii</sup> Loewen, 74.

<sup>viii</sup> Wright, 123.

<sup>ix</sup> Wright., 123.

<sup>x</sup> Sotheby's Fine American Indian Art Catalogue, Tuesday May 21, 1993, Lots 126 and 131.