

**RETURNING THE SACRED:
MUSEUMS AND INTERNATIONAL REPATRIATION OF NATIVE NORTH
AMERICAN CULTURAL PROPERTY**

by

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Dedication

This work is dedicated to the ancestors that have gone before me: may their journey bring
them home where they belong;
and to my daughter, Huyana, for the hope and light she brings to me.

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Preface

“Yeedát sá yéi át yatee, oo awdudlixhaaji xhooni kháa, heinaxh kháa géidei yaxh ghaagoot,” (Life should be this way, that a relative you’ve given up hope of ever seeing again and suddenly they come around the corner.)

-Harold Jacobs, Cultural Resource Specialist

Central Council Tlingit and Haida Indian Tribes of Alaska

I peered into the eyes made of wood and abalone as an overwhelming sadness took hold of my spirit. The sounds of anguish and sorrow resonated through the acrylic vitrine, yet no one around me could hear his cries. “I’m lonely and hungry,” he spoke helplessly. I choked back tears, as anger began to swirl within the pit of my stomach. “I am your daughter’s ancestor, and here I languish.”

Words cannot describe the grief that is felt by indigenous people as they visit their ancestors, locked away for decades, sometimes centuries, in large institutions far away from their homelands. Most arrived by either the hands of duress or of theft. These sacred objects, infused with the spirits of our ancestors, are a reminder of the diasporic journey that uprooted and carried us far from the earth and bones of our grandmothers and grandfathers. Repatriation isn’t merely an exercise of self-determination and a way to enforce the human rights of indigenous peoples: returning the sacred is a way to heal communities, to revitalize cultures, and to reunite families.

Several decades ago I became deeply involved with various spiritual and political efforts as a way to reconnect with my Native heritage; a heritage that was slowly slipping away from my family the farther removed through space and time we became. With the

birth of my daughter, the subject of repatriation began to take on a deeper meaning as our collective heritage grew to include that of her paternal lineage. The cultural material of her maternal ancestors (Powhatan, Shawnee, Cherokee, Mik-maq, Konkow) joined that of her paternal ancestors (Kaska Dene and Taku River Tlingit), side by side on museum shelves around the world.

My journey through graduate school was deeply affected by a visit to the Oakland Museum of California my first quarter

where I encountered the Xhixhch'i S'aaxhw, (the frog hat) of the Khaach.ádi clan of Tlingits from Wrangell,

Alaska. Although a different band than

that of my daughter's inland Tlingit



relatives, she is a part of the same frog clan as the Xhixhch'i S'aaxhw.

As often as I could, I visited the Xhixhch'i S'aaxhw and prayed for a safe journey home. I spoke to him, acknowledging his grief and reassuring him that he would soon return to his relatives. In November 2014, the Central Council of the Tlingit and Haida Indian Tribes of Alaska, along with the Yaaw Tei Yi dancers and numerous Native people residing in the Bay Area met with representatives of the Oakland Museum of California as they returned the Xhixhch'i S'aaxhw to his relatives.

It was humbling to witness the exchange and to see the Xhixhch'i S'aaxhw breathing and being fed by the love and warmth of his people. The initial anger and sadness I felt when I first encountered the Xhixhch'i S'aaxhw was replaced by tears of joy and elation as he was wrapped in a previously repatriated blanket belonging to Chief

Shakes; the last known Tlingit to have worn the Xhixhch'i S'aaxhw before he was taken from their community.

The following research has been an effort of love: love for my ancestors and their sacrifices; love for my brothers and sisters trying to bring home their families; love for the educators who provide encouragement and support to do this work; and love for my daughter and the next generations to come – hoping that they live in a world where their ancestors no longer remain captive.

Executive Summary

As a result of colonization, it is estimated that approximately 1-2 million Native North American ancestral remains and cultural property items are housed outside of North America in museums and private collections (Keeler, 2012; Anaya, 2009). As we continue to evolve into a more global society, efforts to repatriate human remains and cultural property will continue to shift from the domestic front to the international domain.

The challenge that underlies all international repatriation efforts is the lack of international laws or protocols that effectively support this process. After World War II, various conventions were held to pass international agreements with the aim to protect cultural heritage worldwide. Yet, these agreements rarely took into consideration the unique needs of the indigenous people that were victims of colonization and Manifest Destiny. With the passage of the United Nations Declaration on the Rights of Indigenous People in 2007, the commitment to rectify human rights violations against indigenous people has moved to the forefront in international discussions. We have yet to fully realize the implications this document may have on future efforts of repatriation.

There is an underlying anxiety that permeates efforts as many museums are fearful that repatriation will result in the depletion of entire collections. To the contrary, after twenty six years of implementation of the Native American Graves Protection and Repatriation Act in the United States, “less than 1% of any collection has ever been repatriated” (Keeler, 2013). Repatriation has actually resulted in major gains by museums as they work with indigenous communities and “lines of communication open up and direct access to source communities help to improve the accuracy of the museum’s

informational databases” (Keeler, 2013). For museums that are far removed from source communities, efforts to engage and provide access to collections deepen the understanding of objects far beyond “a simplistic aesthetically-oriented reinterpretation of the cultural object as art” (Keeler, 2013). In exchange, source communities benefit psychologically by being able to connect to their material cultural, even when actual repatriation does not transpire (Bell & Paterson, 2008).

My research focuses on the efforts to return North Native American material cultural from United Kingdom museums to indigenous communities in the United States and Canada, in order to make clear the complexity surrounding how museums and indigenous communities work together to repatriate cultural property. The term ‘cultural property’ is used to refer to those items that are of substantial cultural importance to Native North American indigenous groups. This term encompasses associated and non-associated funerary objects, items of cultural patrimony and items of significant spiritual or cultural significance.

Using secondary research, four case studies and structured interviews of thirteen individuals, I sought to answer the following questions: 1) Which international accords and laws support the repatriation of cultural property; 2) How have museums modified their policies and procedures to address repatriation; 3) What are some of the challenges that museums and tribal communities face when working towards repatriation internationally; 4) What has been the most persuasive approach to successful repatriations; and 5) What needs to be in place to fully support the work of repatriation of cultural property.

The research begins with a literature review that explores the evolution of

collecting Native North American human remains and material culture. It encompasses a general history of the colonization of North America and the calamitous effects this had on indigenous groups from the time of contact to the early twentieth century. This chapter also looks at the importance of regaining items of cultural property to Native North Americans, particularly as a shift toward self-determination took place in the mid-twentieth century. Also covered are the varying arguments for and against repatriation as well as an overview of museum policies and procedures, and specific laws and agreements pertaining to repatriation.

Following the Literature Review, the Findings chapter begins with four case studies of museums within the United Kingdom. The museums covered are: the Kelvingrove Museum in Glasgow, Scotland; the Marischal Museum at the University of Aberdeen, in Aberdeen, Scotland; the Pitt Rivers Museum at the Oxford University, in Oxford, England; and the British Museum, in London England. Each case study provides an overview of the following components: a brief summary of the institutions history; the contents of their Native American collection; the provenance of the artifact and brief history of the affiliated tribal group; an account of the repatriation process; and how the repatriation affected the museum's policies and procedures. The structured interviews are organized by the four main themes that surfaced during the interview process: the importance of repatriation to the individual; the legal parameters that either support or inhibit repatriation; the use of international declarations or conventions within the repatriation process; how the interviewee anticipates the passage of the United Nations Declaration on the Rights of Indigenous People will affect future efforts to repatriate; and suggestions for supporting the process in the future.

The Conclusions chapter explores the six main issues that arose from the case studies and structured interviews: 1) International accords are ineffective and have not been utilized in the repatriation process, while legal constructs work to dissuade repatriation; 2) Museums have made efforts to support the process by modifying policies and procedures and by working creatively to support returns or long-term loans, which has helped to develop norms towards repatriation; 3) Lack of proximity and resources, both financial and human, impede the ability for indigenous communities to fully engage in repatriation efforts; 4) Humanizing the issue and developing meaningful relationships have been the most persuasive method for moving repatriation forward; 5) The media can be a powerful tool in educating communities and persuading museums and governments to repatriate; and 6) Museums that support the return of cultural heritage are helping to heal communities and bring closure to centuries of abuse and maltreatment. The chapter concludes with recommendations for transforming the findings into action.

Thirteen recommendations are presented as a result of the findings, and include:

1) Amend the British Museum Act; 2) Provide for legal compulsion to encourage the adherence to international accords; 3) Continue to establish legal norms that support repatriation of cultural heritage; 4) Develop a universal repatriation policy; 5) Provide government funding to support repatriation efforts; 6) Develop a comprehensive inventory of cultural heritage and an analysis of items eligible for return; 7) Increase accessibility to collections; 8) Employ indigenous people to help inform institutions about their collections; 9) Deepen engagement and collaborations with indigenous communities; 10) Educate globally about the importance of repatriating objects of cultural heritage; 11) Develop marketing and media plans; 12) Embark upon further

research that combines inter-discipline thinking between museum studies, anthropology, sociology and psychology; and 13) Develop exhibitions that address the topic of healing through repatriation.

It is of upmost importance to note that indigenous people need access to their material culture to support their identities and cultural continuity in the present day while museums need the assistance of indigenous people to learn how to properly care for and fully understand the collections held within their institutions. As Gerald Conaty (2015) explains:

Repatriation is a process that affects us all, for it is a route by which some of the failings of our colonial past can be acknowledged and addressed.

Repatriation is a vital component in the creation of an equitable, diverse, and respectful society. (Conaty, 2015)

When justifying retaining museum collections, we cannot ignore the fact that the objects were usually obtained at the expense of living cultures, the descendants of which are still alive today. We must also take into account that many large institutions are so overloaded with objects that “there are not the facilities for them to be permanently or properly exhibited, and much material is simply stored, never to be viewed by the public” (Greenfield, 2013).

By fully understanding the significance of cultural property to indigenous peoples and the positive outcomes that have transpired by working with these communities, it is my hope that museums, and the wider field, will take a critical look at collection policies and how they engage Native American / First Nations peoples. Repatriation should no

longer stimulate fear, but excitement and hope for developing meaningful relationships by altering the trajectory of significant material culture.

Methodology & Limitations

The approach taken for this research included relevant literature reviews, interviews with museum professionals and tribal members, and case studies that involved four museums in the United Kingdom: the Kelvingrove Museum in Glasgow, Scotland; the Marischal Museum at the University of Aberdeen, in Aberdeen, Scotland; the Pitt Rivers Museum at Oxford, England; and the British Museum in London, England. Primary research was conducted mostly during the month of March, 2016. This chapter outlines my approach to the literature review, explains my methodologies, and pinpoints some of the limitations of this study.

Secondary Research: Literature Review

Key texts: There are several key readings that have provided me a thorough basis for understanding international repatriation from an international law perspective, particularly pertaining to the rights of Indigenous people: “Indigenous Peoples’ Cultural Property Claims: Repatriation and Beyond” by Karolina Kuprecht (2014); from the Arizona State Law Journal, “Indigenous International Repatriation” by Honor Keeler (2012); “Protection of First Nations Cultural Heritage: Laws, Policy, and Reform” by Catherine Bell and Robert Paterson (2008); “The Return of Cultural Treasures” by Jeanette Greenfield (2013); “The Settlement of International Cultural Heritage Disputes” by Alessandro Chechi (2014); “International Human Rights and Indigenous Peoples” by James Anaya (2009); “In the Light of Justice: The Rise of Human Rights in Native American and the UN Declaration on the Rights of Indigenous Peoples” by Walter Echo-Hawk (2013); “Enforcing International Cultural Heritage Law” by Francesco Franconi and Ana Vrdoljak (2013); and “Indigenous Rights and United Nations Standards” by

Alexandra Xanthaki (2007).

Pertaining to domestic legislation, such as the United States Native American Graves Protection and Repatriation Act, texts include: “Repatriation Reader: Who Owns American Indian Remains?” edited by Devon Abbott Mihesuah; “Grave Injustice: The American Indian Repatriation Movement and NAGPRA” by Kathleen Fine-Dare (2002); and “The Dead and their Possessions: Repatriation in Principle, Policy and Practice” by Cressida Fforde, Janet Hubert and Paul Turnbull (2002).

Texts that provided context for the actual processes involved in specific repatriation efforts and the need to develop positive and productive relationships between institutions and tribes are covered in the following publications: “This Is Our Life. Haida Material Heritage and Changing Museum Practice” by Cara Krmpotich and Laura Peers (2013); “Drawing Back Culture” by Ann Tweedie (2002); “Pictures Bring Us Messages: Photographs and Histories from the Kainai Nation” by Alison Brown and Laura Peers (2006); “Voices of a Thousand People” by Patricia Pierce Erikson (2002); “We Are Coming Home: Repatriation and the Restoration of Blackfoot Cultural Confidence” edited by Gerald Conaty; and “Sharing Knowledge and Cultural Heritage: First Nations of the Americas” edited by Laura van Broekhoven, Cunera Buijs, and Pieter Hovens.

Business resources include several areas of museum administration that are applicable to international repatriation, such as: management and personnel; policies and procedures; leadership; ethics; and finances. Information that covered these areas were culled from many of the previously sited works, in addition to the following sources: “The Ethics of Collecting Cultural Property: Whose Culture? Whose Property?” by Brian Fagan and Phyllis Mauch Messenger (1999); “Museums and Restitution: New Practices,

New Approaches,” by Dr. Louise Tythacott (2014); “Museum Administration,” by Hugh H. Genoways and Lynne M. Ireland (2003).

When discussing the importance of repatriation and the psychological effects that it has on a native person, I looked to scholarship that covered the concept of historical trauma, specifically as it pertains to populations victimized by colonialism. Key readings in these areas include: “Native American Postcolonial Psychology,” by Eduardo Duran (1995) and “In the Light of Justice: The Rise of Human Rights in Native America and the UN Declaration on the Rights of Indigenous Peoples” by Walter Echo-Hawk (2013).

Areas of scholarship. The Literature Review contextualizes the historical, cultural, and political experiences of Native Americans and First Nations people over several millennia. My sources primarily fall within the areas of international law, cultural law, history, and museum studies. I also expanded my research into areas of scholarship that included the history of each international museum as well as specific tribal histories and cultural practices that were applicable to the specific case studies.

Searches. In order to locate my initial source, “Indigenous International Repatriation” by Honor Keeler (2012), I used Google and searched the internet for “International Repatriation of Native American Artifacts.” As I become more versed in the topic, I expanded my internet search to “International Repatriation of Native American Cultural Patrimony” and then to “International Repatriation of Native American Cultural Property.” My bibliography expanded exponentially as I located sources by culling through my primary publication’s bibliography and notes.

I widened my search topics to include various declarations and treaties that were included under the acronyms “UNESCO,” “UNDRIP,” and “UNIDROIT” as well as

“NMAIA” and “NAGPRA.” This also led me to look at other important legislative agreements that pertained to Canada, such as the “Cultural Property Export and Import Act of Canada” and the “First Nations Sacred Ceremonial Objects Repatriation Act.” Finally, I looked at the “1963 British Museum Act,” and the “2004 Human Tissues Act” to better understand the parameters that United Kingdom museums are working within.

I also visited specific museum websites by searching for “Glasgow Museum,” the “Marischal Museum,” the “Pitt Rivers Museum,” and the “British Museum” to find additional information, institutional policies and procedures, as well as collect news articles that were relevant to my research topic. These searches also helped me to identify pertinent individuals that would be essential interview subjects.

To round out my research about each of the specific case studies, I also searched for background information on specific indigenous communities and related organizations, such as “Kainai,” “Haida Repatriation Committee,” “U’mista,” and “Wounded Knee Survivors Association.”

Primary Research: Structured Interviews

The interviews included four different stakeholders: museums professionals who oversee collections and repatriation efforts at case study institutions; Native American / First Nations individuals who have worked directly with the case study institutions; museum professionals who have experience with repatriation domestically; and Native American / First Nations individuals who have familiarity with repatriation. Refer to Appendix B for a list of individuals interviewed. The purpose of the structured interviews were to: 1) understand the challenges faced by tribes and museums when working together; 2) recognize what worked well and how to replicate it for other groups that are

embarking upon this work, and 3) solicit input on what needs to change or be in place in order to further support international repatriation. Please see Appendix A for specific interview questions.

Museum Professionals. Working across international borders with large museums in a compacted amount of time made it necessary to conduct most of my interviews by telephone. By narrowing the scope of my research to include only two museums in Scotland and two museums in England, I was able to refine my list of prospective interviewees, which in most instances, were very willing to speak with me.

From Scotland, I interviewed Dr. Mark O'Neill, the former Head of Arts and Museums, at the Glasgow City Council. O'Neill worked for Glasgow museums for over twenty five years and played an instrumental role in advocating for the return of the Lakota Ghost Dance Shirt in 1999. I also spoke with the Curator of World Cultures at Glasgow Museums, Patricia Allan, who is an ethnobotanist who has worked extensively in South America. Allan has reached out to indigenous communities and is working to revise the institutions policies to be more supportive and responsive to the needs of indigenous people.

As Head of Museum at the University of Aberdeen, Dr. Neil Curtis' research and experience ranges from museum education, to repatriation and the treatment of human remains. He was intimately involved with the repatriation of a split-horn headdress to the Kainai (Blood) tribe of the Blackfoot confederacy and his scholarship has been an invaluable resource for this research.

Museum professionals from British Museums were more elusive than their Scottish counterparts. The Interim Director and Curator for Americas at the Pitt Rivers

Museum at Oxford, Laura Peers, co-authored several books pertaining to international repatriation and has worked with numerous indigenous communities, including the Kainai (Blood) tribe of the Blackfoot confederacy and the Haida Repatriation Committee. Although Peers was not available to be interviewed by phone, she did provide written answers to my some of my research questions. Formerly the Keeper of Anthropology at the British Museum, Dr. Jonathan King spoke to me about his work with the U'mista Cultural Society and the long term loan of a Transformation Mask.

Outside of the case study institutions, I spoke with Dr. Timothy McKeown, a legal anthropologist who served as a Federal official responsible for drafting regulations implementing Native American Graves Protection and Repatriation Act (NAGPRA). He is also well versed in the provisions of the United Nations Declaration on the Rights of Indigenous People that pertain to repatriation. Susana Macarron is a professor and Collections Management Consultant who has worked with numerous museums and has in-depth experience in consulting with tribes regarding repatriation. She provided great insight about working within NAGPRA regulations, as well as leads to other potential interviewees. The NAGPRA Coordinator for the California Parks and Recreation, Paulette Hennum, shared with me her experiences working with California tribal communities and implementing NAGPRA.

Native American / First Nations. I first looked to Native American and First Nations individuals that had experience working with the case study museums. Andy Wilson (Haida) co-founded the Skidegate Repatriation Committee, a close partner to the Haida Repatriation Committee, and has worked tirelessly to have the remains of their ancestors returned home. I had hoped to interview Nika Collison (Haida), at the Haida

Gwaii Museum but she was unavailable, therefore, I supplemented the structured interview section with published information to include Nika's perspective. I was also limited by the fact that many of the individuals that had participated in repatriation efforts with the case study institutions are now deceased. The late Andrea Sanborn (Kwakiutl), the Executive Director of the U'mista Cultural Centre had been instrumental in working with the British Museum and the long term loan of the Transformation Mask. Wherever applicable, I used published sources to round out the primary research.

Next, I turned to other Native American and First Nations people who have worked on repatriation in various arenas. Honor Keeler (Cherokee), a Native American lawyer and chair of the Association on American Indian Affairs' International Repatriation committee, published a pivotal article in the Arizona Law Journal that speaks specifically to International Repatriation and provided a starting point for my research. Andrea Carmen (Yaqui), the Executive Director of the International Indian Treaty Council was intimately involved with the drafting of the United Nations Declaration for the Rights of Indigenous Peoples and is also working on a repatriation case from her own Pascua Yaqui community. Terry Snowball (Potawatomi/Ho-Chunk), the Repatriation Coordinator for the National Museum of the American Indian, Cristina Gonzalez (Chumash), the Registrar and Assistant Director of the Table Mountain Rancheria Museum, and Adriane Tafoya (Kitanemuk), the Oakland Museum of California Registrar: all of whom provided information about their repatriation efforts that spanned international, national and local levels.

Case Studies

Case Studies enabled a deeper look at specific institutions, understanding their

history and mission, the challenges they face around issues of repatriation, and how relationships with indigenous communities are instigated and nurtured. They also provided an opportunity to hear from the Native American and First Nations people that have worked directly with these institutions and how efforts for repatriation can be improved in the future. I chose the Glasgow Museum and Marischal Museum in Scotland, The Pitt Rivers Museum at Oxford, and The British Museum in London due to the fact that they have all been involved in various stages of international repatriation that have been well publicized. Some efforts have resulted in the return or long-term loan of cultural property, and some have not. Each of these museums house large collections of Native American cultural property, yet each are unique in how they have responded to repatriation requests.

Case studies include the following:

- Researching the institution's mission, vision, and goals;
- Gaining an understanding of the institution by examining their website, collections, and posted information related to repatriation efforts;
- Obtaining copies of the institution's repatriation and collections policies and any guidelines or applicable legislation that inhibit or support repatriation;
- Researching the institution's relationships with Native North American populations and their efforts to repatriate cultural property;
- Interviewing staff that have worked on repatriation efforts;
- Interviewing Native Americans / First Nations people who have worked with the museum on repatriation efforts.

My research methodologies and questions have been determined to be exempt from oversight by the Institutional Review Board. Narratives from the case studies can be found in the chapter entitled “Findings”.

Limitations of Methodology

First and foremost, the scope of my research is limited by the amount of time allotted to complete the project. The breadth of material and communities involved would have required a much more extensive period of primary and secondary research. Due to the wide geographical range of case study museums and Native American and First Nations communities, I was also limited in my ability to travel to each location and interview informants in person.

I also limited the types of repatriation objects that I would be considering. I opted to forgo research around human remains due to advancements that have been made in this arena, specifically with the passage of the Human Tissues Act 2004 in the United Kingdom. In addition, there seems to be less confusion and disagreement around the need to return these types of artifacts. Therefore, I chose to solely look at artifacts that fall within the categories of cultural property or cultural heritage.

Focusing solely upon the international repatriation efforts of Native North American cultural property, I have omitted the phenomenal and extensive work that has been done around the repatriation of artifacts from Aboriginal people of Australia and the Maori of New Zealand. Conversely, the work that has been done around indigenous artifacts from Central and South American and Africa has also been omitted.

By limiting my research geographically to include only efforts between North America and the United Kingdom, I was able to discuss more deeply the history of

colonization and to refine my case studies to include only museums from Scotland and England. I also realized that language may be a barrier to my research if I were to expand to countries that were not primarily English speaking. This approach eliminated discussions around repatriation between other European countries such as France and Spain.

This geographic limitation also disregarded the work that has been done between the United States and Central and South American. Specifically: the 1970 US-Mexico Treaty providing for the Recovery and Return of Stolen Archaeological Historical and Cultural Properties –“the first bilateral agreement entered into by the US which provided for the return of stolen artifacts” (Greenfield, 2014); The 1972 Pre-Columbian Monumental and Architectural Sculpture and Murals Statute which bars the import of applicable material without the proper export permits from the originating country (Messenger, 1999); and executive agreements with the Governments of Peru, Guatemala and Ecuador in the 1980s to help with the “recovery and return of stolen cultural property” (Messenger, 1999).

One of the biggest realizations through this research is that there are very few examples of successful repatriations of cultural property, specifically pertaining to artifacts from Native North America. International repatriation efforts in and of itself is not as widely documented as domestic efforts. I limited my discussion of domestic legislation pertaining to the Native American Graves Protection and Repatriation Act, and to Alberta's First Nations Sacred Ceremonial Objects Repatriation Act except where warranted as an example of potential approaches and solutions moving forward.

And finally, I did not include objects held in private collections due to the lack of

recourse that indigenous people face when trying to regain stolen property, the fact that many of these collections are not publicly documented, and the breadth and depth of research that would be required in addition to what has already been undertaken.

The following section covers the literature review, which provides a foundational understanding of the colonialism that exacerbated efforts to collect Native North American cultural property and heritage, the shift in tribal communities that has propelled efforts to repatriate, the varied opinions regarding repatriation, and an overview of the numerous international accords that pertain to repatriation.

Literature Review

International repatriation of Native North American cultural property is vastly complicated and entails a myriad of State laws, international agreements, diverse opinions and ultimately, creative negotiations and diplomacy. As cultural property was removed from communities, the people were “deprived of their spiritual points of reference – on which it projects its cultural and/or religious identity” (Francioni & Vrdoljak, 2013). This weakened the people’s ability to repel enemy attacks, making the eradication of traditional lifeways much easier (Francioni & Vrdoljak, 2013). Colonizers were fully aware of the bond between indigenous peoples and their culture, therefore, “the destruction of indigenous cultures was viewed as an acceptable means of securing and maintaining control over them” (Xanthaki, 2007).

The Literature Review is organized into five sections. To begin, the research looks at how Native North American cultural property ended up in international museum collections. This includes a general history of the colonization of North America and the dire repercussions this had on indigenous groups from the time of contact to the early twentieth century. Next, the chapter looks at the importance for indigenous groups to regain their items of cultural patrimony, whereas, the third section discusses the collective shift toward self-determination and repatriation. The fourth section looks at alternative arguments against repatriation, while the final section provides an overview of museum policies and procedures, as well as specific laws and agreements that are in place to support repatriation.

The Colonization of North America

“The Columbian Legacy, now 510 years and counting, is by many accounts genocidal. The atrocities committed by Columbus, those under his command, and those who followed him are legion. In the name of God or science, in the pursuit of gold or glory, and in the services of imperialism or manifest destiny, the bodies and beliefs of the Indian peoples of the Western Hemisphere, along with their possessions and their lands, were plundered and debased. And a substantial portion of the American Indian collections hoarded in museums is made up of that tainted bounty.”

-Craig Howe, “The Morality of Exhibiting Indians” (2005)

From the point of contact with the indigenous peoples of the Americas, soldiers, missionaries, settlers, traders, and collectors have acquired the treasures of the “New World” as evidence of their strength, superiority, and curiosity. More often than not, acquiring came at the expense of the indigenous people’s way of life and existence. As native populations dwindled, the rate of collecting sped up during the late nineteenth and early twentieth centuries and repositories throughout the Americas and Europe swelled with artifacts acquired through both legitimate and unscrupulous ways. The growth of museum collections coincided with the breakdown of native communities who, along with the loss of their cultural property, were profoundly affected by the loss of their languages and belief systems. It is noted by Bell and Paterson (2008) that “controlling, removing, and destroying cultural heritage is such an effective tool of domination.”

It is estimated that at the point of contact in 1492, the population of the indigenous people of North America numbered upwards of ten million, whereas by 1900, the numbers had been reduced to 250,000 (Echo-Hawk, 2013; Duran, 1995). This results in a seventy five percent reduction over 400 years, or the elimination of more than 25,000 people each year, irrespective of declining or increasing annual birth rates.

"Out of our regard to them we gave them two Blankets and a Handkerchief out of the Small Pox Hospital. I hope it will have the desired effect."

-William Trent at Fort Pitt (1763)

The Spoils of War. As victors write the history, conflicts between invading powers and indigenous peoples are seldom regarded as acts of war, but rather as acts of discovery, or Manifest Destiny, which makes attempts to regain cultural property problematic in the eyes of Western law traditions.

The Catholic colonizers were amongst the first to send indigenous treasures back to Europe, evidenced by the 10,000 objects from the Americans held by the Vatican Ethnological Museum in Rome (Greenfield, 2013). What wasn't collected as valuable treasure was destroyed as 'heathen idols' in the name of Christianity (Mihsuah, 2000). A hundred years later, the Pilgrims landed at Plymouth Rock and quickly began to raid Indian storage pits for food and rob their graves for treasures, documenting that "we brought sundry of the prettiest things away with us, and covered up the corpse again" (Trope & Echo-Hawk, 2000; Mihsuah, 2000).

During the eighteenth and nineteenth centuries, large groups of Native Americans and First Nations people were brutally attacked and entire families were slaughtered, women were raped, and villages burned (Brown & Peers, 2006; Duran, 1995). When these overt methods were no longer desirable in reducing the numbers of native people, more subtle measures were used through the provision of smallpox infested blankets and handkerchiefs given as gifts to the native people (Dixon, 2005; Fenn, 2000; Harpster, 1938). The decimation of such large numbers of people left a trail of artifacts in their wake, which turned collecting into “salvaging the remains of these dying cultures” (Erikson, 2002).

With the increasing encroachment of white settlers, the wholesale destruction of bison herds, and the decline of traditional game, the remaining tribal members were compelled to negotiate various treaties with both the British Crown and the United States Government to ensure their existence into the twentieth century (Brown & Peers, 2006).

In the Name of Science. Indigenous people became integral to scientific investigations during the nineteenth century, where ethnologists and anthropologists sought to discover the innate differences of the races by mapping the various “stocks of the American race” (Robbins, 2014; Erikson, 2002). Through their research, they were looking at ways to prove the prowess of the colonizing powers and justify the barbaric erasure of indigenous people from the continent (Riding In, 2000). There are documented instances where Native American people were jailed, forcibly sterilized, or had their children taken away “simply because they were not able to pass the white standards of a psychometric test” (Duran, 1995).

Spurred on by Samuel G. Morton's publication in 1839, entitled *Crania Americana*, polygenists looked to find indisputable evidence of the superiority of Euro-Americans over American Indians and other indigenous groups throughout the world (Bieder, 2000; Riding In, 2000). Morton was convinced that "through the measurement of the cranium he could assess intelligence" (Bieder, 2000). Due to their perception that a race's inferiority is internally etched within their bones, any attempt to civilize the inferior race of Indians was futile (Bieder, 2000).

The ensuing rise in the study of phrenology and craniology precipitated a mandate in 1867 from the Surgeon General of the United States, requesting that medical officers gather specimens from the field, particularly that of crania of native people and specific objects such as weapons and dress adornments that defined their "ethnic character" (Robbins, 2014; Erikson, 2002; Mihesuah, 2000; Trope & Echo-Hawk, 2000; Bieder, 2000; Riding In, 2000).

It was documented that after battles between tribes and the army, the fallen Indians would be decapitated and their heads submitted to the crania study (Mihesuah, 2000). Not solely relegated to the battle field, heads were also removed from those laid to rest on burial scaffolds as well as from those that died in hospitals from disease (Trope & Echo-Hawk, 2000). Native Americans were appalled by the desecration of their dead and unsuccessfully tried to prevent grave robbing from phrenologists, the military, and private citizens who were paid for their finds (Bieder, 2000; Riding In, 2000).

By 1900, more than forty five hundred skulls were transferred from the Army Medical Museum to the Smithsonian Institution (Trope & Echo-Hawk, 2000; Mihesuah, 2000). Ultimately, the study of cranium failed to prove the superiority of Euroamericans,

but it did spur the desire for collecting cultural artifacts by anthropologists who sought to preserve the culture of a vanishing race of people (Riding In, 2000).

During this era, many Americans considered indigenous people to be mere curiosities rather than human beings. Souvenirs made up of body parts were collected to commemorate violent events, not unlike the practice of “attending the lynchings, torture, and torchings of African Americans” (Fine-Dare, 2002). Enterprising businessmen organized living exhibitions of the “savage life” of a vanishing race along railroad stops and at World Fairs (Fine-Dare, 2002). By the twentieth century, most Americans considered Native Americans / First Nations people to be “dead, dying, or irrelevant to mainstream American life” (Fine-Dare, 2002).

The Museum Era. In 1870, Joseph Henry, the Smithsonian secretary, wrote to the Indian Commission that "the duty of this country is to collect and preserve all the relics possible of the races-of-men who have inhabited the American Continent.....The tribes are rapidly disappearing and their original modes of life are continually undergoing changes" (Erikson, 2002). This sense of urgency spread as ethnographic museums in both America and Europe worked to build up the breadth and depth of their collections (Tythacott & Arvanitis, 2014). These museums imposed western ideologies of “classification and interpretations onto objects from different people around the world” (Tythacott & Arvanitis, 2014). The World’s Columbian Exposition of 1893 also became a catalyst for more collecting as exhibits were created to show the evolution of humanity from savage to civilized (Bieder, 2000; Robbins, 2014).

Careful efforts of institutions to “organize, classify, and display the material culture of distant peoples” supported colonization efforts (Brown, 2012). In some ways,

the collected objects monumentalized Native American cultures and “created symbolic capital for the legitimation of a grounded national culture” (Erikson, 2002). In retrospect, we can see the important role that museums played in preserving cultural objects, yet, in their haste “to preserve what they perceived were the 'dying races' and their history” they actually worked to accelerate “the demise of these cultures through the removal of objects that were integral” to their cultural survival (Kuprecht, 2014). With the onset of the Great Depression, the fury to collect began to subside (Tweedie, 2002).

The Assimilation Era. After several centuries of war, interspersed with waves of epidemics, the native people that survived were now faced with governmental policies that attempted to fully assimilate them into mainstream American and Canadian society. These policies included the forced removal from their homelands, forcing the children to attend boarding schools, and the outlawing of traditional ceremonies and belief systems. The imposition of western ideals were highly paternalistic, “invasive, restrictive and unsympathetic” to the needs of native people, and “became even more so as time passed” and officials realized that native people would not conform as expected (Brown & Peers, 2006).

1830 Indian Removal Act. Under the presidency of Andrew Jackson, concerted efforts were enacted to remove Native Americans from their traditional homelands in the southeast of the United States to west of the Mississippi River. Primarily affecting the Chickasaw, Choctaw, Muscogee-Creek, Seminole and Cherokee, the lands that they were forced to relinquish were then opened up to white settlers. Come to be known as the “Trail of Tears,” tens of thousands of Native peoples were marched west, accompanied

by state and local militias (Ehle, 1997). Many suffered from exposure, disease and starvation along the way, with thousands succumbing to death in route (Ehle, 1997).

1887 Dawes Act. Also referred to as the Land in Severalty Act, or the Allotment Act, the goal of the Dawes Act was to eliminate the tradition of communal ownership of land by forcing the western ideal of private property ownership upon native groups (Fine-Dare, 2002). Each household was allotted a specific number of acres to farm and traditional longhouses or similar structures were torn down to make way for single family homes (Tweedie, 2002).

Boarding Schools. The most effective and devastating governmental policy enacted to assimilate native people was the forced removal of children from their communities to attend boarding schools, where they were to be educated in the Christian faith (Bell & Paterson, 2008; Duran, 1995; Onciul, 2014). Implemented during the mid-nineteenth century, over a century of separating the children from their families and prohibiting them from speaking their language or practicing their beliefs led not only to the elimination of cultural practices, but worked to undermine and virtually destroy the family unit (Brown & Peers, 2006; Duran, 1995; Onciul, 2014).

Richard Pratt, an army officer who founded the Carlisle Indian School in 1879, based his education program on his work in an Indian prison (National Public Radio, 2008). He famously coined the following saying in 1892:

A great general has said that the only good Indian is a dead one. In a sense, I agree with the sentiment, but only in this: that all the Indian there is in the race should be dead. Kill the Indian in him, and save the man.

(National Public Radio, 2008)

Children from tribes that were considered to be hostile to the government were targeted first, assuming that “it would be much easier to keep those communities pacified with their children held in a school somewhere far away” (National Public Radio, 2008). Parents would suffer harsh punishments and imprisonment if they did not comply and remand their children to residential schools (Onciul, 2014).

The students were forced to conform physically by exchanging their traditional dress for the standard colonial clothes of the day, while the boys were forced to cut their hair short (Duran, 1995). The education that the children received was minimal, with most children only grasping a rudimentary understanding of reading, writing and arithmetic (Brown & Peers, 2006). Schooling for girls focused more on baking and sewing, while boys learned a trade or tended to animals and crops (Brown & Peers, 2006; Duran, 1995). Teachers saw their role as civilizing Indian students rather than educating them, which meant that there was a “major emphasis on discipline and punishment” (National Public Radio, 2008).

Numerous reports have revealed the extreme abuse the children faced: they were beaten, starved, and made to do hard labor (National Public Radio, 2008; Onciul, 2014). It has been determined that Carlisle Indian School alone “had higher death rates in the census years than almost every state that had an Indian nation” (Ecoffey, 2013). It was more likely that a student at Carlisle would die than a soldier going off to war; with a mortality rate for students numbering close to five hundred (Ecoffey, 2013). In studies done between 1909 and 1922 of the Old Sun and Peigan residential schools in Canada, death rates were as high as 47% of the Blackfoot children that attended (Onciul, 2014).

Those that were appalled enough to report abuses, were usually met with apathy and inaction while the victims were labeled troublemakers and liars (Onciul, 2014).

It is estimated that the total number of children that died in residential schools number in the thousands, and in many instances, the parents were never informed of the fate of their children (Onciul, 2014). For those that survived, they left ashamed of whom they were and many continued to reject “everything about their heritage, including their ancestors, their families and, especially, their spiritual traditions” (Onciul, 2014).

Religious Suppression. Attempts to convert the indigenous people of America began at the point of contact. While the children were mandated to boarding schools to receive a Christian education, more legislation was passed to further prohibit the practice of traditional beliefs.

The 1884 Federal Indian Act of Canada was effective in not only mandating a Christian and English-only education for native children, but banned the “activities of medicine men who disrupt civilizing practices and any ceremonies involving any exchange or elimination of property” (Fine-Dare, 2002). The Act outlawed important aspects of ceremonies, such as giveaways during potlatches and piercing during the Sundance, and those found guilty of participating could face imprisonment (Kuprecht, 2014; Fine-Dare, 2002; Bell & Paterson, 2008; Jacknis, 2000; Brown & Peers, 2006). Many more were massacred for practicing their ceremonies, such as those at Wounded Knee and Sand Creek (Fine-Dare, 2002). The result was that sacred objects and cultural property were confiscated by agents and soldiers and then sold to collectors or donated to museums (Fine-Dare, 2002).

Those that converted to Christianity often sold sacred objects that were now considered to be sacrilegious; some sold objects in order to evade starvation (Bell & Paterson, 2008; Fine-Dare, 2002). Those concerned about having their objects stolen or confiscated, gave them to museums in the hopes that they would be safe and could be retrieved at a later date (Bell & Paterson, 2008). The separation from their sacred objects worked to further weaken the community and spiritual leaders became either uninterested or unable to go on performing their ceremonial obligations (Kuprecht, 2014).

Relocation and Termination. The final attempt by the government to assimilate native people was during the 1950s as large groups of Native Americans were forced to relocate from reservations to large urban areas such as San Francisco and Los Angeles (Duran, 1995). With a promise of housing, training and jobs, families were actually dumped into blighted metropolitan neighborhoods and forced to survive on their own (Duran, 1995). In some cities, such as the San Francisco Bay Area, relocated individuals banded together and formed new communities which ushered in a new era of self-determination.

The Return of the Sacred

For indigenous people and their allies, nothing sounds “more reasonable than a desire to ensure that you are the custodian of your cultural heritage” (Bell & Paterson, 2008). Bell and Paterson (2008) explain “that increased protection and control of material and intangible cultural heritage of special significance... is fundamental to the continuity, revival, and survival of their cultural identity in the face of past and ongoing forces of colonization.” It is evident that indigenous people view their world and sacred objects

differently than western society, and the absence of these sacred objects has a profound effect on the indigenous individuals and communities.

Indigenous Worldview. To many, the objects on display in museums are just that, objects. They are static substances formed into shapes attached to labels that provide meaning and context to their purpose and importance to the museum collection. For Native American and First Nation's people, these objects embody much more. In many instances, they are living entities that are being starved and neglected by their disuse: smothered by the glass that envelops them. What may seem like a simple utilitarian object to a non-native actually holds deep meanings and connections "to the past, present, and future of Indigenous communities" (Lonetree, 2012).

The fundamental differences between indigenous and western societies worldviews is the underlying challenge for reconciling cultural property repatriation claims (Kuprecht, 2014). Whereas western society claims ownership over an item, indigenous peoples view cultural objects as constituting "essential elements of their collective identity" (Chechi, 2014). Objects considered sacred may be viewed as the vital link between "their land, ancestors, and customs" and strengthened through ceremony (Kuprecht, 2014). Without this link, the community as a whole flounders and weakens.

Other objects embody spirits and are considered to be living beings that need to be nurtured and fed (Kuprecht, 2014). For example, the Yup'ik and many other indigenous groups do not see objects "as material remnants of ancestral lives, but as persons themselves, possessing awareness and capable of responding to human action" (Van Broekhoven, Buijs, & Hovens, 2010). To allow these objects to languish in

museums is to disregard responsibility to the ancestor that resides within the object as well as to the community as a whole.

These ideals become especially challenging to explain to institutions that often have had little to no connection with the community of origin and are challenged to understand indigenous viewpoints across large cultural divides (Keeler, 2012). The museum's mission to preserve objects for as long as possible for the benefit of all of mankind also conflicts with indigenous viewpoints. From the perspective of indigenous people, these objects need to be used, to be passed on to future generations, or to be allowed to disintegrate into the land (Kuprecht, 2012; Bell & Peterson, 2008). Ultimately, indigenous communities are working to assert their right to determine "the fate of these cultural objects, particularly when they have been stolen from the community or exhumed from gravesites" (Keeler, 2012).

The value of an object transcends monetary worth for indigenous peoples: market value is replaced by "the connectivity of an object to the land, culture, and community or origin" (Kuprecht, 2014). Individual property rights are a western construct, foreign to cultures that place more importance on local customs and collective benefits for the community (Kuprecht, 2014). This is challenged further by the fact that indigenous cultures are based within oral traditions, where law is intertwined with customs and religious ceremonies and transmitted through stories and songs (Brown & Peers, 2006). To successfully regain sacred objects, indigenous communities are retrieving their history and regaining their collective power so that they are better able to combat the various afflictions plaguing their communities as a result of colonialism (Kuprecht, 2014).

Healing Historical Trauma. The collective emotional and physical pain and abuse that encompasses an individual's life and is then spread across succeeding generations is referred to as historical trauma. Indigenous people have experienced over five centuries of genocidal tactics to subjugate, annihilate, or assimilate them into mainstream society, resulting in a historical trauma response that triggers much of the social problems that affect native communities today (Lonetree, 2012; Echo-Hawk, 2013).

Duran (1995) also refers to this as a "refugee syndrome" as a result of Native American people being removed from their families and from the homelands. Those that have suffered through trauma tend to internalize the abuse they have experience and then become like the abuser themselves (Duran, 1995). As Duran (1995) further explains:

The decades of abuse of Native Americans in turn formulated what can best be described as hybrid family systems in which the traditional family system no longer existed. This trauma broke the systems apart, and a new negative and dysfunctional ideology was incorporated into the Native American family system. The dysfunction and oppression have been internalized to such a degree that the oppressed members of the family seemingly want to continue to be oppressed or abused, the oppressed all too often desire their oppression, either because they code their desire within machines of domination, or because the machines of domination produce their desire. (Duran, 1995)

Much of the research that has been done pertaining to historical trauma has been based upon the effects that the Holocaust had on Jews, which include the underlying forces of shared anguish (Fforde, Hubert, & Turnbull, 2002; Echo-Hawk, 2013). There are distinct parallels that can be made between the experiences of Jews and Native Americans as well as “similar patterns of grief” (Fforde, Hubert, & Turnbull, 2002).

To become psychologically healthy, trauma must be resolved; without resolution “the effects of historical trauma will continue to cumulate” (Fforde, Hubert, & Turnbull, 2002). Research shows that regaining and maintaining cultural practices helps to heal the mental and physical conditions associated with historical trauma. In research conducted on Australian Aborigines, it has been determined that there is a deep connection between “culture and well-being” and that strong attachments “to traditional culture is associated with better health and a lower likelihood of engaging in risky” behaviors (Kuprecht, 2014).

To address repatriation through the lens of healing, it is necessary to speak “the hard truths of colonialism” and understand that the ability to heal relies upon reconciling the past, present and future for all parties concerned (Lonetree, 2012). To retrieve sacred ceremonial artifacts becomes even more important knowing that these items, by revitalizing spiritual practices, can also provide a sense of closure to related traumatic events. Indigenous people are thereby reclaiming their identity, which can be painful, yet necessary to heal (Fforde, Hubert, & Turnbull, 2002).

Repatriation provides an opportunity to mourn as ancestors and funerary objects are reinterred; restoring balance and harmony as restless spirits are laid to rest (Riding-In, 2000). For many, unless these sacred objects are returned, “the world cannot be healthy,

sane, beautiful, nurturing or right for any of us” (Fine-Dare, 2002). The act of reclaiming their ancestors and cultural objects asserts indigenous people’s inherent right to decide and control what happens to their ancestors’ remains and to “determine what should or should not be part of their cultural heritage” (Fforde, Hubert, & Turnbull, 2002).

A Collective Shift

The mid-twentieth century saw a resurrection of marginalized communities as the civil rights movement grew, and indigenous peoples began to regain their voices and embrace their desire for self-determination. Activist movements were born, and programs for language revitalization developed as traditional spiritual practices came out of hiding. It was evident that sacred objects and objects of cultural patrimony that were now residing in museums were vital to heal the communities that had been deeply scarred by the effects of colonialization. Through this need, the repatriation movement was born.

1924 Citizenship Act. It took more than fifty years after the abolishment of slavery for American citizenship to be granted to Native Americans in the United States (Trope & Echo-Hawk, 2000). After more than ten thousand Indian men served in World War I, Congress rewarded their patriotic service by conferring the right for Indian men to vote in state and national elections (Tweedie, 2002). World War I was transformative in itself upon Native people as veterans returned home with more knowledge about the world at large and “an enhanced sense of personal and political efficacy” (Fine-Dare, 2002). These military men went on to play pivotal roles in organizations, such as the National Congress of American Indians and to champion equity for Native communities (Fine-Dare, 2002).

After the passage of the Act, the government sponsored research that resulted in the Meriam Report, which revealed that the government was not meeting the needs of Native Americans, especially in regards to health and education and they were being excluded from decision making pertaining to their own affairs (O'Brien, 1989). The Meriam Report was the catalyst for change in the way that the government worked with Native peoples: rather than trying to destroy the Native way of life, the approach became one of recognizing and building on the values of Native peoples (O'Brien, 1989).

1934 Indian Reorganization Act. Commissioner of Indian Affairs, John Collier, deeply influenced by the Meriam Report, was adamantly opposed to the Dawes Act and looked to the implementation of the Indian Reorganization Act as a way to end the allotment program, to support tribes in developing their own governments and constitutions, and to end prohibitions against the exercise of Native languages and customs (O'Brien, 1989). At the same time, the federal government provided assistance grants to Native Americans to support schools, hospitals and social welfare issues (O'Brien, 1989).

1951 Amended Indian Act. After the end of the Second World War, human rights took the forefront, and Canadians became more aware and concerned about the treatment of First Nations people, especially in light of aboriginal men's service during the war. With Canada's endorsement of the United Nations' Universal Declaration of Human Rights, it seemed necessary to amend some of the more oppressive components of the original, 1884 Federal Indian Act (Tobias, 1976). In 1951, Canada repealed the ban on religious ceremonies and provided women the ability to vote in band elections (Brown & Peers, 2006). First Nations people could now wear their ceremonial dress off-

reserve without having to obtain permission first, and they could now hire legal counsel to represent them in legal disputes (Tobias, 1976).

Red Power Movement. The civil rights movement profoundly affected Native American and First Nation communities; indigenous people began to collectively assert their right to self-determination and demand that the obligations afforded them through nation-to-nation treaties were met. Native American and First Nations men had continued to serve their countries, only to return home to the same maltreatment that they had endured before they left for war. By the close of the 1960s, “political activism at the national level had been revitalized,” propelled by a spike in “Native American demographic growth and cultural revival” throughout the continent (Fine-Dare, 2002).

In 1968, a group of urban natives founded the American Indian Movement (AIM) in Minneapolis to address issues ranging from sovereignty and treaty rights, and quickly expanded to chapters in numerous other major cities. The International Indian Treaty Council (IITC) was formed in 1974 to address human rights and environmental justice issues and is the first indigenous group to be recognized by the United Nations as a category II Non-governmental Organization with consultative status (International Indian Treaty Council, n.d.). In 1980, The American Indians against Desecration (AIAD) was formed to specifically address the treatment of Native remains and desecrations of sacred burial sites (Fine-Dare, 2002).

Expertly utilizing the media to publicize Native issues and educate the public on the conditions that indigenous people face both domestically and internationally, these organizations took an active role in the earliest stages of the repatriation movement (Fine-Dare, 2002). Not afraid of confrontation, archaeological digs were disrupted, field notes

were burned, photographic film exposed and unearthened artifacts were confiscated in order to make their demand for the reburial of all disinterred Indian remains known (Riding In, 2000). Tensions mounted as museum collections and curatorial policies were challenged, while the demand for repatriation peaked the interests of politicians, newspapers and the public (Riding In, 2000).

College students also made headlines for more subtle approaches, such as the grant proposal submitted by the American Indian Student Association at the University of Minnesota in 1970 “to excavate a pioneer cemetery in order to draw attention to the double standard regarding scientific justification for grave digging” (Fine-Dare, 2002). Protests calling for the removal of Indian remains from museum exhibits and a “citizen’s arrest of an archaeologist for failing to comply with the Canadian Cemeteries Act of 1976” are other examples of demonstrations that took place during the pre-NAGPRA era (Fine-Dare, 2002).

Some communities began to establish their own tribal museums during the 1970s as a way to educate future generations and to protect their cultural heritage while dispelling common and inaccurate stereotypes (Hovens, 2010). Within a decade, there were more than 100 tribally operated museums in North America, and a widespread desire to be integral participants in developing their communities while enabling and fostering cross-cultural dialogue (Erikson, 2002; Hovens, 2010).

Tangible results for all of the hard work began to appear in the 1990s, first with the issuance of the Vermillion Accord on Human Remains by the World Archaeological Congress which upheld the rights of Native people to their ancestral remains (Greenfield, 2013). Shortly thereafter, the Native American Graves Protection and Repatriation Act

passed which began a slow, yet steady, stream of repatriated human remains and funerary objects.

Divergent Opinions

The very concept of repatriation, of returning something to its place of origin, has long been in conflict with the mission of most Museums to acquire and contradicts western values of ownership and property. Much has been written about the issue of ownership of the material cultural of Native peoples housed in museums. Some argue that objects are more valuable if they are viewed within their original habitat and context, while others argue that objects of great value belong to all of mankind and should reside in a place that promotes scholarship. The loudest voices of dissidence are those that fear repatriation will open a floodgate, resulting in the ultimate demise of the museum.

The Rescue Argument. Some maintain that the intervention of foreign entities or private collectors have actually saved artifacts from their inevitable demise through destructive forces such as warfare, disintegration through time, and even by their use (Messenger, 1999). Private art collectors also feel as though they are saviors when purchasing items at auction, as Monroe Warshaw declared in April of 2013 when purchasing two sacred Hopi masks from a Paris auctioneer: “he will ‘probably not’ ever give them back to the Hopis as ‘they didn’t care for them in the first place – now they want them because they have a value” (Adamson, 2013). Warshaw articulates a fervent belief that the losses of artifacts were the result of negligence by indigenous groups rather than by theft (Adamson, 2013).

The Past Belongs to All of Humanity. The most fervent argument against repatriation is the belief that artifacts belong to the entire world and are a part of the

common heritage of mankind. The most vocal of this sentiment is James Cuno, the President and CEO of the J. Paul Getty Trust and former Director of the Harvard Art Museums and the Art Institute of Chicago. The basis of his argument is that “We will learn less about the past - our common ancient history as human beings- and we will be deprived of important opportunities to better understand the interrelatedness of cultures and peoples” (Cuno, 2012). He further elaborates to say that since cultures are inherently fluid and always evolving, in and of themselves they are a “hybrid or mongrel form of human expression, and that more is to be gained from seeing representative examples of diverse cultures together 'under one roof' than to segregate them within modern national borders” (Cuno, 2012). This concept is further expanded to include that the educational value of a particular culture’s material heritage is better served by all of society, rather than the country, or even community, it originates from, and as such, no one can claim, or is entitled to ownership (Messenger, 1999; Fforde, Hubert & Turnbull, 2002; Appiah, 2012; Greenfield, 2013; Keeler, 2012). Cuno’s sentiment is further echoed by Appiah (2012) who states, “We will do well to recognize that iconoclasm is as much an expression of nationalism as idolatry: the human community needs to find ways to protect our common heritage from the iconoclasts, even when they are the masters of nations.”

In defense of collecting practices resulting from colonization, the argument works to justify that these artifacts are not only a part of the history of those colonized, but also belongs to the heritage of the countries that have perpetuated the colonizing (Fforde, Hubert & Turnbull, 2012). For countries that have a long history of colonizing indigenous populations, the artifacts represent awards of conquest, rather than stolen

goods acquired through military domination, exploitation, and intolerance (Fforde, Hubert & Turnbull, 2012). Many international museum laws also support this opinion (Keeler, 2012). What this argument doesn't consider is that many items of material cultural heritage are an integral part of a living cultural and to retain them in museums deprive the original owners their ability to continue their cultural practices (Messenger, 1999; Bell & Paterson, 2008).

Museums as Anointed Keepers. Policies of many international museums prohibit the removal and return of their collections and the concept of repatriation is the antithesis to their purpose. The hesitation to consider repatriation is supported by legislation and fueled by the fear that returning cultural property will, in essence, deplete entire collections (Greenfield, 2013; Keeler, 2012; Chechi, 2014; Bell & Paterson, 2008). This fear was also exhibited by museum professionals in the United States prior to the implementation of the Native American Graves Protection and Repatriation Act of 1990. Over two decades of implementation has shown that these fears remain unfounded by the fact that “less than 1% of any collection” has been repatriated due to several reasons, including the fact that: many items have been collected legitimately; not all communities have wanted to repatriate; many remains and objects remain unaffiliated and cannot be attributed to a specific community, and; many Native American communities lack the resources to repatriate (Keeler, 2012; Erikson, 2002).

Encyclopedic museums were founded on the desire to study, conserve and present the world's greatest treasures of art and artifacts under a single roof. It is their aspiration to nurture an understanding and respect for various cultures by the mere act of displaying artifacts “next to others without prejudice” (Cuno, 2012). Some representatives of these

institutions go so far as to say that “museums should acquire antiquities, provenanced and unprovenanced for the contributions such acquisitions make to” all of mankind (Cuno, 2012).

Cechi (2014) refutes this argument to say that the desire to maintain collections in encyclopedic institutions so that they can be accessed by larger numbers of people rather than preserve them where they originate from is “tantamount to saying that cultural objects can be properly conserved only where wealth is.” The benefits of museums are not refuted by Cechi (2014), but he does question the merits of this argument by highlighting the fact that the majority of any one museum’s collection is not exhibited and remains, sometimes forgotten, in museum storage. Peers (2010) goes further to say that “sometimes it seems that ethnographic collections are more important in museums as a display of the collecting culture’s power to acquire and keep them than as objects of knowledge.”

As marginalized communities across the globe become empowered, they have asserted themselves by questioning the appropriateness of encyclopedic museums as the holder of all knowledge and the legitimacy of their mission to serve the public (Brown, 2012).

Scholarly Access. For some, the need to return artifacts creates an unnecessary obstacle to knowledge and impedes the access of academics to vital objects of study (Oosten, 2010; Messenger, 1999). Academics and scientists feel strongly that their need to study human remains and cultural objects overshadow any claims that Native Americans may have on them (Fforde, Hubert & Turnbull, 2012). They also express their belief that indigenous people are incapable of valid scholarship and it is up to scientists

and academics to preserve indigenous cultural heritage for when they are ready and prepared for this knowledge (Fforde, Hubert & Turnbull, 2002; Brown, 2012). In addition, they feel that repatriation “is wasteful, sentimental and superstitious” and that the pursuit of knowledge justifies the retention of remains and objects (Greenfield, 2013). Cuno (2012) goes so far to say that these objects need to be accessible not only for scholarly study, but for the enjoyment of the public at large.

Again, these arguments disregard the fact that many of these items are part of a continuing religious or cultural practice, vital to a living culture and were acquired through immoral ways (Bell & Paterson, 2008). To hold collections for research and enjoyment “robs indigenous communities of their self-determinative rights and is a reflection of paternalism and colonialism still present in Western society” and does not take into account that in many instances, indigenous communities did not give their ‘free, prior, and informed consent’ for their property to be studied or displayed (Keeler, 2012).

Indigenous Refusals. For indigenous people, it may be an equally challenging decision to accept repatriated artifacts as it is for the museum community to deaccession them. Particularly in the case of human remains: the Zuni have refused to receive repatriated human remains out of concern that this would be a step backwards in the progress they have already made to heal the sadness and heartache their community has faced through colonialization (Kupretch, 2014). They opted to leave their ancestors in the care of the museum who were better equipped to care for and curate them (Ferguson, Anyon & Ladd, 2000).

With the loss of elders and knowledge about certain objects, some tribes feel that some of the objects held by museums are too dangerous to bring home without an

appropriate person to care for them (Tweedie, 2002). Also of concern is the fact that many artifacts housed in museum collections have been treated with poisonous chemicals, such as mercury, arsenic or lead for their preservation. Handling these items can be dangerous, and to clean and remove the chemicals are costly. Some tribes, such as the Hopi of Northern Arizona have been forced to halt repatriation efforts due to the likely contamination of artifacts and their inability to fully utilize them upon their return (Palomino, 2014).

And lastly, as a result of the Christianization of vast numbers of indigenous people, it is likely that some groups may reject the return of sacred objects, seeing them as outdated “pagan relics and the tools of devil worship” (Kupretch, 2014).

Foundational Issues

To understand the various laws and agreements pertaining to International Repatriation, it is important to have a common understanding of the terminology used. This becomes of particular importance in light of the fact that philosophical views of indigenous people and those that are the basis of Western law tend to be divergent from one another. The term “ownership” is but one example, where indigenous communities approach this term as defining a relationship with an object rather than having possession or rights over the object (Bell & Paterson, 2008). This section will cover how the international courts define “Indigenous People,” “Cultural Affiliation,” “Cultural Patrimony,” and “Cultural Property” and potential conflicts these definitions cause.

Who are Indigenous People? It is estimated that there are 370 million people in 70 countries worldwide that can be classified as indigenous peoples (Keeler, 2012). Much thought and deliberation went into an encompassing definition by the United Nations that

would prevent a new debate each time a case came under review. In essence, an Indigenous person is someone who: a) identifies themselves as an Indigenous person; b) has a history and connection that pre-dates the colonization or invasion of their homeland; c) have maintained a deep connection to their ancestral homelands; d) is different from mainstream society in that they have their own worldview, language and belief system; e) is considered to be from a marginalized community; and f) has diligently worked to preserve and replicate their social and cultural construct (Keeler, 2012; Kuprecht, 2014).

The terms “Indigenous,” “Native American” and “First Nations” are used extensively throughout this research. Native Americans refer to the indigenous people of the United States, including Hawaii, whereas, First Nations are in reference to the indigenous people of Canada. Indigenous is used as an all-encompassing term to refer to collective groups of tribal communities.

Some argue that a strict definition prevents Indigenous people the ability to define themselves and may be too narrow to fully capture their essence. Or, varying definitions within State governments may undermine the rulings of International courts (Kuprecht, 2014). Professor, Dr. Erica-Irene Daes, founding Chairperson & Special Rapporteur, United Nations Working Group on Indigenous Populations, suggested that additional criteria are included to further define Indigenous people. This includes the individuals “voluntary perpetuation of cultural distinctiveness,” and their recognition as an Indigenous person “by other groups or by state authorities,” and that the person has experienced “subjugation, marginalization, dispossession, exclusion, or discrimination” (Kuprecht, 2014).

Jose Martinez Cobo, the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, in his “Study on the Problem of Discrimination against Indigenous Populations,” uses the following to define Indigenous people:

Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing in those territories, or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal systems. (Anaya, 2009)

Individuals that identify as indigenous do so through “shared experiences, common aspirations and an identified scope of programmatic action, notwithstanding the repeatedly claimed right of self-identification” (Anaya, 2009).

What is Cultural Affiliation? A crucial component in any repatriation request is determining the cultural affiliation of the object to the group requesting return. It must be determined that the requesting group has a connection to the object through a “shared group identity which can be reasonably traced historically or prehistorically” to “an identifiable earlier group” (Fforde, Hubert, & Turnbull, 2002). As has been shown in efforts to repatriate within the United States, to determine cultural affiliation can be challenging in that sacred items could have connections to multiple and varied

communities. Or, some groups, such as the Hopi, may believe that “they are culturally affiliated with all the prehistoric archaeological remains in the American southwest” (Fforde, Hubert, & Turnbull, 2002).

What is Cultural Property? To clearly define cultural property can be problematic as there are numerous definitions, some broader than others. A broad version includes all moveable cultural heritage of a particular group, nation, or the world (Greenfield, 2013). This can be further complicated by the use of the word “property” which implies ownership in a legal sense and can be difficult to translate to indigenous worldviews (Chechi, 2014). Cultural property was first defined by the 1954 Hague Convention to include all “the cultural heritage of all mankind” and then was narrowed to include all “the cultural heritage of each country” by the 1970 United Nations Educational Scientific Cultural Organization (UNESCO) Convention (Greenfield, 2013; Chechi, 2014). In either instance, by making cultural property either belonging to no one, or belonging to the entire world “contradicts the notion of ‘return’” (Greenfield, 2013; Chechi, 2014).

A simplified and more appropriate definition of cultural property includes tangible and “moveable objects with cultural implications” (Kuprecht, 2014). This would exclude objects that have naturally occurred “as opposed to humanly wrought objects” (Greenfield, 2013). It becomes obvious the challenges associated with defining what is and isn’t cultural property when left to ambiguous and subjective opinions. As Greenfield (2013) explains, that in a national context, “it may be satisfactory to define cultural property in this way,” but standard and impartial “criterion is necessary if the matter of cultural return is to be dealt with on an international footing, such as between states.”

It is suggested that for the purposes of repatriation, a narrow definition should be instituted that first considers how the object was obtained, particularly considering if it was through force, theft, or deceit. Second, the cultural significance of the object in “that the removal of this object from its original cultural context irrevocably divests the culture of one of its dimensions” needs to be determined (Greenfield, 2013).

What is Cultural Patrimony? Cultural Patrimony refers to those cultural objects that have ongoing “historical, traditional, or cultural importance to the Native group” and belong to “the entire tribe rather than a single individual” (Fforde, Hubert & Turnbull, 2014). Since ownership is collective, it is understood that the object could not have been legitimately acquired if the Indigenous group is requesting repatriation, which would include human remains, objects, and funerary objects (Fforde, Hubert & Turnbull, 2014).

What is Cultural Heritage? Taking Cultural Patrimony a step further, Cultural Heritage is comprised of all objects, both tangible and intangible, that contribute to the identity of a cultural group and is handed down from one generation to the next (Messenger, 1999; Chechi, 2014; Van Broekhoven, Buijs & Hovens, 2010). In addition to objects, this includes songs, stories, and even memories; the material and immaterial aspects of a culture that may or may not be tangibly accessible or perceptible (Van Broekhoven, Buijs & Hovens, 2010).

Legal Framework

As more and more indigenous groups assert their rights to self-determination, the intersection between museums and tribal groups will continue to grow. Honor Keeler (2013) describes international repatriation as three-fold: 1) as an international human

rights issue; 2) as a way to open dialogue between institutions and indigenous communities and restore the voices that were silenced through colonization; and 3) must include “the repatriation of funerary objects, sacred objects, and objects of cultural patrimony.”

In order to understand the challenges that museums face in repatriating artifacts we must consider the policies and procedures that affect the management and oversight of a museum’s collection in addition to the various domestic and international laws, treaties, and declarations that bind these institutions to either protect the cultural heritage of the world or to support the human rights of marginalized communities.

What severely hampers all international repatriation efforts is the lack of “hard” laws that support this process. After World War II, various conventions were held to pass international agreements with the aim to protect cultural heritage worldwide. Yet, these agreements rarely took into consideration the unique needs of the indigenous people that were victims of colonization and Manifest Destiny. With the passage of the United Nations Declaration on the Rights of Indigenous People in 2007, it would seem that there is more ground for indigenous people to stand upon in order to make their case for repatriation.

Museum Policies and Procedures

An institution’s policies and procedures provide a framework for all interactions that take place internally and externally. A museum’s collection is generally what defines the purpose of the museum, therefore, Collections Management Policies are of utmost importance and includes everything that is needed to care for, document, develop and provide access to the collections (Buck & Gilmore, 2010; Lord & Lord, 1997). The

collection policy generally includes: 1) a statement of commitment to maintaining the collection in public trust indefinitely; 2) the range and limits of the collection; 3) the objective of the collection; 4) criteria for choosing acquisitions; 5) ethical commitments to the collection; 6) the purposes for which objects can be collected; 7) a policy on how to deaccession objects; 8) policies on loans; and 9) policies on appraisals (Lord & Lord, 1997). Specifically for issues related to repatriation, policies regarding deaccessioning, and loans are the most pertinent.

Deaccession. The process for legally and permanently removing objects from the museum's collection is outlined within a museum's Deaccession Policy. Although the Deaccession Policy outlines what needs to be in place to remove objects, generally it will include a statement that removing objects is not commonplace (Lord & Lord, 2010).

The Deaccession Policy generally pertains to unneeded or duplicate objects, by which their removal improves the overall integrity of the collection while making space for more suitable objects (Ireland, 2003; Buck & Gilmore, 2010). This policy should fully outline the process, who the decision makers are, what needs to be recorded, any additional precautions that need to be taken and whether or not it will be necessary to have outside appraisals of the objects (Malaro & DeAngelis, 2012; Lord & Lord, 2010). Typically, the curator or person in charge of the collection can make recommendations to the director of the museum, who then presents the case to the governing board for a final decision (Ireland, 2003; Buck & Gilmore, 2010; Lord & Lord, 2010).

The decision to voluntarily remove an object should be made very thoughtfully so as not to jeopardize the trust of the public and the museum's reputation (Ireland, 2003). It is important to first consider any restrictions that have been placed upon the object that

may forbid removal and ensure that the museum has clear title to the object (Ireland, 2003; Lord & Lord, 2010). If there are restrictions that prohibit deaccessioning than “it may be necessary to go to court and show that the donor’s wishes are impossible to fulfill” (Ireland, 2003).

Criteria should be developed to guide decisions to deaccession objects to ensure a fair and transparent process (Ireland, 2003). Criteria may include: objects that don’t support the museum’s mission; objects that are required to be repatriated by preceding legislation, such as NAGPRA; duplicate objects or objects that are too costly to restore, and; counterfeit objects or objects that have been attained illegally or unethically (Lord & Lord, 2010; Buck & Gilmore, 2010). In instances where deaccessioning is not voluntarily, such as the determination that the museum does not hold clear title to the object, the museum should fully document the reasons why the decision to deaccession was made (Malaro & DeAngelis, 2012; Lord & Lord, 2010).

Any financial gain from deaccessioned objects are required to be used for the care of the remaining collection or the acquisition of new objects for the collection. The American Alliance of Museum’s Code of Ethics prohibits the use of these funds for general operating support (American Alliance of Museums, 2000). The deaccession policy should clearly detail how the earnings from sales are to be used and should state that the objects cannot be given or sold to staff, volunteers, or board members (Ireland, 2003; Buck & Gilmore, 2010).

The deaccession policy should also include guidance on how to notify the public once decision are made to deaccession an object. In addition, the policy should outline

whether or not the donor is required to be notified of the deaccession (Ireland, 2003; Buck & Gilmore, 2010).

Loans. Loans are generally requested when an object is needed from one institution to complete a temporary exhibition at another institution, or for research and educational purposes. Museums generally only lend objects to similar institutions to ensure that the object will be provided with adequate environmental and safety protection (Malaro & DeAngelis, 2012; Buck & Gilmore, 2010; Ireland, 2003). Due to the responsibilities that come along with loan agreements, only specific people can request loans. Final decisions to approve or decline loan requests fall with the director and board of trustees (Ireland, 2003; Lord & Lord, 2010).

To uphold the trust responsibilities of museums, it is crucial that loan policies and contracts clearly state the rules, procedures and responsibilities of both the lender and the recipient of the objects (Ireland, 2003; Buck & Gilmore, 2010). These documents should outline “specific issues such as insurance, loan conditions, care and use of objects, duration of the loan, the dates and method for returning the loan, and proper packing methods” (Ireland, 2003). The length of the loan should be clearly stated as well as a provision for ending or recalling loans (Ireland, 2003; Buck & Gilmore, 2010). It is also important that the institutions comply with all local, state, federal, and international regulations (Ireland, 2003).

Long-term loans generally cover a period of three to ten years whereas permanent loans can be for as long as the holding museum wishes (Ireland, 2003). Some museums will only approve long-term or permanent loans under very specific circumstances (Ireland, 2003; Buck & Gilmore, 2010).

Domestic Legislation

Although the focus of this research is on international laws and agreements that support repatriation, it is necessary to highlight several landmark domestic legislation agreements that have informed and shaped efforts to repatriate internationally. As Francioni and Vrdoljak (2013) state, “the most effective method of enforcing international law - including international cultural heritage law - is at the domestic level.” From the United States, the passage of the National Museum of the American Indian Act (NMAI) of 1989 and, in the following year, the Native American Graves Protection and Repatriation Act (NAGPRA) set the wheels in motion for large scale, government supported repatriation efforts on the domestic front. Whereas, the First Nations Sacred Ceremonial Objects Repatriation Act in Canada provides a more limited approach to repatriation (Keeler, 2012).

National Museum of the American Indian Act (NMAIA) of 1989 mandated a museum dedicated to American Indians be created within the Smithsonian Institution as well as proposed a series of regulations to provide a framework for repatriation (Fine-Dare, 2002). Opening first in 1994 in Manhattan, it took an additional five years to break ground on the National Mall in Washington D.C. At a cost of \$219 million, the final museum of the Smithsonian Institution opened in September 2004 and can attribute “the largest single donation in the 148 year history of the Smithsonian” to the successful gaming tribe, the Mashantucket Pequot nation from Connecticut who contributed \$10 million to the completion of the building (Greenfield, 2013).

The extensive collection of the National Museum of the American Indian was founded on remains and artifacts acquired by George Gustav Heye at the end of the

nineteenth century. Over a period of approximately fifty years, Heye worked to retrieve Native American artifacts collected by Europeans as well as acquiring new items by hiring “archaeologists and ethnographic specialists across North, South and Central American” to add to his bounty (Greenfield, 2013; Fine-Dare, 2002).

Not only was the NMAIA an opportunity to build a museum to honor the first peoples of the continent, it was also an opportunity to right some of the wrongs that were committed in acquiring the collection. The NMAIA was the first significant legislation that called for the return of human remains, funerary objects and indispensable sacred objects needed for ceremonial purposes (Greenfield, 2013; Bell & Paterson, 2008; Keeler, 2012; Fine-Dare, 2002).

A special committee was created to oversee and review the inventory and the affiliation of human remains and associated funerary objects as well as resolve any disputes that may arise over repatriation (Trope & Echo-Hawk, 2000). If it was determined that there was unquestionable evidence determining the affiliation of sets of remains and funerary objects, the museum quickly notified the tribe and worked in partnership to swiftly return the artifacts (Trope & Echo-Hawk, 2000). NMAI’s Founding Director, Richard W. West Jr. played an integral role during his tenure to initiate the repatriation of indigenous human remains and cultural objects internationally, to communities in Canada, South American and Cuba (Keeler, 2012).

Native American Graves Protection and Repatriation Act (NAGPRA) is a United States Federal law that provides a framework and process for federally funded institutions to return specific cultural items and human remains to federally recognized Indian tribes. Enacted in 1990, a year after the NMAIA, it is a landmark piece of

domestic legislation that has deeply influenced repatriation efforts on an international level (Keeler, 2012). Bell & Paterson (2008) describes NAGPRA as “an instrument of decolonization, self-determination, and repatriation” that asserts the religious and cultural rights of Native Americans while supporting “cultural revival and transmission of cultural knowledge.”

Through NAGPRA, Congress has attempted to resolve issues of federal law that intersected civil rights law, Indian law and property law as it pertained to Native Americans (Fforde, Hubert & Turnbull, 2014). The foundation of the law recognizes that Native Americans have experienced differential treatment pertaining to the handling of their human remains and funerary objects and have suffered from the negative impact of losing extraordinary amounts of sacred objects through deceit and theft (Fforde, Hubert & Turnbull, 2014). In addition, the law recognizes the unique status of Native American’s tribal sovereignty as well as expresses the fact that traditional western law does not adequately protect the traditional worldviews of Native Americans (Fforde, Hubert & Turnbull, 2014).

NAGPRA first required extensive inventories from federally funded institutions inclusive of human remains, associated funerary objects and unaffiliated cultural objects within their Native American collections, within a prescribed amount of time (Bell & Paterson, 2008). Materials that are eligible for return include: 1) identified human remains; 2) human remains that can be culturally affiliated; 3) funerary objects, either associated or unassociated; 4) objects considered to be sacred; and 5) objects that can be considered as cultural patrimony (Fforde, Hubert & Turnbull, 2008). Repatriation can be

made first to lineal descendants, then second to the affiliated tribal community based on “prescribed criteria and procedures (Bell & Paterson, 2008).

Meeting the requirements of the law has been described as unrealistic, expensive, and time-consuming. Many museums did not have policies in place to deal with the repatriation of Native American remains or objects, whereas NAGPRA forced these institutions to create and implement new policies and procedures, “to create more effective ways for generating and maintaining data about collections, and to develop systems for advising affected communities on newly acquired material” (Bell & Paterson, 2008). It was also underestimated how much resources it would “take to assemble the requisite information for cultural affiliation through demonstration of shared group identity” and incomplete, inaccurate, and superficial reports were often submitted in order to meet the aggressive timeline (Fforde, Hubert & Turnbull, 2014). Because of the drain on resources, both human and financial, the parties involved, both tribal and museums, “have had a difficult time responding to notifications, collection summaries and inventories, requests for consultation, and other processes generated by NAGPRA” (Bell & Paterson, 2008). At times, tribes and museums have had a challenging time developing positive communication and cooperation in the face of the legislation, resulting in divisive judgements and hard feelings between the parties involved (Anderson, 2010).

The benefits of NAGPRA can be attributed to the consultations between museums and tribal groups. In best case scenarios, relationships have developed where mutual learning takes place and inaccurate information and stereotypes are reduced or eliminated (Bell & Paterson, 2008; Trope & Echo-Hawk, 2000). It is noted that museums tend to

benefit immensely through the process by the information and knowledge they gain from tribes, enhancing the value of the collection and providing meanings for items where the meanings were previously unknown (Kuprecht, 2014). The law has also given credence to oral traditions by allowing them as evidence to support claims; providing credibility to traditional Native practices (Fforde, Hubert & Turnbull, 2014). Although a slow and tedious process, it is estimated that within the first ten years of the legislation, “14,000 human remains out of 200,000 had been repatriated” from museums, university departments, and other federal agencies (Fine-Dare, 2002; Fforde, Hubert & Turnbull, 2014).

As more countries look to NAGPRA as a model to base their own repatriation policies and laws on, they have voiced their critique of the legislation as being “too strictly defined to be helpful to indigenous communities,” preferring to maintain “more broadly defined repatriation policies” that will encompass all possible scenarios and communities (Keeler, 2012). This is especially evident as indigenous people try to fit their complex property systems into narrow definitions, resulting in some countries, such as Canada, avoiding the use of stringently defined categories altogether (Bell & Paterson, 2008; Tweedie, 2002). Yet, it has been the case with NAGPRA that “although fitting within legislated definitions caused some difficulty in negotiations” it has been the norm to interpret the legislation to uphold the sometimes ambiguous Native American interpretations of ownership (Bell & Paterson, 2008).

Considered to be an innovative human rights legislation that has far reaching influence, NAGPRA has failed to address the interconnectedness between “cultural injustices” and “economic injustices”(Fine-Dare, 2002). Although the government does

provide a modicum of financial support to repatriation efforts (Kuprecht, 2014), it does little to support the efforts of recognized tribes, and provides nothing to support Native Americans who do not have tribal status but have repatriation claims (Fine-Dare, 2002). Insufficient funding has unfavorably impacted all aspects of repatriation, and it is implausible that tribes have to pay for their repatriation activities “when the goal of the process is to right the wrongs of past museum and agency actions” (Fforde, Hubert & Turnbull, 2014).

First Nations Sacred Ceremonial Objects Repatriation Act, passed in 2000, applies only to sacred objects that are a part of the Royal Alberta Museum and Glenbow Museum collection in Alberta Province of Canada. The Act was created in consultation with three Alberta Blackfoot Nations: the Siksika, the Kainai, and the Northern Piegan to specifically return sacred medicine bundles (Beuhler, 2009; Bell & Paterson, 2008). Claims are made to the Minister of Community Development with the understanding that the requested object is vital to the community and will be put to use for ceremonial purposes (Beuhler, 2009; Keeler, 2012). Due to its narrow focus, this act covers fewer artifacts than NAGPRA and is concerned with limiting the liability for the Glenbow and the Government of Alberta since the collection is held by the provincial Crown on behalf of the citizens of Alberta (Keeler, 2012; Bell & Paterson, 2008). Upon approval of repatriation, legal title is then transferred to the First Nations, which in turn holds title on behalf of all the people of that First Nation (Bell & Paterson, 2008).

United Kingdom Legislation

House of Commons Select Committee. Recognizing that the issues regarding repatriation were growing and needed to be addressed, in the 1990s the Museums

Association of the United Kingdom commissioned a report to explore the experiences of museums and their staff in regards to the “handling, display and repatriation of human remains and objects in museum collections” (Fforde, Hubert & Turnbull, 2002). A survey of museum professionals was conducted that showed 120 of the “respondents accepted the notion of repatriation, acknowledging the validity of a number of arguments for the return of cultural property” whereas, only three respondents were opposed to repatriation (Fforde, Hubert & Turnbull, 2002). The survey also gained specific information about repatriation, showing that only “eight respondents had written policies relating to the repatriation of human remains, while a further ten had unwritten policies” (Fforde, Hubert & Turnbull, 2002). Further analysis of survey responses showed that the development of repatriation policies in overseas countries was supported by nineteen respondents, whereas, seventeen respondents “agreed that museums in Britain should develop similar types of policies” (Fforde, Hubert & Turnbull, 2002).

Also in the 1990s, a visitor survey was conducted by Birmingham Museum and Art Gallery, showing that 93% of respondents supported the “repatriation of objects of importance to the culture of origin (Fforde, Hubert & Turnbull, 2002). By 1998, a public poll consisting of 1823 individuals showed that twice as many people would vote for the highly contested Elgin Marbles to be returned to Greece than vote for their retention; whereas a slight majority of the 91 members of Parliament favored their return (Fforde, Hubert & Turnbull, 2002). The results of these polls contradict British scholars and museum professionals that claim collections are for the benefit of the public, when the public themselves are not in agreement with their retention policies.

In response to the Museum Associations report, the National Museums Directors established the Museums Standing Advisory Group on Repatriation and Related Cultural Property Issues in 1999 to provide “advice in dealing with repatriation requests, over and above the repatriation and restitution guidelines which were in preparation at that time” (Fforde, Hubert & Turnbull, 2002). The British Government then established the House of Commons Select Committee of Culture, Media and Sport to “examine the issues associated with the return and illicit trade of cultural property” (Fforde, Hubert & Turnbull, 2002).

In July of 2000, the House of Commons Select Committee released the “Cultural Property: Return and Illicit Trade” report which acknowledged the vast complexity of the issues related to repatriation and suggested that the British Government comply with 1995 UNIDROIT Convention and the 1970 UNESCO Convention (Fforde, Hubert & Turnbull, 2002; Greenfield, 2013). Specifically, the report recognized that objects acquired during the colonial era were often collected through theft and murder, unethical even for the era (Keeler, 2012; Kuprecht, 2014). In addition, the report acknowledged that these objects “have special significance to an originating community or their successors,” the recognition of such had already influenced museum policies in North America and Australia (Kuprecht, 2014).

Many large scale British museums had refused to participate in the study, leaving the findings incomplete (Keeler, 2012). Even so, the report revealed that 132 institutions in England have human remains within their collections, and at the time of the study, only seven out of 33 requests to repatriate cultural items has been honored, whereas “five

were pending and 20 had been rejected on the grounds of legality,” where the British Museum Act of 1963 was cited. (Keeler, 2012).

1963 British Museum Act. The British Museum was founded in 1753 upon the ideal that it is the responsibility of the institution to hold in trust their entire collection for “the benefit of others, the whole world, natives as well as foreign, those living now and not yet born” (MacGregor 2012). Therefore, the British Museum Act of 1963 further legitimizes the obligation of the British Museum’s Trustees to “keep the objects in its collection within its authorized repositories” (Keeler, 2012). The Act also limits the powers of the trustees to “lend objects or dispose of duplicates,” allowing the deaccessioning of items only with the artifact is determined to be “unfit to be retained in the collections of the Museum and can be disposed of without detriment to the interests of students” (Bell & Paterson, 2008).

Human Tissues Act. In 2000, the prime ministers of the United Kingdom and Australia signed a Joint Statement on Aboriginal Remains which made it possible to return human remains to Australian aboriginals (Keeler, 2012; Fforde, Hubert & Turnbull, 2002). Following soon after, the United Kingdom Report of the Working Group on Human Remains was released, highlighting the fact that there were approximately 61,000 human remains being held in UK institutions (Bell & Paterson, 2008). Controversially, the report raised the question around consent and the necessity for museums to have consent to justify the “continued retention of human remains” (Bell & Paterson, 2008).

Shortly thereafter, the Human Tissues Act was passed which, requires “the return of human remains dating from after 1904” and supersedes the British Museum Act 1963,

making repatriation of human remains possible within England (Keeler, 2012; Smith, 2007). The law specifically identified nine museums, including the British Museum and the Natural History Museum, and calls for the return of human remains that are believed to be less than 1,000 years in age (Bell & Paterson, 2008; The British Museum, n.d.).

The drawback of the Act is that it leaves the consent to repatriate at the discretion of the museum, which in the case of the British Museum, has resulted in very few successful returns of human remains: in 2012, they refused to repatriate “two decorated divining skulls on the grounds that the skulls were possibly created for trade rather than burial” (Keeler, 2012).

International Soft Laws and Agreements

After World War II concluded, international conversations turned to the need to protect human rights. In 1948, the United Nations issued the Universal Declaration of Human Rights which was “oriented toward the protection of individual's rights from state violation” (Fine-Dare, 2002). Yet, it wasn't until the 1970 UNESCO Convention that indigenous people began to be recognized on an international level. By 1982, the United Nations Working Group on Indigenous Peoples was formed as a result of a study by Special Rapporteur Martinez Cobo that shed light on the deplorable conditions that indigenous peoples faced (Echo-Hawk, 2013). The Working Group on Indigenous Peoples has been responsible for ensuring that indigenous people have had a more participatory role and responsible for the passage of the United Nations Declaration for the Rights of Indigenous Peoples 2007 (Echo-Hawk, 2013).

United Nations Educational, Scientific and Cultural Organization

(UNESCO). An agency of the United Nations, UNESCO was formed in 1945 and

charged with promoting peace and collaboration internationally through various programs that span education, science, and culture. Through these programs, UNESCO's goals are to eradicate poverty, eliminate racism, build sustainable economic developments and provide education for everyone (UNESCO, n.d.). One example of the impact UNESCO has had on museums is the requirement to create acquisition policies outlining what they could and could not collect (Fine-Dare, 2002).

The Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict. Adopted by UNESCO in 1954, this international treaty requires its signatories to protect cultural property during times of war (Chechi, 2014). The most important aspect of this treaty for efforts to repatriate indigenous artifacts is through its definition of cultural property, which defines it "as movable or immovable property that is of great importance to the cultural heritage of every people" and can be applied "to religious or secular items, archaeological sites, works of art, and collections of scientific items or books" (Keeler, 2012).

The challenge with implementing the Hague Convention is due to the fact that it does not provide any means to resolve disputes, although it did begin to raise "awareness of the significance of cultural property and introducing criminal liability" (Chechi, 2014).

Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property, further referred to as the 1970 UNESCO Convention, is an international treaty enacted to protect movable cultural objects from illegal trafficking. A rise in the demand for artifacts following the end of World War II as well the "independence of many colonies," which resulted in requests for the repatriation of "materials removed during colonial times" precipitated the need for

international legal protection for movable cultural objects (Francioni & Vrdoljak, 2013). The 1970 UNESCO Convention came at a time when international norms had shifted to “recognize both the state and the individual” (Keeler, 2012). During this period, Indigenous people were asserting their rights to self-determination and were starting to be accepted as players in the international arena (Keeler, 2012).

The first area of importance within the 1970 UNESCO Convention is Article 1, which refers to the need to return illegally obtained and exported objects that, without them, the cultural heritage of a group and State is diminished (Francioni & Vrdoljak, 2013). In and of itself, the Convention does not require participating States to return illegally exported cultural objects but requires them to “refuse to acknowledge title to property acquired by violation of a foreign export law” (Francioni & Vrdoljak, 2013). Part of the challenge in Article 1 is that it defines “cultural property” as objects that are of importance to each State, as defined by the State, and fall under very broad, and at times, subjective, headings (Greenfield, 2013). The second area of importance for indigenous people working on repatriation is Article 13, Section 13 (b) which mandates that signatory States must work to facilitate “the earliest possible restitution of illicitly exported cultural property to its rightful owner” (Keeler, 2012).

The 1970 UNESCO Convention has been determined to be too broad to fully support the resolution of cultural property disputes for indigenous people in that it requires objects to be tied to traditions still in existence, a sticking point for those indigenous groups trying to revive cultural practices that have been lost as a result of the removal of sacred objects and objects of cultural patrimony (Kuprecht, 2014; Chechi, 2014). In addition, it cannot be applied retroactively to contested objects obtained prior

to 1970, narrowing the focus to items acquired illegally in modern times and disregards culturally important objects that were removed during colonial times (Chechi, 2014; Fforde, Hubert & Turnbull, 2002; Moses, 2015). And lastly, it does not enforce States to “procure the return of illegally removed antiquities” nor does it provide a mechanism to resolve disputes, as is the case of the Hague Convention (Francioni & Vrdoljak, 2013).

The Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation (ICPRCP) was created in 1978 to address the shortcomings of the 1970 UNESCO Convention, namely, the lack of recourse for regaining objects lost due to colonial or foreign occupation (Chechi, 2014). According to Chechi, (2014), “the ICPRCP's initial objective was to complete the decolonization process and to facilitate the reconstruction of the cultural heritage of former colonial powers.”

This ICPRCP committee will only hear cases where “bilateral negotiations with the State in which the requested object is located have failed or been suspended” yet the committee has no capacity to rule on disagreements and function primarily within an “advisory capacity” (Chechi, 2014). Due to the inability of the Committee to make binding decisions, disputing parties are not obligated “to bring a case before it or to abide by its recommendations” (Chechi, 2014). In addition, filing claims with the ICPRCP is highly complicated, inaccessible to some due to the types of information that is required, and is a very slow moving governmental body (Chechi, 2014). However, it is acknowledged that by its mere presence, the ICPRCP has influenced repatriations by States and public institutions “through bilateral negotiations, voluntary acts by the possessor, or other solutions, such as loans or production of replicas “(Chechi, 2014).

UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects

(1995 UNIDROIT Convention). UNIDROIT, an international organization that works to modernize, unify and coordinate private and commercial law between States, partnered with UNESCO during the 1980s to prepare an international treaty to improve upon the 1970 UNESCO Convention's purpose to protect cultural objects internationally (Chechi, 2014; Francioni & Vrdoljak, 2013). The premise of the 1995 UNIDROIT Convention is that it obligates buyers to verify the validity of their purchase (Keeler, 2012)

The 1995 UNIDROIT Convention cannot be applied retroactively and provides for restitution of objects stolen after 1995, as long as a claim was made within in specific period of time. The export of the particular object is still considered to be illegal by the State filing the claim, and no license to export the object would be granted (Chechi, 2014; Francioni & Vrdoljak, 2013). If the claim is for cultural property, "the final purchaser will have to pay the compensation to the affected party unless he can prove he acted with due diligence" (UNIDROIT, 1995). This also applies to objects that have been inherited or received as gifts, requiring museums and public institutions to do due diligence as well (UNIDROIT, 1995).

The most notable aspect of the 1995 UNIDROIT Convention is the unequivocal inclusion of indigenous communities within its statements, acknowledging the irreparable damage caused by "the illicit trade of cultural objects" to their populations (Keeler, 2012; Kuprecht, 2014). Yet, due to its non-retroactivity, it does not cover objects that may have been acquired as the result of colonization or acts of war (UNIDROIT, 1995; Kuprecht, 2014). Also, as is the case with the aforementioned agreements, the 1995 UNIDROIT Convention does not provide a framework to adjudicate disputes (Chechi, 2014;

Francioni & Vrdoljak, 2013). Of equal concern is the fact that neither the United States nor Britain ratified the 1995 UNIDROIT Convention which further hinders these countries obligations to repatriate stolen objects (Keeler, 2012; Greenfield, 2013; Fforde, Hubert & Turnbull, 2002).

ICOM Code of Ethics for Museums. The International Council of Museums (ICOM) is an international, non-governmental organization with a network of museum professionals throughout 137 countries who are “committed to the promotion and protection of natural and cultural heritage” (Greenfield, 2014). Part of ICOM’s mission is to support UNESCO’s work by facilitating committees, workshops and creating publications pertaining to illicit trade, in addition to promoting the 1970 UNESCO Convention and the 1995 UNIDROIT Convention to countries that have not ratified them yet (Chechi, 2014).

Over the past twenty years, ICOM’s Code of Ethics has helped to shape museum legislation and unify museum laws throughout Europe (Keeler, 2012, Kuprecht, 2014, Chechi, 2014). Prominent within ICOM’s Code of Ethics is a show of support for “indigenous consent and international repatriation” which may be influential as “a conduit for homogeneity in international repatriation policies” (Keeler, 2012). Specifically, in response to UNESCO efforts, the ICOM General Assembly noted “the moral rights of people to recover significant elements of their heritage dispersed as a consequence of colonial or foreign occupation” within their resolution on the ‘Return of Cultural Property to its Countries of Origin’ (Greenfield, 2013; Bell & Paterson, 2008; Kuprecht, 2014).

Highlighted in ICOM's Code of Ethics is the need for museums "to obtain free, prior and informed consent" when engaging with Indigenous people (Keeler, 2012; Francioni & Vrdoljak, 2013). The document also affirms that if museums are legally able, they should make reasonable efforts to facilitate the return of cultural property that has been demonstrated to be part of the cultural heritage of a group of people (Kuprecht, 2014; Thorleifsen, 2010; Fekrsanati, 2010).

Critics of ICOM's Code of Ethics, such as the deputy director of the UK Museums Association Maurice Davies, felt that the document was crudely written, didn't give enough credit to the work that museums are already doing around the issues, and that it placed too much emphasis on the need to return or share objects, rather than on the importance of retaining them in their current location (Greenfield, 2013).

Others feel strongly that ICOM may be able to foster conversations about international repatriation while helping to develop a universal "model policy" to prevent the need for indigenous communities to have "to respond to a number of different legal systems, administrative policies, and barriers to each repatriation they engage in undertaking" (Keeler, 2012).

United Nations Declaration on the Rights of Indigenous Peoples (The Declaration). In 1982, the United Nations established the Working Group on Indigenous Populations (WGIP) (Kuprecht, 2014). Special Rapporteur, José Ricardo Martínez Cobo had authored a study regarding the discrimination that indigenous peoples faced worldwide, and in 1985, the WGIP set about drafting the Declaration on the Rights of Indigenous Peoples (Fine-Dare, 2002; Kuprecht, 2014; Echo-Hawk, 2013). The first completed draft of the Declaration was created by the WGIP chairperson, Erica-Irene

Daes in 1988 based upon numerous proposals received from representatives of various indigenous groups (Anaya, 2009).

Completed in 1993, the Declaration was not adopted by the United Nations General Assembly until 2007 after numerous revisions (Bell & Paterson, 2008; Keeler, 2012; Greenfield, 2013; Kuprecht, 2014; Anaya, 2009; Echo-Hawk, 2013). One hundred and forty four countries voted for the Declaration, with four countries, (the United States, Australia, New Zealand, and Canada) voting against it (Bell & Paterson, 2008; Keeler, 2012; Anaya, 2009; Echo-Hawk, 2013). It would be another three years before the United States and Canada endorsed the Declaration (Greenfield, 2013; Kuprecht, 2014; Anaya, 2009; Echo-Hawk, 2013).

Created in partnership with indigenous peoples, the Declaration is made up of forty-six articles providing a framework and minimum standards to guide interactions between States and indigenous peoples (Keeler, 2012; Greenfield, 2013; Kuprecht, 2014). The Declaration recognizes for the first time that Indigenous people have a right to exist and be legally recognized and accepted as viable players within international law (Keeler, 2012; Kuprecht, 2014; Chechi, 2014; Echo-Hawk, 2013). Walter Echo-Hawk (2013) states that “The Declaration invites us to confront our legacy of conquest, see where we have fallen short in our treatment of the First Americans, and at long last apply our core values to their unique circumstances.”

Although not a legally binding document, the Declaration does signify, by adoption, that international repatriation can now be considered an “international norm in international rights” (Keeler, 2012; Greenfield, 2013; Kuprecht, 2014; Anaya, 2009). The Declaration distinguishes the relationship between the protection and control by a group

over their cultural heritage and the human rights of indigenous peoples, such as the right of self-determination, religious freedoms, and the revitalization of cultural traditions (Bell & Paterson, 2008; Greenfield, 2013). The Declaration also clarifies that the right of self-determination does not suggest that indigenous peoples are entitled to “separate sovereign existence” and must look to their state to uphold their sovereignty (Anaya, 2009).

Signatory states are required to take appropriate measures to implement the Declaration, affirming their responsibility to “safeguard human rights and provide remedies when they are violated” (Echo-Hawk, 2013). These measures should be incorporated into the state’s administrative and legal practices, and enforced by their courts and “other authorities with power to mandate or take corrective action” (Echo-Hawk, 2013). In addition, states should provide access to “independent adjudicatory mechanisms to resolve disputes by decisions that give due recognition to indigenous customs, traditions, law and land tenure” (Echo-Hawk, 2013).

Article 11 and 12 pertain specifically to the repatriation of cultural items and asserts that Indigenous people fall under the protection of international law and have the “right to maintain, protect and develop that past, present and future manifestations of their cultures” while clearly underlining the need for indigenous communities to be an integral part of any decision making pertaining to their culture and communities (Keeler, 2012; Chechi, 2014; Greenfield, 2013; Bell & Paterson, 2008; Kuprect, 2014; Echo-Hawk, 2013). Of particular importance is that the document highlights the fact that “indigenous peoples cannot enjoy the rights related to 'their spiritual and religious traditions, customs and ceremonies' if they do not have access to the objects that are necessary to such ceremonies” (Chechi, 2014; Greenfield, 2013).

Article 15 pertains to the display of human remains and culture objects that should be repatriated, affirming that international institutions should uphold the dignity of indigenous people by removing sensitive objects from display and seeking their “free, prior and informed consent” before displaying anything regarding indigenous communities (Keeler, 2012). This would also be inclusive of any attempts to study or “create media from ancestral remains and cultural objects,” whereas Article 31 further elaborates to maintain the rights of Indigenous people over their intellectual property (Keeler, 2012; Kuprecht, 2014; Greenfield, 2013).

One drawback of the Declaration is that it confirms the roles that Nation States play, thereby upholding their responsibility to implement equitable processes for providing access and repatriation of important objects and recompense where they feel it is warranted (Chechi, 2014; Keeler, 2012; Kuprecht, 2014). This language undermines, rather than affirms the sovereign rights of indigenous peoples and relies on good faith negotiations between powerful governments and marginalized communities.

As stated previously, the largest disadvantage of the Declaration is that it is a non-binding agreement that cannot be affirmed by human rights treaty law for the explicit and direct right of use and control over sacred objects (Kuprecht, 2014). Some may consider the fact that the Declaration does not include a definition of indigenous people as an additional challenge, but Anaya (2009) articulates that the Declaration “makes clear the basic characteristics of the groups to which it is directed and the issues that are common to them.” It was considered that to provide a strict definition would provide a means for governments to exclude indigenous people within their countries and opted to stress the importance of self-identification (Anaya, 2009).

Alternative Dispute Resolutions

Taking into consideration the shortcomings of the aforementioned treaties and declarations, particularly in light of the fact that none of them offer “a comprehensive and efficient dispute settlement system,” it is necessary to discuss alternative ways to resolve disputes in regards to repatriation issues (Chechi, 2014). Whereas it is customary for courts of law to “deliver zero-sum solutions” to disputes, alternative methods provide more flexibility to consider solutions where there are no losers in the outcome (Chechi, 2014). Dispute resolutions can be approach through various means such as negotiation, good offices, conciliation, and mediation, and arbitration and judicial settlements (Chechi, 2014; Francioni & Vrdoljak, 2013).

The choice of which avenue to take may depend upon the fact that within diplomatic means, the parties involved have the option to “accept or reject a proposed settlement,” whereas, through legal means, the final decision is binding (Chechi, 2014; Francioni & Vrdoljak, 2013). Alternative dispute resolutions may be the most appropriate avenue to address the varied and complex laws that apply to cultural property disputes that cross international State lines, particularly in light of the fact that not all countries have ratified the aforementioned treaties and declarations.

Negotiation. The most frequently used dispute resolution mechanism for issues pertaining to cultural assets is negotiation (Francioni & Vrdoljak, 2013). Most suitable in instances where both parties are working towards the same end result, negotiation does not rely on an intermediary to help come to agreeable terms (Chechi, 2014; Francioni & Vrdoljak, 2013). Negotiate also helps to avoid any time limitations associated with the

dispute, yet, as a non-binding agreement, enforcement cannot be guaranteed (Chechi, 2014; Francioni & Vrdoljak, 2013).

Good Offices. Different from negotiation, Good Offices require an intermediary to bring the disputing parties together to assist in reaching an agreement (Chechi, 2014). At times, the intermediary may be asked to provide “inquiry into the facts and sometimes proposals as to terms of settlement (Chechi, 2014). Many of the aforementioned treaties and declarations do not encourage Good Offices due to the heavy amount of mediation that is required, although there were provisions to this approach included in The Hague Convention and the 1970 UNESCO Convention (Chechi, 2014).

Conciliation. Similar to Good Offices, conciliation relies on an independent intermediary to oversee the dispute. Combining inquiry and mediation, each party is able to confide in the intermediary who is also asked to “investigate the dispute and propose a solution to the parties (Chechi, 2014). As in other diplomatic dispute resolution avenues, the final report can be either accepted or rejected (Chechi, 2014). Although the ICPRCP encourages conciliation, it is rarely used by international lawyers (Chechi, 2014).

Mediation. Mediation is used when tensions rise and an intermediary is required to “de-escalate contentiousness and to assist the litigants” in reaching an agreement (Chechi, 2014). The intermediary is vital in “finding a win-win solution in a flexible, expeditious, confidential and less costly manner, through a process that focuses on the interests and objectives of the parties rather than on their positions” (Chechi, 2014; Francioni & Vrdoljak, 2013). Mediation is independent of the law and will more likely consider “history, ethical and moral principles as well as traditions and customs of indigenous peoples” (Kuprecht, 2014).

Like other diplomatic means, the parties can either accept or reject the unbinding proposed solution (Chechi, 2014). Due To the level of confidentiality that is afforded to the participating parties, it is difficult to determine “how many disputes have been settled” through mediation (Chechi, 2014). Similar to conciliation, the ICPRCP has encouraged the use of mediation as a way of negotiating disputes over cultural property and it is likely that this method will be used more in the future (Francioni & Vrdoljak, 2013).

Arbitration. Arbitration is generally considered to be a cheaper and faster alternative to litigation (Chechi, 2014; Francioni & Vrdoljak, 2013). Unlike diplomatic means, arbitration provides a final and binding resolution yet remains somewhat flexible in that it allows the parties “to shape the process to fit their needs,” they are able to choose more than one arbitrator, and they can choose “a law of their choice,” meaning the law of the place of arbitration or that of the parties involved (Chechi, 2014; Francioni & Vrdoljak, 2013; Kuprecht, 2014).

In cases involving cultural property, arbitration tends to be the preferred method to resolve disputes, as emphasized within the 1995 UNIDROIT Convention “because arbitrators are extra-national and can avoid cultural nationalism and because they are likely to have more expertise than judges of state courts” (Chechi, 2014). There is a downside identified in that “arbitrators may tend to favor whatever party is most likely to need their services in the future, irrespective of the other interests involved” (Francioni & Vrdoljak, 2013).

Judicial Settlement. For those disputes that cannot be effectively resolved through dispute resolution methods, there is no recourse other than to turn to domestic

courts for help (Francioni & Vrdoljak, 2013). Not an ideal method to resolve disputes due to its inherent adversarial nature, litigating parties may be faced with the added burden of time limitations and challenged to access an appropriate municipal court (Chechi, 2014). In addition, there is “considerable economic and human expenses” involved and more often than not, judges lack expertise in matters pertaining to art and culture (Francioni & Vrdoljak, 2013). Parties are often counseled to settle out of court rather than risk judicial rulings “by a neutral judge according to strict law” which, through its impartial nature, “may bring about negative results” (Francioni & Vrdoljak, 2013).

Summary

As we transition to the primary research findings gathered from case studies and structured interviews with museum professionals and Native Americans / First Nations peoples, it is necessary to reflect upon the detrimental effects that colonization has had upon the psyche of indigenous peoples and the generational trauma that continues to undermine their communities.

Considering the adversarial voices that have been opposed to repatriation, we should ask ourselves whether or not the various declarations and conventions have been successful in fostering an understanding of the importance of indigenous people in regaining their cultural heritage. What methods of negotiation have been the most affective in positive outcomes for both indigenous groups and museums?

Findings

Methodology. The primary research methods for this study included interviews with museum professionals and Native American / First Nations tribal members, and case studies that involved two museums in Scotland and two museums in England. These museums are: the Kelvingrove Art and Gallery Museum in Glasgow, Scotland; the Marischal Museum at the University of Aberdeen, in Aberdeen, Scotland; the Pitt Rivers Museum at Oxford, England; and the British Museum in London, England. I also used secondary research methods in the form of a literature review that covered the individual institutions and the related efforts for repatriation.

Conducted mostly during the month of March, 2016, personal interviews included four different stakeholders: museums professionals that oversee collections and repatriation efforts at case study institutions; Native American / First Nations individuals who have worked directly with the case study institutions; museum professionals that have experience with repatriation domestically; and Native American / First Nations individuals who have familiarity with repatriation. The purpose of the interviews were to: 1) understand the challenges faced by tribes and museums when working together; 2) recognize what worked well and how to replicate it for other groups that are embarking upon this work; 3) learn about how the law and international accords either supported or hindered the process; and 3) solicit input on what needs to change or be in place in order to further support international repatriation.

Researching each of the case study institutions encompassed: examining the institution's mission, vision, and goals; exploring their website, collections, and posted information related to repatriation efforts; reviewing the institution's repatriation and

collections policies and any guidelines or applicable legislation that inhibit or support repatriation; studying the institution's efforts to repatriate cultural property and develop relationships with Native American / First Nations groups; interviewing knowledgeable staff about the institutions repatriation efforts; and interviewing Native Americans / First Nations people who have worked with the museum on repatriation efforts.

Scottish Museums. There have only been three completed repatriations of cultural property from Scottish Museums. In an unprecedented move, the Angus Council decided to return two necklaces to the Cook Islands in 1999, explaining that they had seldom been on display and were collected during a time of frenzied stockpiling of anything and everything around the world (Curtis, 2014). Considering that the necklaces were not considered to be of sacred significance nor a funerary object, the decision to return the necklaces was an even more extraordinary move (Curtis, 2014). The second repatriation, also completed in 1999, was the Lakota Ghost Dance Shirt from the Kelvingrove Art Gallery and Museum, whereas the third repatriation was the 2003 return of a split-horn headdress to the Kainai (Blood) tribe of the Blackfoot Confederacy from southern Alberta, Canada by the University of Aberdeen, Marischal Museum, both of which are described in more detail within the following case studies.

English Museums. Within England, there have been no completed cases of repatriation of Native American / First Nations cultural property. Much of the literature indicates that, in general, museums in Europe are not ready to consider repatriation (Peers, 2010) and some native individuals felt that to even utter the word "repatriation" could close off all communication with British museums (Peers, 2010; Weasel Head, 2015). Unlike the United States and Canada, which have large indigenous populations

pushing for repatriation, the United Kingdom has the Atlantic Ocean as a buffer to protect them from the pressure (Bell & Paterson, 2008).

The approach that British museums have taken, as evidenced by the case studies, is one of relationship building. To these institutions, repatriation comes in the form of sharing knowledge, referred to as Knowledge Repatriation or Visual Repatriation, and collaborating with source communities (Peers, 2010). As Native American / First Nations people move towards self-determination, British museums have had to learn to weigh their preconceived perspectives of indigenous communities against the truth that is unearthed during source community visits. Both the British Museum and the Pitt Rivers Museum were faced with the fact that their Native American / First Nations collections contained very little information at all to share with source communities and what they did have was often incorrect (Krmpotich & Peers, 2013). These museums had a great deal to gain by opening up their collections to indigenous communities, and arguably, were the actual recipients of the knowledge repatriation (Krmpotich & Peers, 2013).

Another approach that has been taken to overcome the challenges of museum policy and legislative restrictions is through the use of long-term loans. The British Museum, working with the late Andrea Sanborn from the U'mista Cultural Society, arranged for a long term loan of a Transformation Mask seized during the 1920s (Bell & Paterson, 2008). It is anticipated that this loan will become permanent (Bell & Paterson, 2008). This approach by the British Museum, as well as the approach of knowledge repatriation by the Pitt Rivers Museum is discussed more in depth in the following case studies.

CASE STUDY 1: Kelvingrove Art Gallery and Museum, Glasgow, Scotland

History. An encyclopedic museum, the Kelvingrove Art Gallery and Museum (Kelvingrove) was founded by the Victorian wealthy class to prove their affluence and to advance the citizens of their city (Kelvingrove Art Gallery and Museum, 2009). Opening on May 2, 1901 by the Duchess of Fife, it was accompanied by a celebration in Kelvingrove Park (Kelvingrove Art Gallery and Museum, 2009). As part of a group of eight museums within Glasgow Museums, the Kelvingrove is overseen by the Culture and Leisure Services Department of Glasgow City Council (Economu, 1999).

Recently, the museum's original goal for "improving the urban masses" was modernized to be an inclusive and welcoming learning institution for all people, regardless of their educational levels or socio-economic background (Economu, 1999). This shift was overwhelmingly supported by the public, making Kelvingrove more highly visited than the museum of Modern Art in New York and the Uffizi in Florence (Kelvingrove Art Gallery and Museum, 2009). Kelvingrove welcomes an average of one million visitors per year to the 22 traditionally themed galleries made up of 8,000 objects. (Glasgow Life, n.d.a.; Kelvingrove Art Gallery and Museum, 2009; Economu, 1999).

The collection originated from a prominent coachbuilder, Archibald McLellon, who bequeathed upon his death 400 paintings, including a Rembrandt, as well as a building, now called the McLellon Galleries. (Glasgow Life, n.d.a.; Kelvingrove Art Gallery and Museum, 2009). By 1914, the collection had grown to include approximately 1,000 oil paintings, adding an additional 500 by 1939 (Glasgow Life, n.d.a.). These acquisitions were purchased using the profit from the 1901 International Exhibition,

through the National Art Collections Fund and by support from the Contemporary Art Society (Glasgow Life, n.d.b.).

The collection holds a wide range of artworks, including “nineteenth and early twentieth century French paintings covering all the major art movements from Realism to Cubism” (Economu, 1999). The history collection includes anthropological material from around the world, including Egypt, Cyprus, and Lipari, as well as historical artifacts from prehistoric Scotland to the present day (Economu, 1999). During World War II, the most valuable parts of the collection were safely stored away, whereas, many bronze figures were melted down to support the war efforts (Economu, 1999).

Native North American collection. The entire Glasgow Museums collection of Native North American objects, which includes objects from Canada and the United States, is relatively small and consists of “641 objects: Plains (140), Eastern Woodlands (126), Arctic/Subarctic (195); Pacific North West (123) South West (57) and South East (8)” (Glasgow Life, n.d.a.). The collection includes a wide array of items, ranging from clothing and textiles to prehistoric stone tools, covering the period from 1870 to present day (Glasgow Life, n.d.a.). Some of the more unique items include “a Woodlands Cree coat of buffalo hide decorated with painted designs and quillwork, a Inuvialuit caribou hide outfit with protective amulets and a Lakota Sioux beaded waistcoat” (Glasgow Life, n.d.a.).

The most historically significant aspect of the collection originated from the 1890 Battle of Wounded Knee and acquired by George Crager, an interpreter for the Buffalo Bill Cody’s Wild West Show, which is described more fully in a following section (Glasgow Life, n.d.a.). In response to public interest, the collection was added to during

the 1950s and 1960s, and notably in the 1980s, an Inuit kayak from Igdlorsuit, West Greenland, which was made in 1959, was purchased (Glasgow Life, n.d.a.). Numerous art works have also been commissioned more recently, including a Douglas La Fortune (Salish) totem pole in 1992 and a beaded waistcoat by Jenny Meyer and Jennine Krauchi in 2005. (Glasgow Life, n.d.a.)

One of the most publicized examples of a successful repatriation of cultural property internationally is that of the Lakota Ghost Dance Shirt. Donated in 1892 by George Crager, an Indian interpreter for Buffalo Bill's Wild West Show, the Ghost Dance Shirt was part of a larger collection of objects taken off of the massacred bodies at Wounded Knee, a collection that also includes "a warrior's necklace, a pair of boy's moccasins, and a baby's cradle" (Kuprecht, 2014; Fine-Dare, 2002; Fforde & Turnbull, 2002). This example is considered to be a model for accomplishing positive outcomes while coming to a deeper understanding of the cultural context of items that are considered to be sacred by indigenous groups and the role that museums can play in contemporary times (Curtis, 2014).

Provenance. The Lakota people had reigned victorious in 1876 at the Battle of Little Big Horn, resulting in the death of General George Custer (Moses, 2015). Fourteen years later, the Lakota found themselves prisoners on reservations, starving and dying of disease (Moses, 2015). The Ghost Dance movement, led by Wovoka, a Paiute spiritual leader, spoke to their despair and hopelessness resulting from the brutal assimilation and termination policies enacted throughout the country during the 1800s (Greenfield, 2013; Moses, 2015).

The Lakota embraced the belief that the Ghost Dance would bring back their fallen ancestors and together they would defeat the white intruders, who would disappear forever (Moses, 2015). It was also believed that the specially made Ghost Dance shirts would make the wearer invincible and impervious to bullets (Greenfield, 2013; Fforde & Turnbull, 2002; Moses, 2015). As the Ghost Dance movement spread throughout Indian country, white settlers became fearful and asked for help from the government (Moses, 2015). The Seventh Cavalry eagerly responded, ready to battle the same band that had defeated them fourteen years earlier (Moses, 2015).

The Seventh Cavalry first traveled to Dakota Territory where they assassinated Chief Sitting Bull, which set into motion the agreement by Chief Big Foot of Cheyenne River to surrender with his people at Pine Ridge (Moses, 2015). Sixteen miles away from Pine Ridge, the group of mostly starving women, children and the elderly, set up camp at Wounded Knee Creek to rest before making the last leg of their journey (Moses, 2015). Four hundred and seventy armed soldiers with four Hotchkiss guns, surrounded the band and commanded that the men deliver up their arms (Moses, 2015). When they refused, the soldiers invaded the camp, and upon the firing of a gun, the soldiers killed half of the men (Moses, 2015). Within three minutes of firing the Hotchkiss guns, the rest of the band was annihilated, along with thirty soldiers killed by their own fire (Moses, 2015). Reports from the killing field describe the sight of the tiny bodies of infants and how the soldiers hunted down the women who tried to flee for safety into the hillsides (Moses, 2015).

For two days a fierce snow storm blanketed the ground, freezing the dead bodies where they fell. By some accounts, the death toll numbered between 250 to 300 men,

women and children (Moses, 2015; Fforde & Turnbull, 2002; Greenfield, 2013). Once the storm subsided, the soldiers dug a massive grave, gathered up the frozen and stiff bodies, stripped off their Ghost Dance shirts and other valuable belongings, and tossed them into the pit, heaped on top of each other's naked bodies (Fine-Dare, 2002; Moses, 2015).

Two weeks after the massacre, George Crager, a correspondent for the New York World, accompanied William "Buffalo Bill" Cody to recruit "authentic Indians" for his Wild West show from Wounded Knee survivors and sympathizers (Moses, 2015). The government gave the surviving Lakota a choice: "join the show or go to jail" (Moses, 2015). At this time, Crager obtained the Ghost Dance Shirt and several other items and joined Buffalo Bill's Wild West show as an interpreter for the Lakota that were forced to join the show (Moses, 2015; Greenfield, 2013).

By the following winter, Buffalo Bill's Wild West show had toured throughout Europe and settled into Glasgow, Scotland for the three months of winter (Moses, 2015; Kelvingrove Art Gallery and Museum, 2009). Before leaving Glasgow that spring, Crager donated over twenty-four objects to the Kelvingrove, at least four of which he attested he had acquired at Wounded Knee (Moses, 2015; Kelvingrove Art Gallery and Museum, 2009). This donation formed the core of the Native American collection and included: a necklace owned by Short Bull, a leader of the Ghost Dance; a shield made by Lone Bull; and a pair of moccasins taken from the dead body of the son of Big Foot, Across-the-Room, at Wounded Knee (Kelvingrove Art Gallery and Museum, 2009).

The Kelvingrove's accession records describe the donation of the Ghost Dance shirt as: "Ghost Shirt of cotton cloth with feather ornament, blessed by "Short Bull" the

High Priest to the Messiah, and supposed to render the wearer invulnerable. Taken from a Sioux Warrior killed at the battle of Wounded Knee, 30th December, 1890” (Moses, 2015; Fine-Dare, 2002). The condition report provides the following description:

Dark brown/black staining on bottom left of shirt and much holed in this area. Further staining on front center with small hole to 10 mm in length. Black accretion on right should and a number of small pin-type holes. Hole in back of costume 11 x 3 mm within the brown dyed area. Brown staining 8 x 13 mm in area, back left. Area of brown staining, 22 mm diameter, back right with a torn area within. (Fine-Dare, 2002)

Repatriation. To commemorate the five hundred year anniversary of Columbus’ voyage in 1992, the Kelvingrove displayed the Ghost Dance Shirt in an exhibit entitled “Home of the Brave” which was seen by John Earl, a Cherokee lawyer from Georgia (Kelvingrove Art Gallery and Museum, 2009; Keeler, 2012; Greenfield, 2013; Moses, 2015). Upon his return home, Earl contacted the Wounded Knee Survivors Association which then enlisted a prominent Indian rights lawyer, Mario Gonzalez, who was also a descendent of a victim of Wounded Knee (Kelvingrove Art Gallery and Museum, 2009; Keeler, 2012; Greenfield, 2013; Moses, 2015). By 1994, the Wounded Knee Survivors Association formally requested the repatriation of the Ghost Dance shirt as well as four other items (Kuprecht, 2014, Fforde & Turnbull, 2002, Greenfield, 2013). Gonzalez articulated in the request that, “because the Lakota tradition was to bury a dead person in his/her garments, the objects should be treated as having the same significance as human remains (Curtis, 2014).

The request was initially denied in 1995 on the grounds that the shirt was one of many, several of which that were in United States museums had already been returned to the Lakota (Fforde & Turnbull, 2002). The director of the Glasgow Museums at the time, Julian Spalding, was adamantly opposed to the repatriation of the shirt, where, in his view, it should be retained for the sake of educating the public (Curtis, 2014; Fine-Dare, 2002; Fforde & Turnbull, 2002). He argued that the Ghost Dance shirt at the Kelvingrove Museum was the only one in the United Kingdom and was a powerful display for conveying the story of Wounded Knee to museum patrons (Fforde & Turnbull, 2002). It was his belief that ‘the Lakota did not own the shirt’s meaning,’ that the shirt belonged to all of humanity, and “whilst return may address a wrong it is primarily an aesthetic act of cultural recognition” (Greenfield, 2013). His vocal dissent and bitterness led to his forced resignation in the summer of 1998 (Fine-Dare, 2002; Moses, 2015).

A report on Museums and Repatriation was released in 1997, prompting the museum, under the oversight of the Glasgow City Council, to reconsider its previous stance and established a cross-party Working Group on Repatriation (Kuprecht, 2014; Fforde & Turnbull, 2002; Greenfield, 2013). The working group set about devising a procedure to address ethical questions, determine the decision making process, and the process to make recommendations to the Glasgow City Council (Kuprecht, 2014; Fforde & Turnbull, 2002). The working group came up with the following criteria to measure all repatriations claims against:

- 1) Consider the status of those making the request and their right to represent the community to which the object/s originally belonged;

- 2) The continuity between the community which created the object/s and the current community on whose behalf the request is being made;
- 3) The cultural and religious importance of the object/s to the community;
- 4) How the object/s have been acquired by the museum and their subsequent and future use;
- 5) The fate of the object/s if returned. (Kuprecht, 2014)

The criteria precipitated extensive research, consulting legal counsel, consultations with the National Museums of Scotland and the Scottish Museums Council, and eventually a public hearing (Fforde & Turnbull, 2002; Kuprecht, 2014; Greenfield, 2013). Although under Scottish law, the shirt was legally owned by the Glasgow City Council and they were under no legal obligation to return it, they did have the ability to transfer ownership if they so desired (Greenfield, 2013).

By the time the public presentation happened on November 13, 1998, public support was overwhelming, evidenced by the submission of 144 written letters urging the return of the Ghost Dance shirt, whereas there were only six letters submitted arguing for its retention (Fforde & Turnbull, 2002). A petition was circulated and school children voted on whether the shirt should be returned or not (Moses, 2015). The community on the Isle of Lewis fundraised to help pay for the Lakota to come to Scotland (Keeler, 2012). So many people wanted to attend the public hearing, a public lottery was held for seats (Moses, 2015).

Museum visitors and national and international curators were invited to comment on the repatriation request (Moses, 2015). Whereas museum visitors favored repatriation, many of the museum professionals did not, citing the precedent that would be set by

returning objects when they were not legally obligated to do so and their fear that this would open a flood-gate for more repatriations (Moses, 2015).

Museum staff and Lakota elders gave passionate presentations to the Glasgow City Council (Fforde & Turnbull, 2002; Greenfield, 2013). The head of curatorial services at Kelvingove, Mark O'Neill, gave a moving speech affirming that the decision is one of moral ethics rather than legal grounds, stating, "If our values lead us to preserve an object because of what it tells us about the history of a particular human group, then it is inconsistent not to give that group the respect of at least taking their views seriously" (Fforde & Turnbull, 2002; Moses, 2015). Mark O'Neill orated that:

The choice of whether or not to return the Wounded Knee artifacts is a central issue, not because it creates a precedent for other returns, but because it reflects exactly what museums are all about. It forces us to ask whether museums can possess objects such as these and still provide places for exploring our values for discussing what is right or wrong, what relationship we wish for between ourselves and other peoples, what our obligations toward the past, present, and future are, and where museums fit on the spectrum from the sacred and the spiritual to the secular and the materialistic. (Moses, 2015)

O'Neill also stated that:

If museums represent our better selves, our humane values, then we have to admit to the possibility that there may be other values, which are more important than that of possession and preservation. Possession in itself cannot be an absolute value, taking precedence over all others....In

Glasgow our vision of museums is not as dusty storerooms but as places where urgent issues of personal and communal meaning and identity can be explored and renegotiated. (Curtis, 2014)

Equally compelling, Lakota tribal elder Marcella LeBeau, a descendent of Rain-in-the-Face, a Wounded Knee survivor, spoke to the importance and sacredness of the Ghost Dance shirt (Fforde & Turnbull, 2002; Kelvingrove Art Gallery and Museum, 2009; Greenfield, 2013). It was stressed that by returning the shirt, the museum would be helping to “bring about healing for the descendants” of the Lakota and would relieve “years of suffering and heartache” (Fine-Dare, 2002). LeBeau then presented the Glasgow City Council with a replicated Ghost Dance shirt (Fig. 1) that she had made (Fforde & Turnbull, 2002; Kelvingrove Art Gallery and Museum, 2009).

According to Mark O’Neill “Marcella made a much more human case – her personality and personal qualities did influence the decision” of the Glasgow City Council (personal communication, March 14, 2016). Another significant influencing factor was the way in which the Ghost Dance shirt was acquired and that the Lakota’s tradition is to bury their dead in their garments, and in essence, should be considered as significant as human remains, such as was initially argued by the attorney, Mario Gonzalez (Curtis, 2014). Lastly, the fact that the City of Glasgow is owned by its citizens and they were largely supportive of repatriation, helped sway the decision of the Council (Keeler, 2012).

The Glasgow City Council agreed to return the Ghost Dance shirt to the Lakota with the conditions that: they would not reburial the shirt; the shirt would be displayed in a place where the story about its history with Glasgow would be told, and; the shirt would

be housed under environmentally controlled conditions (Fforde & Turnbull, 2002; Curtis, 2014; Moses, 2015). The Council placed an additional condition that the Ghost Dance shirt “might be taken back to Glasgow for public display at times agreed to by both Glasgow City Council and the Wounded Knee Survivor’s Association” and that opportunities for developing educational collaborations would be considered (Fforde & Turnbull, 2002; Curtis, 2014). The Glasgow City Council had previously denied the repatriation claims of the other four objects, and made it clear that the decision to return the shirt did not set a precedent for other returns (Kuprecht, 2014; Fforde & Turnbull, 2002).

After the decision by the Glasgow City Council was made, a ceremony took place in Glasgow where the Ghost Dance shirt was formally handed over to the Wounded Knee Survivors Association (Fforde & Turnbull, 2002). The replica made by Marcella LeBeau hangs in the place of the original shirt at the Kelvingrove, accompanied by the story of the Ghost Dance shirt’s journey from Wounded Knee to Scotland and back home again (Fforde & Turnbull, 2002).

As the delegation of Glasgow officials and the Lakota landed in the United States, they were faced with another obstacle when US Customs refused to allow the entrance of the shirt due to the adornment of eagle feathers (Moses, 2015). The problem was quickly resolved by having the shirt with eagle feather “carried by a Native American that didn’t have to abide by the customs regulations” (M. O’Neill, personal communication, March 14, 2016). In August, 1999, twenty-nine descendants of the victims of the massacre, the delegation of the Glasgow City Council, and two hundred guests welcomed home the Ghost Dance shirt with a ‘Wiping of Tears’ ceremony at the Wounded Knee monument

in South Dakota, preceded by two days of ceremonies at Eagle Butte on the Pine Ridge reservation (Fforde & Turnbull, 2002; Greenfield, 2013).

Today, the original Ghost Dance shirt hangs in an unlit, climate controlled case at the South Dakota Cultural Heritage Center where it will reside until a Wounded Knee museum can be built (Fforde & Turnbull, 2002; Greenfield, 2013; Moses, 2015).

Museum Policies & Procedures

Prior to the Lakota Ghost Dance shirt repatriation in 1999, requests for the return of property and human remains were “decided on a largely *ad hoc* basis” (Curtis, 2014). After the request from the Wounded Knee Survivors Association, and subsequent appeal of the initial rejection by Glasgow Museums, it was determined that criteria need to be developed to address this, and any future requests for repatriation (Curtis, 2014). As outlined previously, the criteria fell into five groups that related to: 1) the nature of the object itself; 2) the relation of the claimant to the object; 3) the significance of the item to the group requesting it; 4) impacts of the decision, and: 5) the fate of the object after repatriation (Curtis, 2014; Fforde & Turnbull, 2002; Kuprecht, 2014; Greenfield, 2013). These criteria have since been expanded to include a component regarding the presentation of evidence (Curtis, 2014).

In the case of the Lakota Ghost Dance shirt, the process that was established provided a public forum for both the museum and the claimants to make their case. The eloquent presentations, along with overwhelming public support, helped to inform the Glasgow City Council about the importance of the shirt to the Lakota and has been held up as a “model of good practice” by the UK Museums and Galleries Commission (Greenfield, 2013). Neil Curtis (2014) stated that:

The emphasis on public involvement reflects the long-standing sense of public interest that Glasgow has in its museums; it also reflects the nature of the city council as a representative political body. Verbal presentations by the claimant have proved to be very important in both Glasgow and Aberdeen allowing them to present arguments and evidence that might be inappropriate in writing or for them to choose a style of rhetoric and formality that they consider suitable. (Curtis, 2014)

Most museums in Scotland have since adopted a version of this criteria and have articulated their collection policies to state “that decisions to deaccession items have to be made by the governing body of the museum acting on professional curatorial advice” and that the decision to repatriate would only happen on very rare occasions (Curtis, 2014).

Reflecting upon the process with the Lakota Ghost Dance shirt repatriation, the Glasgow Museums is considering broadening their repatriation policy to include a requirement that a representative from the repatriating community should sit on the Repatriation Board of Advisors, as well as developing an appeals process (Keeler, 2012). Considering that there have not been any further requests for repatriation, there has been little need to further modify the museum’s policies (P. Allan, personal communication, March 11, 2016).

In an attempt to further develop positive relationships with indigenous communities, Patricia Allan, Curator of World Cultures, has occasionally reached out to various tribes to encourage the repatriation of certain objects within the collection as well as by creating “a limited access storage area for human remains and culturally sensitive

materials” (Keeler, 2012). In Allan’s opinion, “Western European museums need to change the mentality that they actually own everything they happen to have on display” (Keeler, 2012). To affectively work with indigenous people, Allan feels strongly that you need to have the ability and sufficient time to learn from them within their own communities; “to get to know and understand their situation now as opposed to the situation the original makers had to contend with” (P. Allan, personal communication, March 11, 2016).

In the case of the Lakota Ghost Dance shirt, the benefit of working with tribal communities, as stated by Mark O’Neill, was that:

Tens of thousands of people learned about Wounded Knee and engaged in the issue of repatriation and the complexity of world history. Assuming that repatriation is a good thing – the city did a good thing by restoring an object to its rightful owner. The museum had an idea that there was a loss and it was compensated for by an act of generosity which represented the city’s values. (M. O’Neill, personal communication, March 11, 2016)

CASE STUDY 2: The Marischal Museum, University of Aberdeen, Scotland

History. Founded in 1786, the Marischal Museum is located at the University of Aberdeen's Marischal College in Aberdeen, Scotland (University of Aberdeen, n.d.a.). As the second largest granite building in the world, the museum was closed in 2008 for renovations. (University of Aberdeen, n.d.a.). In April 2011, the University of Aberdeen opened the smaller King's Museum in the Old Aberdeen Town House on the King's College campus to continue exhibition of the collection formerly displayed at the Marischal Museum (University of Aberdeen, n.d.a.). In the Summer of 2011, part of Marischal College re-opened, but the museum remains closed to the public and now houses the Aberdeen City Council and a conservation laboratory that's supports the work of other University of Aberdeen museums (University of Aberdeen, n.d.a.).

The University's collection is made up from donations by friends and graduates of the university and includes a large fine art collection, antiquities from Egypt, and prehistoric Scottish objects (University of Aberdeen, n.d.a.). The largest part of the ethnographic collection is from Central America, but also includes objects from North American, East, West and South Africa, Australia, South Asia, Melanesia and Polynesia (University of Aberdeen, n.d.a.).

Native North American Collection. The University of Aberdeen has had a long connection to the Americas, as many notable Scots traveled to the "New World." This connection has resulted in a fairly expansive collection of Native American ethnographic objects. Considered to be "the third largest ethnographic collection in Scotland," the University's holds close to 2000 items (University of Aberdeen, n.d.c.; Curtis, 2005). The largest component of the collection hails from the Arctic, the majority of which was

donated by Sir William MacGregor, the Governor of Newfoundland at the beginning of the twentieth century (Curtis, 2005).

Professor William Knight of Marischal College wrote in 1824 that the collection included an “Indian pouch; Indian knife; belt of Wampum; eight various girdles / belts used by the Native American Indians, and; cloak, ornamented with Beads” (University of Aberdeen, n.d.c.; Curtis, 2005). Much of the collection came from the Southeast as evidenced by many items with a “Cherokee or Choctaw provenance” dating before 1830 (University of Aberdeen, n.d.c.; Curtis, 2005).

Provenance. The Blackfoot Confederacy, also known as Niitsitapi (“Original People”) includes the Siksika (“Blackfoot”), the Kainai (“Many Chiefs”), and the Northern Piegan (“Poor Robes”) from southern Alberta, and the Southern Piegan (“Poor Robes”) in Montana (Conaty, 2015; Peers, 2013). The entire confederacy numbers approximately forty-two thousand individuals who live either on the reserves or in nearby cities (Peers, 2013).

By the 1850s, the Blackfoot confederacy had fallen under the oppressive control of the United States and Canadian governments and within another thirty years, their religious practices would be outlawed (Peers, 2013). A further blow to their communities was the removal of the children to boarding schools and the denial of the use of their language (Peers, 2013). As their communities were desecrated, objects of cultural heritage were steadily removed, further destabilizing their traditional ways of life (Peers, 2013). To the Blackfoot, significant items of material cultural embody “collective memory and knowledge: they are anchors for cultural identity” and are believed to embody the spirits of those who created and used the object (Peers, 2013). Many of these

items found their way into European museums, completely inaccessible to the Blackfoot for more than a century (Peers, 2013).

During a period of intense cultural revitalization in the 1970s, the Kainai (Blood) tribe of the Blackfoot Confederacy began ongoing negotiations with museums in Alberta, Canada requesting the return of sacred ceremonial bundles that were needed to revive their ceremonies, sacred societies and the Sun Dance (Brown & Peers, 2006). These ceremonies had been inactive without the use of sacred bundles, which had been sold or left with museums during the distressing times of the early twentieth century (Brown & Peers, 2006). Their efforts led to the implementation of the First Nations Sacred Ceremonial Objects Repatriation Act, and the subsequent renewal of ceremonial practices and sacred societies (Onciul, 2014).

Frank Weasel Head (2015) explains the importance of the sacred societies to the Kainai:

Before White people came, we had many societies, some for people even younger than Kakkooyiksi. Those were our schools. What we, as society members, learned was our curriculum. They weren't just spiritual societies. They aren't just spiritual societies. Members are taught how to live their lives: how to conduct themselves, how to raise a family, how to provide for their families. That was what those societies were all about.

We were inducted into them as young people. It was just like sending your child to school. The members advanced to the next age group where they learned more, and so on, until they reached the top, the sacred societies: the Iitskinaiksi and the women's society, the Maoto'kiiksi. We have been

trying to reintroduce those societies so that our young children can have a stronger education not only in the White man's ways but in our own cultural ways, on our own way of living. This is why when we get those holy things back, other things happen. (Weasel Head, 2015)

The Mookaakin Cultural and Heritage Foundation was formed in 1998 by Kainai volunteers who are dedicated to preserving Kainai culture and work to support repatriation efforts, both locally and internationally (Brown & Peers, 2006). Their work includes locating sacred bundles, researching their provenance, reaching out to museums, understanding the various procedures for repatriation and developing their approach to convincing institutions about the importance of returning their cultural heritage (Conaty, 2015). They must also navigate opposition from within their community, where many have abandoned the traditional ways (Conaty, 2015). According to Gerald Conaty (2015), "The entire repatriation process was a fundamental learning experience – the lesson being that anything is possible if the commitment is strong enough"

The Siksika Indian reserve is home to the Blackfoot Crossing Historical Park, and the location of the Siksika Museum. Renamed Blackfoot Crossing in 2007, the community gathers at this location to celebrate Blackfoot culture, revitalize their language, and address the traumatic history of cultural suppression through various exhibits (Onciul, 2014, Bell & Paterson, 2008). This is also where the Blackfoot stores the "one hundred and twenty artifacts that have been repatriated" (Bell & Paterson, 2008).

Repatriation. Alison Brown, a graduate student at Oxford University, visited the Kainai during the summer of 1999 and witnessed the Iitskinaiksi dance (Weasel Head, 2015). She recognized one of the headdresses as similar to one at the Marischal Museum that she had seen as an undergraduate volunteer (Weasel Head, 2015; Curtis, 2005). When she returned to Oxford, Brown contacted the museum and informed them that the Kainai would be in touch about the headdress (Contay, 2015).

In 2002, the Kainai (Blood) tribe contacted the Marischal Museum, requesting information about their collection and specifically inquiring about a headdress that had been missing for several decades (Curtis, 2014; University of Aberdeen, n.d.c.). Cataloged simply as a “war bonnet,” the split-horn headdress of the Horn Society had been donated to the museum by a collector named Mrs. Bruce Miller who had purchased it, as well as a buckskin shirt and moccasins, in the 1920s while visiting the Blackfeet reservation in Montana (Curtis, 2014; Curtis, 2005; University of Aberdeen, n.d.c.; Conaty, 2015). Mrs. Miller did not obtain any details as to who the original owner was nor did they note that the headdress was considered to be a sacred bundle (Curtis, 2014; Curtis, 2005).

Sensing that a repatriation request would soon follow the inquiry, the Marischal Museum quickly modeled a repatriation policy and procedure after the one created in Glasgow in response to the Lakota Ghost Dance shirt, as well as informed by NAGPRA and Alberta’s First Nations Sacred Ceremonial Objects Repatriation Act 2000 (Curtis, 2014).

In 2002, a delegation from the Kainai’s Horn Society came to Aberdeen to determine if the split-horn headdress was associated with them (Curtis, 2005). They spent

two days looking at the collection and discussing the details for repatriation. An advisory panel was created that represented curators from the National Museums of Scotland, a representative of Aberdeen University and a representative from the Glenbow Museum nominated by the delegation (Curtis, 2005).

Neil Curtis described the process:

Randy Bottle and Frank Weasel Head, an elder, also spoke to the panel at that meeting. Also discussed were issues such as photography and the making of a replica. They explained that there could only be four headdresses (rather like North, South, East and West), so making a replica would be impossible, while the photography of sacred objects would be seen as disrespectful. They did however, accept that the museum should have photographs for its archive and for use in exhibitions and lectures. The university court approved the panel's recommendation in favor of repatriation in May 2003. (Curtis, 2005)

Because of the depth of their repatriation policy, the focus of the discussion was on how enormously important and sacred the headdress was to the Kainai (Blood) tribe, whereas "discussion about legal title, association with human remains, or the circumstances of the collection did not feature significantly in the university's decision" as it did in the repatriation of the Ghost Dance shirt in Glasgow (Curtis, 2014). In addition, the Marischal Museum decided not to place any exhibit or loan conditions upon the repatriation, such as was done in the case of the Lakota Ghost Dance shirt (Curtis, 2014; Conaty, 2015).

In July of 2003, the split-horn headdress was transferred to the Kainai (Blood) tribe through the Mookaakin Cultural and Heritage Foundation after a small public ceremony and the signing of a Memorandum of Understanding providing the conditions of the repatriation which included “a promise of objects to be given to the museum” (University of Aberdeen, n.d.c.). The split-horn headdress was brought home that summer and was “immediately restored to ceremonial use” (Conaty, 2015). This return marked the twenty-fifth, and final bundle that the Kainai needed to complete the sacred society, *litskinaiksi*; the first time it had been whole since 1923 (Conaty, 2015). The late Gerald Conaty, former curator of the Glenbow Museum, stated that he has come “to appreciate that using these items is not detrimental to their well-being. In fact, their participation in ceremonies keeps them alive and vibrant” (Conaty, 2015).

Museum Policies & Procedures. As was the case in the repatriation of the Ghost Dance shirt, museums have legal title to all objects within their collection under Scottish property law and are not obligated to make returns. Prior to the appeal for repatriation by the Kainai, the Marischal Museum did not have criteria in place to consider such requests. Using the United States 1990 NAGPRA legislation, Alberta’s First Nations Sacred Ceremonial Objects Repatriation Act 2000 and the Glasgow City Council’s policy as starting points, the Marischal Museum was able to develop a policy that was more amenable to the needs of indigenous communities without placing the museum in a position to relinquish their entire collection.

The repatriation policy for the museum provides five criteria for the museum and claimants to address; 1) provide evidence that the identity of the item is related to the claimant; 2) provide evidence attesting to the history of the item prior to its acquisition

and how it came into the possession of the University of Aberdeen; 3) describe the use and treatment of the item by the University of Aberdeen; 4) provide evidence of how the item is connected to the claimant, and 5) describe the significance of the item to both the University of Aberdeen and the claimant (University of Aberdeen Repatriation Policy, 2013). Building upon the criteria that was established at Glasgow, the University of Aberdeen repatriation committee took it one step further by inviting a member of the group requesting repatriation to join the committee (Curtis, 2014).

Each request is considered upon its own merits on a case-by-case basis. Once a decision is made to repatriate, the University of Aberdeen in partnership with the claimant, considers the appropriateness of creating replicas, the use of photographic images and research opportunities. As was the case with the Kainai, the criteria was flexible enough to weigh heavily in favor of the sacredness of the headdress to claimant, which overshadowed any desire that the University of Aberdeen may have had to retain legal title.

Loans. The Marischal Museum, under the direction of Neil Curtis, has also approached repatriation from an alternative angle – through long-term loans. Loans become an important alternative to repatriation when objects in museum collections lack clear affiliation to a single tribe (N. Curtis, personal communication, March 11, 2016). Curtis also states that sometimes “professionalism gets in the way” of keeping objects accessible, and has been known to transport objects in hand luggage as an effort to keep costs down while still maintaining proper handling protocol (N. Curtis, personal communication, March 11, 2016).

The Native America tribes from southeastern United States have a long history of intermarriage with Scottish settlers. In 2010, a delegation from the Cherokee Nation made a pilgrimage to Scotland to visit the homeland of Ludovic Grant, an indentured servant that had married into the Cherokee Nation during the eighteenth century (Keeler, 2012; Keeler, 2014). They were greeted by their distant relatives of Clan Grant as well as Neil Curtis from the Marischal Museum (Keeler, 2012). This meeting has led to intentional collaborations between the museum and the Cherokee Heritage Center in Tahlequah, Oklahoma (Keeler, 2012).

Most recently, an exhibit entitled ‘1700s Beadwork of Southeastern Tribes’ opened in Oklahoma in May 2015, featuring a collection of woven and beaded items that have been in Europe for 250 years (University of Aberdeen Museums, 2015). Collected between 1765 and 1775 by William Ogilvie, the Secretary to the Indian Affairs Commissioner, John Stuart and University of Aberdeen alumni, the beadworks are important to the Chickasaw, Choctaw, Cherokee and Creek Nations as examples of long lost beading techniques and patterns (University of Aberdeen Museums, n.d.a.; N. Curtis, personal communication, March 11, 2016). Very little material from the eighteenth century has survived, making this collection of particular importance to the indigenous communities as “bead-workers and weavers are now being inspired by the high quality work of their ancestors and the techniques, materials and patterns as they create present-day art works” (University of Aberdeen, n.d.a.).

CASE STUDY 3: The Pitt Rivers Museum, Oxford, England

History. Born in 1827 in Yorkshire, Lieutenant General Augusts Henry Lane Fox Pitt Rivers retired from military service in 1882, two years after inheriting the Rivers estate and a substantial annual stipend from his great uncle (Pitt Rivers Museum, n.d.b.). An avid collector of weaponry, he donated his collection of approximately 30,000 objects to Oxford University in 1884 (Pitt Rivers Museum, n.d.a.). Some of the requirements of his donation included lectures about the collection and the building of a new museum named after the General (Pitt Rivers Museum, 1993).

Before the museum could be completed, donations came pouring in, including “the transfer of prehistoric material from the Department of Geology,” artifacts from Captain Cook’s second voyage, and Inuit and African artifacts from the Ashmolean Museum (Pitt Rivers Museum, 1993). The Pitt Rivers Museum formally opened in April 1891, and nine years later, General Pitt Rivers died at the age of 73 (Pitt Rivers Museum, 1993).

Today, the museum contains nearly a million objects housed in a small building with three galleries (Pitt Rivers Museum, n.d.a.). In the same fashion that General Pitt Rivers presented his collection, the museum arranges the objects in a typological series, where a set of like objects are arranged together despite their cultural or geographical origins (Pitt Rivers Museum, n.d.b.). Unlike other museums that are highly curated, the Pitt Rivers Museum keeps a large part of the total collection on exhibit at all time, resulting in very crowded display cases (Pitt Rivers Museum, n.d.a.). Every available space is utilized, with objects hanging on the walls and suspended from the ceiling (Pitt Rivers Museum, 1993). In addition to the broad weaponry collection, the museum boasts

an extensive manuscript, photographic, film, and sound collections (Pitt Rivers Museum, n.d.a.).

Native North American Collection. The museum's founding collection of Native American artifacts included 275 objects from North America and Canada, most of which originated from the Pennsylvania area (Hicks & Petraglia, 2013). Ranging from arrow-heads and stone axes, to stone sinkers, the collection also represents indigenous groups that resided in New York, Massachusetts, New Jersey and Maine. (Hicks & Petraglia, 2013). It is believed that many of these objects were collected by Pitt Rivers during his military service in North American from December 1861 through April of 1862 (Hicks & Petraglia, 2013). Over the years, the collection has grown to encompass 4,347 objects, with 3,627 coming from the United States and 720 originating from Canada; only a small fraction of the collection is on display in the galleries (Hicks & Petraglia, 2013). The Pitt Rivers Museum also boasts a very extensive photographic collection of Native North American people.

Provenance. The repatriation of ancestors and cultural property for the Haida are spearheaded by the Haida Repatriation Committee (HRC), a group of volunteers that represent the Skidegate Repatriation and Cultural Committee (administered through the Haida Gwaii Museum) and the Old Massett Repatriation and Cultural Committee (administered through the Haida Heritage Society), each of which advocates for their respective communities (Skidegate Repatriation and Cultural Committee, n.d.). The mission of the HRC is to locate their ancestors and cultural property housed in institutions in Canada, the United States and Europe, to negotiate the return of their

ancestors and funerary objects, and to ensure that the remains and objects are cared for with respect (Skidegate Repatriation and Cultural Committee, n.d.).

For over a decade, the HRC has traveled extensively to large cities throughout Canada and the United States in order to repatriate their ancestors (Krmpotich & Peers, 2013). Each visit entails a consultation with their own community, communicating with the targeted museum, raising funds for travel and lodging, and putting together the most appropriate delegation for the type of collection they will be seeing (Krmpotich & Peers, 2013). It is important to the HRC that each delegation includes elders, who can share their knowledge of the objects they are shown, and artists who can learn from the craftsmanship of the artifacts.

The HRC relies upon grassroots fundraising and grant writing to fund their numerous trips. One approach is to ask for support from individuals or consultants that are doing work on Haida Gwaii to sponsor a delegate (Krimpotich & Peers, 2013). They have also had great success in obtaining financial support from individuals and organizations, both locally and outside Haida Gwaii (Krmpotich & Peers 2013). According to Andy Wilson they were able to negotiate with Air Canada to waive approximately \$100,000 worth of freight fees when bringing home 160 ancestors from the Chicago Field Museum in 2002 (A. Wilson, personal communication, March 8, 2016).

The HRC indicates that the biggest challenge to this work is gaining the trust and engagement of museums during the early stages of the process, usually attributed to the museums fear of losing their collections and setting a precedent for further returns or their preconceived notions about “angry Indians” and potential negative media attention

(Krpmotich & Peers, 2013). They attribute their success to “being diplomatic, patient and persistent” (Skidegate Repatriation and Cultural Committee, n.d.). Nika Collison refers to this as *yahgudang.gang*, where mutual respect and understanding is fostered (Krpmotich & Peers, 2013). She also explains that it can take years, diplomacy and a great deal of financial investment to get to *yahgudang.gang* with large institutions.

Their ability to develop mutual respect and understanding is evidenced by the 460 ancestors that they have welcomed home and reburied (Skidegate Repatriation and Cultural Committee, n.d.; Krpmotich & Peers, 2013). Once all of their ancestors have returned home, the committee will then focus on retrieving their cultural property (Skidegate Repatriation and Cultural Committee, n.d.; Krpmotich & Peers, 2013).

Knowledge Repatriation. Knowledge repatriation can be defined as the recovery of knowledge from museum collections for community use (Brown & Peers, 2006). This ideally includes a shared approach by the institution and source community as to the outcomes of the repatriation, respect for the sensitivities of the source community towards objects within the collection, and allowing the source community to define how they want to access the collection (Brown & Peers, 2006).

Many notable Native American / First Nations artists have visited British museums for inspiration and to learn from the collections that belonged to their ancestors. Bill Reid, a Haida carver and scholar made several trips to England to study the collections and engage curators and art historians in important conversations pertaining to Haida cultural (Krpmotich & Peers, 2013). For approximately fifteen years, staff at the Pitt Rivers Museum have been working with various indigenous communities to share the collection and, ultimately, to become better informed about the objects in their care.

In 2001, Laura Peers, the museum curator, and Alison Brown, a researcher, worked with the Kaini to provide copies of photographs taken by Beatrice Blackwood eighty years prior while engaging with the community to learn more about the individuals captured in the portraits and about life on the reserve at the turn of the century (Brown & Peers, 2006).

In 2008, the Inupiat, whose cultural objects were collected by Admiral William Beechey in 1826, sent a delegation that shared with museum staff how the objects were made and how they were used (Krpmotich & Peers, 2013). Much to the distress of the staff, the objects were picked up, held, stroked, and passed around (Krpmotich & Peers, 2013). Yet, it was necessary for the Inupiat to interact with the objects in this way in order to “reconnect with the knowledge presented by the objects and the ancestral persons bound up in them” (Krpmotich & Peers, 2013).

In 2006, Laura Peers visited Haida Gwaii to initiate a partnership between the Haida and the Pitt Rivers Museum. Along with a colleague, Peers submitted a grant proposal to the Leverhulme Trust requesting support to bring eleven Haida to England (Krpmotich & Peers, 2013). Simultaneously, the HRC began fundraising efforts to send a larger group, and in 2009, a delegation of twenty one Haida visited the museum for three weeks, to view the institutions Haida collection and to exchange knowledge and foster understanding about the objects (Skidegate Repatriation and Cultural Committee, n.d.).

The Haida entered the project, making it clear that their ultimate goal was one of repatriation. This was not the case for the Pitt Rivers Museum, who maintained a distinct separation of the request for the repatriation of human remains and sacred objects from the institutions desire for knowledge repatriation (Krpmotich & Peers, 2013). Pitt Rivers

Museum staff advised the Haida not to talk about repatriation out of concern of creating distrust and alienating themselves from other museum staff and researchers (Krpmotich & Peers, 2013).

However, during the delegation's visit, they were allowed to view a partial skeleton of one of their ancestors. The staff were not prepared for the level of grief that was exhibited by the delegation, but ultimately the Haida felt that the tears helped the staff "understand that the collections they care for are not just things to people in the communities they come from" (Krpmotich & Peers, 2013). A member of the delegation, Gwaai Edenshaw, commented:

It seems so disrespectful to those of us who are living to hold on to one of our people like that. It's such a small piece. It's meaningless to the museum. It's nothing to put on a pedestal. It's sitting in a box somewhere, and it seems like such an indignity. (Krpmotich & Peers, 2013)

Jalen Edenshaw had the following to say about his experience:

There were a few people who disagreed with our intent. They called it "their" Haida collection. They felt that the museum was a house of science and that it was holding the remains and the Haida 'artifacts' in the name of science. They felt that it belonged to them. Of course I told them that it was our collection and that they were merely housing it for us in the time being. Their concern was that if these objects were not collected and left in our community that the pieces would degrade and possible be destroyed or lost. I explained that yes, they would degrade through use and could possibly be damaged, but because we were using them there would be a

need for those objects and they would be replace or restored. They would not be forgotten. It felt like they wanted a snapshot of our past culture but did not understand that our culture does not fit in a single time in history but continues to live on. They didn't seem to understand that many of the 'objects' that lie in boxes represent a history to us, and if they were not lying in boxes they would represent our present as well. (Krpmotich & Peers, 2013)

Yet, the Haida were grateful for the opportunity to visit, sing to and feed their ancestor, as well as to work with museum staff in the proper care of the remains (Krpmotich & Peers, 2013). The relationships that were developed during these visits helped to educate the museum staff on the importance of ancestors returning home and that to Native American / First Nations people, “these encounters are not just about working with objects” (Krpmotich & Peers, 2013) but are about reconnecting with family and healing through a very intense grieving process.

The museum realized that they had more to gain than to lose by repatriating the remains, therefore, a few months after the Haida visit, Oxford University approved the request to return the ancestor (Krpmotich & Peers, 2013). On July 27, 2010, three Haida delegates received the remains of their ancestor and brought him home to Haida Gwaii (Krpmotich & Peers, 2013). Lucy Bell, a member of the Haida delegation reflects that, “The repatriation of our ancestor from the Pitt Rivers Museum was an amazing lesson in patience, diplomacy, and determination” (Krpmotich & Peers, 2013).

These projects have resulted in a change in how the museum captures the shared knowledge by adding “source community researcher comments and information” to their database, which in some cases, contradicts what has been previously accepted information about the objects (Krpmotich & Peers, 2013). In addition, museum staff have benefitted from the interactions, which have been invaluable when developing policies pertaining to ethnographic collections (Krpmotich & Peers, 2013). In this way, the museum hopes that the source community feels as though they are equal partners in the project and will work to counteract any previously negative experiences at other institutions (Krpmotich & Peers, 2013).

With the Haida visits, both the indigenous delegation and the museum “gained a great deal of information about the collections” (Krpmotich & Peers, 2013). Staff expressed that their understanding of the objects became more nuanced as they saw them put to use and they realized “that they were clearly incomplete without the people” (Krpmotich & Peers, 2013). As a museum staff member, Kate Jackson, stated:

I think that it really changes your attitude, your respect or objects, your interest in objects. It broadens it hugely to see a group of people come in and breathe life into the things by telling you so much about them, and their reverence toward them is just so inspiring. You can't help but think: "this is something so much more than I ever noticed when I was walking around the museum looking at whether the glass on the case was clean"....But also, it has the slightly sad side to it that you wish that you could do more to present the objects in a way that can communicate this

new appreciation to visitors, but sometimes that's not entirely possible.

(Krpmotich & Peers, 2013)

Museum Policies & Procedures

Protocol Agreements. Before embarking upon the visual repatriation of Kainai photographs, the Pitt Rivers Museum and the Mookaakin Cultural and Heritage Foundation worked together to develop a protocol agreement to provide a collaborative research framework (Krpmotich & Peers, 2013). The first of its kind for the Pitt Rivers Museum, the protocol agreement was a collaborative process between the museum and the Kainai and sought to answer various questions, such as: who would benefit from the knowledge that was summoned; how would that knowledge be integrated into the museum's records, and; how would the knowledge be made available to the wider public (Brown & Peers, 2006).

The protocol agreement was well received by both the museum and the Kainai, which was supported by the fact that Laura Peers had worked with them previously and had already developed a degree of trust with the community (Brown & Peers, 2006). Of most importance to the community was that this agreement ensured that every interviewee could exert control over how their information would be used (Brown & Peers, 2006).

Repatriation. The Pitt Rivers Museum's repatriation policy states that decisions to return human remains or other objects are made on a case-by-case basis by the Council of the University of Oxford (Pitt Rivers Collections Development Policy, n.d.). In terms of human remains, the policy states that the museum will abide by the University of Oxford's Museums Policy on Human Remains as well the recommendations by the

Select Committee on Culture, Media and Sports (Pitt Rivers Collections Development Policy, n.d.).

CASE STUDY 4: The British Museum, London, England

History. The story of the oldest public museum in the world begins with Sir Hans Sloane, “an Irish doctor who began collecting during a posting to Jamaica as the governor’s personal physician” during the seventeenth century (Smith, 2007; Caygill, 2009). Returning to London in 1687, he set up a thriving medical practice, catering to royalty and infamous denizens of the city, and used his increasing income to add to his ever expanding collection (Smith, 2007; Caygill, 2009). His collection grew, requiring the purchase of the house next door, and eventually, a manor home in Chelsea (Smith, 2007; Caygill, 2009). By the time Sloane died in 1753, his collection was a notorious attraction in London (Smith, 2007).

Upon his death, Parliament passed the British Museum Act 1753 to “acquire his collection of 80,000 objects for the sum of £20,000 according to the terms of his will” (Smith, 2007; Waxman, 2008; Caygill, 2009). The Act places responsibility of the collection and its accessibility to a board of trustees with a simple mission “to preserve its collection for the use and benefit of the public, who may have free access to view and peruse the same” (Smith, 2007) and to promote “discovery and understanding of the whole of human knowledge, to advance the condition of the humans species” (Waxman, 2008). It was Sloane’s desire that his collection would be utilized by as many people as possible, both locally and internationally, and held in trust by the museum in perpetuity (MacGregor, 2012).

Like other encyclopedic museums founded during the eighteenth century, it was the desire of the Enlightenment era to house the entire world in one place; and through the study of the collected objects, the truth could be told (MacGregor, 2012; Waxman,

2008; Caygill, 2009). Neil MacGregor, the current Director of the British Museum explains that the purpose of the museum is “to tell the story of mankind –where the world’s cultural heritage has been collected, conserved, investigated and debated” (Smith, 2007). Critics describe the founding as follows:

So while humanism may indeed have motivated the founding notion of the museum, there were other forces at play in the eighteenth century, namely a notion of culture that was not so much universalist as imperialist. In this view, the creation of Western museums like the British Museum - whatever the official philosophy - was actually informed by power, by empires that felt entitled to occupy distant lands and claim their cultural patrimony along with their natural resources, to take the symbols of ancient civilizations from elsewhere and fill their own museums with trophies that confirmed their power in the world. The scourge of nationalism followed in the nineteenth century, continuing ferociously into the twentieth century.But there is no small irony in this, for nationalism is a wholly European invention. (Waxman, 2008)

After the Act was passed, the trustees were tasked with finding a home for Sloane’s collection, as well as a home for “a priceless collection of manuscripts” that included “a manuscript of Beowulf and two copies of the Magna Carta” (Smith, 2007). A seventeenth-century mansion, Montagu House, was purchased, and after extensive renovations, the British Museum opened in 1759 (Smith, 2007). Although the museum’s mission was to provide the public with access to the collection, entrance to the museum was limited by a complicated process of tickets, invitations, and ultimately approval from

the principal librarian (Smith, 2007; Waxman, 2008). Groups of fifteen visitors would then be rushed through the museum by staff and prevented from dawdling at any of the objects (Smith, 2007; Waxman, 2008). In 1836, the principal librarian, Henry Ellis, expressed his frustration with the desire to open up admissions to the general public: “people of a higher grade would hardly wish to come to the Museum at the same time with sailors from the dock-yards and girls whom they might bring with them” (Smith, 2007). The Museum over-ruled Ellis’ objections, and the museum opened to the general public (Smith, 2007).

Once established, donations began to flood the institution, including: the museum’s first Egyptian mummy in 1756; a collection of 12,000 books from the fifteenth century donated by King George II; and notably, the Rosetta Stone in 1802, surrendered by Napoleon under the Treaty of Alexandria (Smith, 2007). As the collections continued to grow, the building too enlarged, surrounding homes were purchased, and several collections were moved to other establishments (Smith, 2007). In 1963, the British Museum of Natural History was established and separated from the British Museum by the British Museum Act 1963, whereas, the British Library Act enacted in 1972 called for the further movement of books and manuscripts to the newly established British Library (Smith, 2007).

Today, the British Museum maintains a collection of eight million objects - only four percent of which are on display at a time- a staff of eleven hundred, and “hosts approximately six million visitors annually (Krmpotich & Peers, 2013; Waxman, 2008). The Museum’s Partnership UK Programme coordinates nationwide exhibitions, inter-museum loans, research, and curatorial support (Smith, 2007), while the International

Training Programme provides training each summer to museum professionals from Africa, Asia and the Middle East (Krmpotich & Peers, 2013). Like many institutions of its size, the museum is greatly departmentalized and extremely hierarchical (Krmpotich & Peers, 2013).

Not to be swayed by the populace, the British Museum still clings to the ideals birthed during the Enlightenment era: that great works of art belong to humanity as a whole and need to reside in large institutions, accessible to as many people as possible. Many believe that this argument masks the underlying fear that to repatriate one object will set a precedent, which will lead to the emptying of the entire museum (Greenfield, 2008; Waxman, 2008). To allow repatriation on the grounds that an object was acquired illegally would also shed light onto the unscrupulous ways that in which many of the objects were acquired. What the institution considers to be “a devoted servant of the Trustees of the Museum” some may consider to be an unscrupulous tomb-raider and smuggler, as in the museum’s first keeper of Egyptian and Assyrian antiquities, E.A. Wallis Budge (Waxman, 2008). Hailed as tripling the museum’s collections, he did so by “bribing customs officials, smuggling in diplomatic pouches” and antiquities, and stealing “a famous papyrus, the seventy-eight-foot-long ‘Book of the Dead’” (Waxman, 2008). The sordid history of Budge’s collection methods are not discussed on the website, and according to Waxman (2008), “The museum’s failure to candidly acknowledge the violent history of that collection is ahistorical and undermines its self-appointed position as a custodian of the past.”

The return of cultural heritage is a particularly sore subject when it comes to objects, such as the Elgin Marbles, which many claim were “taken for the benefit of Britain, not for the benefit of the world” (Waxman, 2008).

Native North American Collection. As a formidable colonial power in North America, the British Museum’s Native American collection holds 20,000 objects that represent some of the “earliest voyages in search of the Northwest Passage and from the eighteenth century explorations of Captains Cook and Vancouver” (Caygill, 2009). The urge to explore and desire for economic growth provided the museum with objects that symbolized the strength and prowess of the British Colonies.

Room 26 of the museum displays a small portion of the institution’s North American collection, which ranges in age from 8,000 BC to the present (British Museum, n.d.a.). Containing both historic and contemporary objects, the exhibits illustrate “the effect of European contact and colonization on their communities” (British Museum, n.d.a.). Some of the objects in the collection include: pipes shaped as animals made by the Hopewell people in approximately 200 BC; maps drawn on deerskins from the Wea/Peoria tribe from the Illinois area; sixteenth century original drawings of Roanoke Colony; Inuit snow goggles, and ivory harpoon heads, gaming pieces, tools and toggles, and; Haida ceremonial objects that have been on display for more than 230 years (Caygill, 2009; British Museum, n.d.a.; Krmpotich & Peers, 2013).

Provenance. Often referred to as the Kwakiutl, the Kwakwaka’wakw have encountered collectors as early as Captain George Vancouver’s expedition to the area in 1792 (Jacknis, 2000). Almost one hundred years passed before Johan Adrian Jacobsen, a Norwegian sailor, visited the area on an expedition for the Royal Ethnographic Museum

of Berlins in 1881 (Jacknis, 2000). This was soon followed by Franz Boas who collected objects from 1886 through 1905 for the Berlin Museum, the British Association for the Advancement of Science, and the American Museum of Natural History in New York (Jacknis, 2000). From 1901 to 1906, Dr. Charles Newcombe visited the area to collect for the Field Museum in Chicago, followed by Samuel Barret in 1915 for the Milwaukee Public Museum (Jacknis, 2000). By the 1920s, collecting in this manner stopped, whereas, objects were further acquired through what was considered to be illegal activities.

In 1885, the Canadian Parliament had outlawed potlatch ceremonies and by 1913, they started prosecuting individuals participating in the rituals (Fine-Dare, 2002; Mauze, 2010; Krauss, 2003). In 1921, the Kwakwaka'wakw, under Chief Daniel Cranmer, held a large potlatch at Village Island, resulting in the arrest of forty-five individuals who were charged with various offences, such as “making speeches, dancing, arranging articles to be given away, and carrying gifts to recipients” (Bell & Paterson, 2008; Fine-Dare, 2002; Krauss, 2003). Those individuals arrested were forced to relinquish their regalia and potlatch objects to avoid facing prosecution, which consisted of almost 750 items, including blankets, masks, rattles, copper plaques, bowls, boxes and headdresses (Fine-Dare, 2002; The Vancouver Sun, 2005; Mauze, 2010; Krauss, 2003; Jacknis, 2010).

The potlatch items were sent to the National Museum in Ottawa and to the Museum of Man in Hull, while many objects were sold to the Museum of the American Indian in New York, and into private collections, and a few more ended up in museums in Europe, including the British Museum (Fine-Dare, 2002; Jacknis, 2000; The Vancouver Sun, 2005; Mauze, 2010; Krauss, 2003).

For the next thirty years, the Kwakwaka'wakw took potlatching underground, holding them in isolated areas disguised "as innocuous Christmas or wedding exchanges" until the law was appealed in 1951 (Jacknis, 2000). The appeal elicited requests for the return of the confiscated potlatch objects beginning in 1958 by Andrew Frank, a Coast Salish man "married to a high-ranking Kwakuitl woman" (Jacknis, 2000). By 1967, the Canadian federal government agreed to repatriation on the condition that a museum would be built to house them (Fine-Dare, 2002; Jacknis, 2000).

The decision to return these objects were compounded by the ongoing civil rights movement in the United States and the dissent over the Vietnam War, complimented by the election of a new Prime Minister, Pierre Trudeau, who advocated for a more participatory democracy (Jacknis, 2000). The National Museum adopted a policy of "democratization and decentralization" in 1968 and began to work to make their "resources more readily available to Canadians across the country" including the establishment of a Museums Assistance Program "which funded half the construction costs" for the Kwakwaka'wakw museums that would eventually regain the Potlatch collection (Jacknis, 2000).

The establishment of suitable facilities that meet modern museum conservation standards helped to ensure that the Kwakwaka'wakw were not only in a position to accept returns of their cultural heritage, but they are able to control how it is displayed and interpreted (Bell & Paterson, 2008). With the opening of the U'mista Cultural Center of Alert Bay on Vancouver Island in 1974 and the Nuyumbalees Society at Cape Mudge Village on Quadra Island in 1975, the Kwakwaka'wakw were in a position to each accept

the return of half of the potlatch items to their respective museums (Fine-Dare, 2002; Jacknis, 2000; Erikson, 2002; Mauze, 2010).

The Kwakwaka'wakw have also been able to use these institutions as “private law bodies to ensure their standing in civil courts proceedings and to pursue long-running repatriation campaigns” (Kuprecht, 2014). In this manner, the museums act as a vehicle for self-determination for the Kwakwaka'wakw (Erikson, 2002) who are better positioned to deal with various repatriation complications, such as the fact that “potlatch items are not viewed as communal property but as belonging to individual chiefs and their families” (Fine-Dare, 2002). Soon thereafter, the Museum of Man returned the confiscated potlatch items to the Kwakwaka'wakw, and in 1988, the Royal Ontario Museum did the same (Bell & Paterson, 2008). With the passage of the NMAIA and NAGPRA, the National Museum of the American Indian also returned their nine confiscated potlatch items (Mauze, 2010; Krauss, 2003).

Repatriation/Loans. The word U'mista in the Kwakwaka'wakw language means “the return home of a captive” (Jacknis, 2000). Akin to a captive, the Transformation Mask that the British Museum acquired in 1944 from a widow, was locked away in storage and never placed on display for viewing for over sixty years (Elginism, 2005, Krauss, 2003).

The late Executive Director of Alert Bay's U'mista Cultural Center, Andrea Sanborn, first visited the British Museum in 1997, carrying an empty duffle bag, fully prepared to take the mask home (Elginism, 2005; The Vancouver Sun, 2005). The institution refused to allow her to even view the mask during that first visit (Elginism, 2005; The Vancouver Sun, 2005). It took the help of the Canadian Embassy in London

and eight years of correspondence, meetings, relationship building and negotiation between the U'mista Cultural Center and the British Museum before the mask was welcomed home in ceremony to Alert Bay under a long-term loan agreement (Elginism, 2005; Bell & Paterson, 2008; Smith, 2007; Sanborn, n.d.; Mauze, 2010). Sanborn attributes the successful outcome to international media attention; “a shift from hard positions and defensive attitudes on both sides; change in museum personnel; commitment to the same standards of care; devotion of significant human and financial resources; and more thorough research” (Bell & Paterson, 2008). It also helped that letters were written upon the behalf of the Kwakwaka'wakw directly to the British Museum pleading their case (Sanborn, n.d.). It is expected that the loan will eventually be made permanent (Bell & Paterson, 2008).

Almost all 200 pieces that were seized have now been found and returned and are on display at the U'mista Cultural Center and at the Kwakiutl Museum on Quadra Island (Elginism, 2005). Chief Dan Cranmer's son Bill, now the chief of the 'Namgis First Nation, knows firsthand how devastating the loss of the potlatch items were to the Kwakwaka'wakw people; “What they did was stop our ability to pass on our history” (The Vancouver Sun, 2005).

Museum Policies & Procedures. The British Museum is frequently working to mediate the contested ownership of objects within their collection (Smith, 2007). In a report submitted to the House of Commons Select Committee on Cultural Property: Return and Illicit Trade, the British Museum indicated that since approximately 1970, it has received twenty seven requests for repatriation (Fforde, Hurbert & Turnbull, 2002). These requests range from: government to government appeals; foreign governments

directly to the British Museum; and individuals, cultural leaders, and museums (Fforde, Hurbert & Turnbull, 2002).

When faced with a request for repatriation, staff refer to the guidelines and policies that are based upon the British Museum Act of 1963, which direct them to “explore and clarify the status of those requesting repatriation, and to understand the reasons for the request being made” (Fforde, Hubert & Turnbull, 2002). Some of the issues that need to be considered is whether or not the request is for human remains or sacred objects, if the property was unjustly taken, and if there is any political motivation behind the request (Fforde, Hubert & Turnbull, 2002).

De-accession. Upon reviewing the British Museum De-Accession Policy (British Museum, n.d.c.), it states that the Trustee’s ability to de-accession any object is limited, with “a strong legal presumption against it.” It further explains that “the legal presumption is reinforced by an absolute prohibition against de-accessioning where any object has been vested in the Collection subject to any trust of condition against de-accessioning imposed on the Trustees at the time of its acquisition” (British Museum, n.d.c.). Therefore, a donor can prohibit the museum from de-accessioning any item they donate, which could supersede in instances where the item was questionably or illegally acquired.

The Trustees can de-accession objects in very limited circumstances, such as with duplicate items, objects that are considered to be “unfit to be retained in the Collection and can be disposed of without detriment to the interests of the public or scholars,” or in the case of objects that have deteriorated beyond their usefulness (British Museum, n.d.c.). This narrow framework makes it highly unlikely that items of cultural property

would ever be de-accessioned unless there is an act of Parliament to revise the British Museum Act.

As of 1998, the British Museum adopted the guidelines put forth by UNESCO's 1970 Convention and bans the possession of objects acquired after 1970 that do not have clear provenance (Waxman, 2008; Francioni & Vrdoljak, 2013). Considering that the majority of the museum's collection was acquired before 1970, they are "officially exempt from scrutiny, no matter how dubious or reprehensible" the methods were in the object's acquisition (Waxman, 2008).

Loans. At this point, the only recourse that indigenous communities have to regain their property, albeit in an ephemeral sense, are through loans. The British Museum loan policy states:

The British Museum may lend for public exhibition (whether in the United Kingdom or elsewhere) any object comprised in the collections of the Museum: provided that in deciding whether or not to lend any such object, and in determining the time for which, and the conditions subject to which, any such object is to be lent, the British Museum shall have regard to the interests of students and other persons visiting the Museum, to the physical condition and degree of rarity of the object in question, and to any risks to which it is likely to be exposed. (British Museum, n.d.e.)

The policy further states that no loan can be made that would override the British Museum Act of 1963 (British Museum, n.d.e.).

Summary

Each of the previous case studies indicate that every event of repatriation, whether it is the physical return of an object or the sharing of knowledge, is unique and negotiated through numerous factors. The advancements made in Scotland to return objects are juxtaposed by England's inability to repatriate objects at all. The following interviews include individuals that were directly involved with the highlighted case studies as well as individuals that have been involved with repatriation efforts over the past several decades.

Structured Interviews

The following section provides an overview of the findings from thirteen interviews, and includes: the differing opinions amongst museum professionals and Native American/First Nation peoples on the importance of repatriation; the legal parameters that pervade repatriation efforts in the United Kingdom; the use of international accords in the repatriation process; the challenges and benefits of working with Native American / First Nations peoples and large institutions; and what needs to be in place to further support international repatriation.

The Importance of Repatriation

The weight that repatriation carries for the Native American and First Nations people is evident amongst the interview responses and relevant literature. The indigenous interview subjects all felt as though the desired objects for repatriation had been obtained through theft and immoral means, therefore should unquestionably be returned. They also spoke to the importance of these items in healing their communities and revitalizing their cultural practices. Many of the non-native museum professionals were more cautious in

answering whether or not repatriation of cultural property was important to them, often citing the undeniable complexity of each case.

When considering the importance of the Transformation Mask to the Kwakwaka'wakw, the late Andrea Sanborn, who was the Executive Director of the U'mista Cultural Society in Alert Bay, British Columbia, describes the void that is created when important items of cultural heritage and patrimony are removed from their communities. To the Kwakwaka'wakw, the soul of their "culture remains fragmented until all the pieces can be reunited, repatriated and returned home" which includes the revival of their language (Sanborn, n.d.). She wonders what agony "the spirit of the transformation mask carried while it was separated from the spirit of the culture of the Kwakwaka'wakw" (Sanborn, n.d.). Sanborn goes further by stating:

Without our language we cannot be the Kwakwaka'wakw. Give us back our language, give us back our cultural ceremonial masks and regalia, give us back our spirit and only then can our culture be whole again. The spirits of our ancestors can then be at rest as we will then have u'mista and we can continue rebuilding our culture, our lives and become whole again. Without reunification, without repatriation we cannot be whole. How can world histories make sense if they remain in pieces, spread about the world with their fragmented stories? (Sanborn, n.d.)

The return of cultural property helps to ensure the survival of a culture and its people and that future generations of children will "know where they belong, what cultural privileges they hold and what songs, dances and legends they can celebrate in their lives" (Sanborn, n.d.).

Similarly, the Haida consider the souls of their ancestors that are held in museums far from home are “wandering and unhappy;” they cannot rest and communities cannot heal until they are “laid to rest with honor” (Skidegate Repatriation and Cultural Committee, n.d.). Andy Wilson, a member of the Haida Repatriation Committee, explains that a driving force for repatriation is that the “really important artifacts were carved by our ancestors, which makes it more personal because they were made by their hands” (Wilson, personal communication, March 8, 2016). Before the Haida Repatriation Committee embarked upon repatriation, Wilson explains that “the community came to a clear consensus that artifacts in museums and universities were stolen and taken without permission” and they needed to be returned home (Wilson, personal communication, March 8, 2016).

Repatriation is a long process that requires the support of the entire community; where everyone from children to elders work to make bentwood burial boxes, button blankets and cedar bark mats to properly wrap and prepare their ancestors for burial (Skidegate Repatriation and Cultural Committee, n.d.). These efforts have triggered the revitalization of their cultural traditions and languages as elders teach the songs, dances, and ceremonies to the younger generations so that they can honor the journey home of their ancestors. It is noted that after each ceremony, “one can feel that the air has been cleared, that spirits are resting, that our ancestors are at peace, and one can see that healing is visible on the faces of the Haida community” (Skidegate Repatriation and Cultural Committee, n.d.).

For the Kainai, their sacred bundles that are housed in museums are like orphaned children, where “there remains a distinct and unbreakable relationship” between the people and their sacred patrimony (Bell & Paterson, 2008). Without the return of the bundles, their ceremonies are incomplete and they are unable to sustain their traditional way of life (Bell & Paterson, 2008).

Andrea Carmen (Yaqui), the Executive Director of the International Indian Treaty Council considers items of cultural patrimony to be alive, and states that “they are not artifacts, they are essential for our ceremonies. Especially in the case of ancestral remains which were put in the ground with certain ceremonies: all are important for the life of our people and for our ongoing survival” (Carmen, personal communication, March 8, 2016). Registrar and Assistant Museum Director for Table Mountain Rancheria, Cristina Gonzalez (Chumash) refers to sacred objects as ancestors that “need to finish their journey: A journey which has been interrupted by people that do not understand that our ancestors need to be at rest” (Gonzalez, personal communication, March 16, 2016). She continues by stating that institutions that do not want to work towards repatriation lack “compassion for cultures” and are acting inhumanely (Gonzalez, personal communication, March 16, 2016). Adriane Tafoya (Kitanemuk) explains that these cultural objects are “part of our living traditions and culture and connects us to our past and present and to where we are going and to who we are as indigenous people” (Tafoya, personal communication, May 12, 2016).

Honor Keeler (Cherokee), the Director of the International Repatriation Project at the Association on American Indian Affairs speaks to the fact that indigenous people did

not provide prior and informed consent for the removal of their sacred objects, which usually took place under extreme duress (Keeler, personal communication, March 22, 2016). She continues by stating, “It is not often that you find that indigenous people have provided informed consent. I view [repatriation] as a human rights issue and it is important to acknowledge it as such” (Keeler, personal communication, March 22, 2016). Terry Snowball (Prairie Band Potawatomi, Ho-Chunk, Winnebago), the Repatriation Coordinator for the National Museum of American Indians, supports repatriation both professionally and personally. He is charged with supporting “the return of objects that have been alienated so that they make it back into practice” (Snowball, personal communication, March 16, 2016). Snowball considers repatriation as a way “to support the basic human rights of indigenous people” as well as a way to “support cultural preservation for communities” (Snowball, personal communication, March 16, 2016).

Some of the non-indigenous museum professionals held the same strong belief that objects of cultural patrimony should be repatriated. Susana Macarron, professor, consultant, and collections management specialist, understands “the value that was placed on these objects when they were created; the value that these cultures placed on these objects; and the value to these cultures now, which are an inspiration to new generations” (Macarron, personal communication, March 9, 2016). She further explains that she “always thought that art has a spiritual nature and you can’t get more spiritual than the objects of Native people” (Macarron, personal communication, March 9, 2016). Paulette Hennem, the Senior Museum Curator for the California State Parks, simply states that repatriation is important “because it is the law” within the United States (Hennem, personal communication, March 23, 2016). She adds that “there are a number of ethical

and moral implications that I firmly ascribe to” that support the efforts to repatriate (Hennum, personal communication, March 23, 2016).

For other museum professionals, there isn't a simple answer to repatriation. Patricia Allan, the Curator of World Cultures at Glasgow Museums in Scotland, feels that it depends upon the item that is being requested for repatriation (Allan, personal communication, March 11, 2016). She distinguishes between her own personal belief and that of the institution, which “doesn't care in a moral sense – there is a sort of distance between the institution and the object” (Allan, personal communication, March 11, 2016). She further states:

I am generally supportive. It does depend on so many factors. Human remains are a different situation and there is no question that as the remains are people's relatives they need to be returned to where they belong and not housed in museums in countries far from their ancestral homes. But sacred objects are more contentious; it is very complex. The source communities have to put forward a far stronger case to the museum community, as there is more likely to be resistance to the return of cultural artifacts which may have their own material value to museum decision makers. You can assume that all members of a source community will be united in wanting these items back; but sometimes that is not the case. Within communities, individuals can disagree and that may lead to a level of conflict within the communities. Cultural objects may not have the same meaning to all members of a community: with the passage of

generations and changes in practices and beliefs sometimes they no longer connect with the significance of an object or may have other priorities.

Repatriation is not the only answer for a sacred object: an alternative is to digitize the collection or return them on a loan basis so that all members of the source community can see the object and make up their own minds.

(Allan, personal communication, March 11, 2016)

Mark O'Neill, the former Head of Arts and Museums, for Glasgow Museums in Scotland agrees that the decision to repatriate “completely depends on that object: there are general answers about human remains and about sacred objects, but in general, there isn't a blanket answer” to whether or not it is important to repatriate Native American cultural property (O'Neill, personal communication, March 14, 2016). Neil Curtis, the Head of Museums at the University of Aberdeen, Scotland, does not necessarily feel that repatriation is a priority or a driving force for the museum: “if a request comes, we deal with it. There isn't a proactive policy to repatriate” (Curtis, personal communication, March 11, 2016).

Laura Peers, the Professor of Museum Anthropology at Pitt Rivers Museum simply states that “Oxford University, which owns the collections, does not repatriate artifacts” (Peers, personal communication, March 9, 2016). The former curator and Keeper of Anthropology for the British Museum, Jonathan King, felt that asking whether or not repatriation of cultural property is important was the wrong question:

It's like looking through a telescope at the wrong end. Basically the question of where objects of culture property are and looked after is a historical process and you have to look at it in terms of historical

circumstances. It is a very complex business, not only to do with history and culture, but also politics and a whole host of other circumstances, including finances. (King, personal communication, April 8, 2016)

Timothy McKeown, a legal anthropologist for the United States

Department of Interior, takes a pragmatic approach to whether or not repatriation is important: “If items were improperly or illegally obtained, within our property law, they have a right to get them back.” (McKeown, personal communication, March 11, 2016).

Representatives of the four case study museums were asked if there had been an increase in requests for the repatriation of North American cultural property as a result of the repatriation of the highlighted cases. All five of the interview subjects indicated that there haven't been any further attempts to repatriate. During the repatriation process, many expressed the fear that the return of items would set a precedent and would result in more repatriation requests. Mark O'Neill states that “I think one of the fears was that repatriation would open up the floodgates. I don't believe there are floodgates” (O'Neill, personal communication, March 14, 2016). Even with the passage of the Human Tissue Act 2004, which “allowed for the return of human remains and cultural property to the country of origin under certain circumstances, there were only two cases of Tasmanian and Maori returns of human remains” while he was employed at the British Museum (King, personal communication, April 8, 2016).

Andy Wilson explains that the Haida Repatriation Committee decided from the onset of their efforts that “there would be two steps they would do: first we would bring home all our ancestors then we would work to repatriate sacred artifacts and burial items. We are not quite finished with human remains yet” (Wilson, personal communication,

March 8, 2016). He anticipates that once the ancestors have all returned home, they will refocus their energy and begin to request the return of their cultural heritage items.

Legal Parameters

Scotland. In regards to the repatriation of the Ghost Dance shirt, Mario Gonzalez, the lawyer for the Wounded Knee Survivors Association argued that the shirt was removed from an innocent victim of a massacre and could not be considered “war booty” (Greenfield, 2013; Moses, 2015). He explained that the tradition of the Lakota is to bury their dead in their garments, therefore, the Ghost Dance shirt should be considered an illegally acquired funerary object, which under American law, would be required to be returned (Greenfield, 2013).

The Kainai have a well-defined system of protocols pertaining to “ownership and transfer of culturally valuable information” which deems the transfer of cultural property outside of the Kainai system illegal (Bell, 2008). Even if an object is sold legally in a western sense, to the Kainai, it is considered to be a “breach of traditional law” if transfer rites are not adhered to (Bell, 2008). In dealing with repatriation requests from indigenous communities, many conflicts could be avoided if “national and international legal frameworks” would work to validate and incorporate “traditional legal systems” (Bell & Paterson, 2008). The Kainai, are forced to follow the canons of law created by the very people that worked to dismantle their way of life in order to regain their property (Bell, 2008). For people steeped in oral traditions, the Kainai are at a “disadvantage when they are asked to claim property under foreign legal standards and their own protocols are ignored” (Bell & Paterson, 2008).

With no law comparable to NAGPRA in Scotland, any request for repatriation falls under property law (Curtis, 2014). Since all museum collections are therefore subject to Scottish property law with legal title of the objects conveyed to the museums, these institutions could not be considered to be neutral when responding to repatriation requests (Curtis, 2014). Legal claims could be pursued through Scottish courts if ownership were to be contested, but to date, decisions regarding repatriation have been made by the governing bodies of museums that have rights of ownership (Curtis, 2014).

External politics cannot be ignored: some indicate that the reason the Ghost Dance shirt repatriation case caused so much attention was due to discussions about Scottish political autonomy and people in Scotland wanting to be viewed as “fair and just” (Moses, 2015). Neil Curtis (2014) suggests that “support for repatriation from within Scotland can be the result of simplistic ideas of victimhood and empathy with indigenous people.”

England. Similar to Scotland, England does not have encompassing laws, such as NAGPRA, mandating repatriation. The collection of the British Museum falls under the British Museum Act of 1963 and the Human Tissues Act of 2004, both of which restricts what items can be removed from the museum’s collection. The institution has also amended their policies to reflect the intent of the 1970 UNESCO Convention and incorporates the Code of Professional Ethics of the International Council of Museums into their acquisition policy.

The British Museum Act 1963 explicitly states that trustees cannot dispose of an object unless it is a duplicate or it is unfit to be retained in the collection and can be removed without disadvantaging scholars (British Museum, n.d.b.). The act severely

limits the ability of trustees and museum staff to authorize the repatriation of cultural heritage. In addition, there is a widespread fear that to repatriate an object to an indigenous community would set a precedent for the return of other controversial objects, such as the Elgin Marbles, which were acquired questionably.

The Human Tissues Act 2004 specifically identified the British Museum as an institution that would be required to return human remains less than 1,000 years old (Bell & Paterson, 2008; The British Museum, n.d.a.). With 8,663 items that contain human remains, only 5 percent of these items are more than 1,000 years old (Smith, 2007). Some items have been examined and removed from display, yet according to the curator of the British and Iron Age Collections, JD Hill, the desire of visitors who expect to see human remains overrides the needs and desires of indigenous communities, in that “if we didn’t have mummies on display, visitors would be disappointed” (Smith, 2007).

International Declarations and Conventions

Interview subjects were asked whether or not the conventions and declarations authored by UNESCO were utilized within the repatriation process. Unanimously, each person indicated that they were not directly utilized, and that “the international accords in place right now are essentially advisory and not binding, suggesting that parties act in good faith when dealing with each other” (McKeown, personal communication, March 11, 2016).

Patricia Allan clarified that “repatriation requests began with the 1970 UNESCO Convention” efforts, but the guidelines were not utilized in the process to return the Ghost Dance shirt (Allan, personal communication, March 11, 2016). This was echoed by Mark O’Neill; “International laws or declarations were not utilized – it was all based on

the five principles which we worked out- there wasn't legal pressure" (O'Neill, personal communication, March 14, 2016). Neil Curtis further elaborated that the reason they didn't directly apply is because the objects "were acquired ages ago," before the 1970 date for UNESCO (Curtis, personal communication, March, 11, 2016). Curtis did share that in regards to the split-horn headdress repatriation, there had been a suggestion that the Blackfoot First Nations Sacred Ceremonial Objects Repatriation Act 2004 "had weight in Scotland, but it didn't. It can be difficult for people to know which laws and conventions are actually applicable" (Curtis, personal communication, March 11, 2016).

Honor Keeler provided an additional dimension to why the international agreements and conventions were not utilized:

They have been brought up but not utilized very often; part of that is because the conventions aren't necessarily in tune with indigenous concepts of repatriation. One of the issues that seem to be coming up with cultural property repatriation is that there has to be a listing of items so that people can become part of public knowledge and aware of the importance of the items. The problem with that approach with indigenous peoples is that there are certain knowledge and use that needs to remain with a specific group of people within a community and I think those discussion are part of an educational process that needs to be looked at and examined with regards to UNESCO.(Keeler, personal communication, March 22, 2016).

The United Nations Declaration for the Rights of Indigenous People

Although the United Nations Declaration for the Rights of Indigenous People would not be passed for several years after the repatriation cases highlighted in this paper, each decision to repatriate has helped to establish international norms to further support the international repatriation of cultural property (Keeler, 2012). The passage of the Declaration is a game changer, where, like NAGPRA, it is empowering and “anything that empowers people is a good thing” (Allan, personal communication, March 11, 2016).

Honor Keeler states:

The Declaration is an amazing and forward thinking statement – I feel that it’s important for indigenous peoples to be at the table for any process pertaining to native objects – including national discussions. I wish it had more teeth but it does acknowledge the duress that indigenous peoples had to endure through colonialism and oppression. I think that is an important acknowledgement for the world to make and these specific institutions to acknowledge what happen in the past. (Keeler, personal communication, March 22, 2016).

Even though the Declaration isn’t binding and “has no teeth to it, it is a good way for trying to convince national parties to change their laws to be more consistent with the Declaration” (McKeown, personal communication, March 11, 2016). Mark O’Neill feels that the Declaration will increase awareness about repatriation, but “the pressure will remain largely ethical” (O’Neill, personal communication, March, 14, 2016). Cristina Gonzalez considers the fact that there are no repercussions for not following the recommendations of the Declaration: “How much power does it have if it is optional and

you can't fine or place an embargo on a country for not following it?" (Gonzalez, personal communication, March 16, 2016).

Interview subjects were asked to elaborate on how museums and Native American / First Nations peoples have developed of mutually positive relationships. This question was followed by inquiring as to the various challenges that arose. The answers ranged from the great physical distance between the two groups as well as the lack of financial support for repatriation. In addition, issues pertaining to the degree of capacity that the tribal communities possessed, how to manage expectations, and finally, the vast difference in worldview between indigenous communities and European museums.

Jonathan King feels that the more "curators and museum management work with source communities; there is no reason why outcomes shouldn't include the return of material permanently" (King, personal communication, April 8, 2016). He further states:

If a collection is in a museum and not shown, published or understood it is befit for the curators to organized engagement and understanding with the source community. With the leveling of the power relationships between source communities and museums, then the return of property is likely to be the outcome. If you work in a non-confrontational manner with sources community and understand and research collections. The outcome will likely be a permanent relationship and understanding is part of the outcome. Where the item is actually held becomes a secondary manner. (King, personal communication, April 8, 2016).

By providing "good access to collections so that [source communities] can study them" will help build "a degree of understanding by the museum of what goes on in other

countries and the way people from other cultures regard the way of doing things with their own cultural patrimony” (King, personal communication, April 8, 2016).

Building relationships are challenged by the distance between Native American / First Nations peoples and European museums that house the items of cultural property.

Patricia Allan explains that:

Unlike the US, we don't have resident indigenous groups or communities in the sense that the US has. Any connection is initiated by social media, which has been the most effective way and has exponentially increased our involvement with indigenous communities. Prior to social media, it was difficult to develop a relationship. The conventional routes didn't work. But repatriation in its own right is not necessarily a natural basis for a positive relationship or lasting friendships. (Allan, personal communication, March 11, 2016).

Mark O'Neill's experience working with the Wounded Knee Survivors Association was “more informal than working with other foreign governments” (O'Neill, personal communication, March 14, 2016). He felt that “ignoring a bureaucratic approach was an important part in establishing a relationship with the Wounded Knee Survivors Association” (O'Neill, personal communication, March 14, 2016). Neil Curtis further elaborates:

Good relationships were very important for the success of the repatriation discussions in Aberdeen. The best way of approaching repatriation is definitely to develop an understanding and avoid antagonism. However, museums can over-state the long-term significance of these relationships,

especially given the challenges of maintaining relationships hundreds or thousands of miles apart. (Curtis, personal communication, March 11, 2016).

In regards to the work with the Kainai, Neil Curtis felt that the fact that the University took the meeting seriously: involving the University Principal and other senior managers was really important in developing a positive relationship (Curtis, personal communication, March 11, 2016). The relationship deepened, resulting in the Kainai inviting Curtis to attend their Sundance ceremony after the bundle had been repatriated (Curtis, personal communication, March 11, 2016). He reflects that “they wanted me to understand, beyond a functional understanding, to an emotional understanding” about the importance of the return of their sacred bundle (Curtis, personal communication, March 11, 2016).

For Cristina Gonzalez, the most effective way that relationships have been built is through cooperation and mutual respect that emerges when institutions work together to uphold the intent and spirit of domestic legislation that supports repatriation (Gonzalez, personal communication, March 16, 2016). She also appreciates institutions that are personable, approachable, and inviting who work to develop mutually positive friendships (Gonzalez, personal communication, March 16, 2016).

The Haida strive to build relationships with museums by being inclusive, hoping that staff will be as equally affected by songs, prayers and dances they honor their ancestors by. Nika Collison states, “The people working in these institutions today (for the most part) did not steal our relatives' bones or hide our cultural heritage away. Like us, they've inherited the right and the responsibility to do things differently - to make

things right” (Krmpotich & Peers, 2013). Andy Wilson shares that the approach the repatriation committee agreed to were “not to shame or blame anybody” and to provide museums assurances that they “were not there to empty their warehouses, but to help them” (Wilson, personal communication, March 8, 2016). Relationships were further deepened as the Haida delegations took in the various exhibits and pointed out inaccuracies and worked with the institutions to update and correct their information (Wilson, personal communication, March 8, 2016).

Inquiring as to the challenges that institutions and indigenous groups face when working to repatriate internationally, Jonathan King replied, “the idea of a challenge implies a conflict, whereas in fact in almost every circumstance, if you talk to people in a reasonable, interested and engaged manner, than a conflict doesn’t necessarily arise. Actually, in most circumstances, challenges aren’t challenges but opportunities” (King, personal communication, April 8, 2016).

A common challenge shared by all interview subjects was the great distance between the museums and source communities. This impedes the ability to provide access to the collection so that indigenous groups can determine what should be repatriated. The underlying issue was the lack of funding for repatriation and the challenge that traveling overseas causes for communities that tend to be severely limited in financial support.

Patricia Allan shares that for the Glasgow Museums, a challenge that arose was in, “trying to accommodate the probability that most indigenous peoples don’t have the ability to travel and come to UK museums to enable them access to their cultural

materials” (Allan, personal communication, March 11, 2016). Tim McKeown agrees that the lack of adequate financial resources can impede repatriation due to the amount of travel that is involved and the need to numerous trips during the repatriation process (McKeown, personal communication, March 11, 2016).

Considering that most repatriation efforts that are undertaken by indigenous communities are led by volunteers and can take years to negotiate, the continuity of efforts are interrupted when individuals transition out of volunteer service. Mark O’Neill clarifies that the difficulties include “basic communication and planning – basically the people we were communicating with were volunteers. Written communications, planning visits, and booking ahead to make formal things happen: all of that was difficult and huge” (O’Neill, personal communication, March 14, 2016). Tim McKeown further elaborates:

Sometimes you have someone that is very passionate about repatriation and will move efforts dramatically, but if they leave for any reason, there is no one to step in to carry the ball. This work requires at least one passionate person to work on it: sometimes it is the tribal chair, so they focus resources on it. Over the last 25 years, there are very few tribes that have been focused on repatriation. (McKeown, personal communication, March, 11, 2016)

It is not common for the tribal representatives to have high levels of education, creating some difficulties when navigating highly bureaucratic institutions and processes. Patricia Allan explains that “we are generally approached by those community elders who are highly motivated and some may have a high level of education...but they are

not necessarily totally representative of the community” (Allan, personal communication, March 11, 2016).

Managing expectations was difficult for Mark O’Neill, especially considering that the museum was “inviting the Wounded Knee Survivors Association over to make presentations without knowing the outcome since the city council was going to decide” (O’Neill, personal communication, March 14, 2016). O’Neill continued:

I didn’t know which way the decision was going to go. I wasn’t sure about how friendly to be: to be overly friendly and the decision goes the wrong way could feel disingenuous. There was behind the scenes pressure by the American and British governments not to give it back – but not in writing. We were having to negotiate what was happening behind the scenes while engaging the public to ensure that they know the issues involved. (O’Neill, personal communication, March 14, 2016)

Paulette Hennum explains that she has learned “to be more tolerant and more patient, and not assume things or to make things overly complicated” (Hennum, personal communication, March 23, 2016). She further elaborates to say that being a good listener and acting in good faith will get you very far with tribal people (Hennum, personal communication, March 23, 2016). She shares that:

In the beginning, I was extremely cautious and that was a hindrance. As I worked more with tribal people I knew their expectations and not to hurry things. The web of life is completely different than how many of us were raised: I learned about that as I have gone along as well (Hennum, personal communication, March 23, 2016)

The Future

The final question posed to the individuals interviewed asked for their input as to what needs to be in place or changed in order to support repatriation more fully. Answers included: the need to fully fund repatriation efforts; a comprehensive inventory of artifacts; an analysis of how many artifacts would actually be eligible for repatriation; more education around what repatriation can mean to both indigenous people and museums; and legislative change and legal compulsion to following recommendations to repatriate.

The lack of financial support for repatriation was commented on by most of the interview subjects. Patricia Allan suggests that more governments could fund repatriation efforts, citing that Australian and New Zealand governments efforts to support repatriation internationally and the positive outcomes for the aboriginal and Maori people (Allan, personal communication, March 11, 2016). Neil Curtis agrees that there is a need for more resources as repatriation can be expensive for both those making the request and for museums. However, he also cautioned that “museums have to be careful not to assume that repatriation is always desirable, since some indigenous people may not want or need to repatriate at the moment” (Curtis, personal communication, March 11, 2016).

Mark O’Neill suggests that a “statistical analysis of how many objects could be seriously considered to be repatriated” could be undertaken, which would likely dispel the “exaggerated argument that repatriation would empty museum collections” (O’Neill, personal communication, March 14, 2016). Others spoke to the need for comprehensive inventories of European collections to support tribes in locating objects.

The majority of individuals spoke about the need for more education about repatriation and increasing the understanding around what museums have to gain, rather than what they may lose from deaccessioning. Neil Curtis feels that dialogue needs to take place between museums that have been involved in repatriation and those that have not to emphasize “how museums can benefit from repatriation themselves, rather than feeling threatened by it” (Curtis, personal communication, March 11, 2016).

Patricia Allan also spoke about the need for museum personnel to become fully educated about the specific communities they are working with “to understand exactly what is going on and the unique issues and internal politics each community is faced with” (Allan, personal communication, March, 11, 2016). Terry Snowball articulates how museums are an extremely suitable arena for educating the public on the importance of repatriation while including indigenous voices:

It could challenge the philosophies that are being taught in those forums in the field of anthropology and archaeology and how you look at material culture. Through the Vermillion Accord, scholars had reasoned that some of the most valuable forms of discourse and discussion would be best benefited by the inclusion of indigenous people and works sympathetically along those lines to pay attention to philosophies about inclusion. You see more and more indigenous people getting involved in those discussions, which in some respects- academic circles feel they are the preeminent authority-whereas some of that information and knowledge are still within the traditional confines of oral histories. That to me is how you encourage the dialogue between indigenous people (the other) and those disciplines.

Indigenous people are finding inroads to be a part of that community.

(Snowball, personal communication, March 16, 2016)

There were differing opinions about making legislative change to support repatriation. Neil Curtis feels that it would be more effective to persuade museums to embrace repatriation due to his belief that “legislation that gave people the right to demand objects from their existing owners would be difficult to get through parliament” (Curtis, personal communication, March 11, 2016). Yet, Andy Wilson describes efforts by the Haida Repatriation Committee that helped to bring about legislative change with parliament through the Human Tissue Act:

We sent letters to the places that we knew had remains or artifacts. We were told we would never get anything back from the British Museum.

We were told that we needed Parliament to pass a law to get back what we requested, so we started a letter campaign and asked supporters to write to the British Parliament. For ten years all we did was ask anyone that visited to write letter: hundreds of people wrote to change the repatriation law.

We got so much media attention that Parliament amended the British Museum Act to allow human remains to be returned. (Wilson, personal communication, March 8, 2016)

Jonathan King warns that a further act of parliament may not have a favorable outcome; “it could be decided that remains could no longer be returned to originating communities due to advances in DNA research” (King, personal communication, April 8, 2016). Andrea Carmen is advocating for ICOM to implement “a new mechanism for making a transparent and consistent process for indigenous people all over the world

whose ceremonial items and ancestors remain in repositories” (Carmen, personal communication, March 8, 2016). Honor Keeler emphasizes the need for acknowledging the government to government relationship with tribes and that “there has to be recognition of indigenous traditional law - countries need to pass repatriation legislation include indigenous people in the process” (Keeler, personal communication, March 22, 2016).

Summary

Although the international repatriation of Native North American cultural property has not been a predominate factor for the museums highlighted within the case studies, it is anticipated that this issue will come to the forefront in the near future as norms are established to make repatriation a more acceptable practice.

The case studies and primary research have helped to understand the various challenges involved with repatriating artifacts internationally, and has uncovered the approaches that have worked well in developing mutual respect and positive outcomes for both parties involved. In addition, it has revealed that the established international accords have not been utilized in these efforts.

We can see that although numerous international declarations and agreements have been passed during the last half-century, no document has concretely worked to fully support repatriation efforts. Much of this is due to political pressure and the fear that to repatriate Native North American cultural property would set a precedent for other high stakes objects to be returned to countries of origin, such as the Elgin Marbles or the Rosetta Stone.

It is promising that through the efforts of the Glasgow Museums, museum policies and procedures have been amended by other museums to be more supportive of indigenous communities seeking the return of important items of cultural heritage. This in and of itself helps to further establish norms to support more requests in the future. In addition, the efforts highlighted in this paper have helped to inform the creation of the United Nations Declaration for the Right of Indigenous Peoples which works to establish indigenous peoples as essential to decision making on an international level.

Conclusions & Recommendations

This study has looked to answer the question of how museums and Native Americans / First Nations people can work with museums to repatriate cultural property internationally. Exploring the various international accords pertaining to repatriation and engaging in case studies of four museums within the United Kingdom, I have attempted to determine the best course of action to take when seeking the return of significant cultural heritage. I made a concerted effort to approach this sensitive topic with respect for the individuals who generously shared their experiences and opinions about an extremely complex topic.

The case studies, primary research and literature review has helped me to understand the various challenges involved with repatriating artifacts internationally, as well as has uncovered the approaches that have worked well in developing mutual respect and positive outcomes for both parties engaged. From the research, six key conclusions can be made: 1) International accords are inapplicable and have not been utilized in the repatriation process, while legal constructs work to dissuade repatriation; 2) Museums have made efforts to support the process by modifying internal policies and procedures and by working creatively to support returns or long-term loans, which has helped to develop norms towards repatriation; 3) Lack of proximity and resources, both financial and human, impede the ability for indigenous communities to fully engage in repatriation efforts; 4) Humanizing the issue and developing meaningful relationships have been the most persuasive method for moving repatriation forward; 5) The media can be a powerful tool in educating communities and persuading museums and governments to repatriate; and 6) Museums that support the return of cultural heritage are helping to heal

communities, repair relationships and bring closure to centuries of abuse and maltreatment. The following section further explores each conclusion and provides recommendations to support repatriation in the future.

International accords and legal constructs

Embarking upon this research, I had envisioned with blind optimism that there would be a clear and concise pathway to support museums and tribal communities as they work through repatriation requests. What I discovered was that the pathway is not clearly defined nor is it free of obstacles. Although the spirit of international accords are to support cultural integrity, they are ineffectual and were not been applied during the repatriation process of the case studies (Allan, personal communication, March 11, 2016; King, personal communication, April 8, 2016; O'Neil, personal communication, March 14, 2016; Curtis, March 11, 2016; Peers, personal communication March 9, 2016; Chechi, 2014; Kuprecht, 2014; Fforde, Hubert & Turnbull, 2002; Moses, 2015). Each case of repatriation is shaped by the law governing the country where the objects reside. Unlike United States federal law that compels repatriation, cases of repatriation in the United Kingdom are governed by property law as well as specific acts of Parliament, which severely constrains the ability to reclaim cultural heritage.

1970 UNESCO Convention. Through the numerous articles and conventions that have been authored by UNESCO and ratified by member nations; none of them have fully supported the efforts to repatriate cultural heritage (Chechi, 2014; Kuprecht, 2014; Fforde, Hubert & Turnbull, 2002; Moses, 2015). The intent of the most applicable effort, the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property, (1970 UNESCO Convention) was to protect

movable cultural objects from illegal trafficking. The two major shortcomings of the 1970 Convention is that it does not apply to objects acquired prior to 1970, and does not compel States to actively seek the return of objects removed illegally. Franzen (2013) speaks to the weaknesses of the Convention, “including the lack of staffing and few international laws to back it up.” In the forty six years since its passage, only “six cases of successful restitution” have resulted from the Convention (Franzen, 2013).

ICPRCP. Even with the passage of the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation (ICPRCP) in 1978, which was specifically implemented to address the lack of remedy for recovering objects that were taken under colonial rule, the committee still has no authority to rule on disagreements nor are disputing parties obligated to abide by its recommendations (Chechi, 2014).

1995 UNIDROIT Convention. The purpose of the 1995 UNIDROIT Convention is to require buyers to verify the validity of their purchase, and requires restitution to be made to the victim by the holder of the property unless that can prove they acted with assiduousness. Yet, similar to the 1970 UNESCO Convention, it cannot be applied retroactively to objects acquired before 1995 (Chechi, 2014; Francioni & Vrdoljak, 2013; Keeler, 2012).

United Nations Declaration on the Rights of Indigenous Peoples (the Declaration). The successful examples of repatriation highlighted in this research took place prior to the inception of the Declaration in 2007, therefore it had no bearing upon the outcomes. It is anticipated that the Declaration will have a positive impact upon future efforts of repatriation by establishing legal norms, yet it remains an unbinding

agreement that is not acknowledged by human rights treaty law for the explicit and direct right of use and control over sacred objects (Keeler, 2012; Carmen, personal communication, March 8, 2016).

1963 British Museum Act. The British Museum Act is the principal obstacle in preventing the repatriation of cultural heritage from the United Kingdom's largest encyclopedic museum (Wilson, personal communication, March 8, 2016; King, personal communication, April 8, 2016; Keeler, 2012; Bell & Paterson, 2008). Although it is possible to amend the Act, as was done with the passage of the Human Tissues Act, indigenous communities continue to face opposition from key decision makers that hold on to the belief that objects of cultural heritage belong in large learning institutions for the benefit of all of mankind (Keeler, 2012; Fforde, Hubert & Turnbull, 2002; Wilson, personal communication, March 8, 2016).

Recommendations. The following recommendations could be implemented in order to provide more concrete mechanisms to support the repatriation of cultural heritage: 1) Amend the British Museum Act; 2) Provide for legal compulsion to encourage the adherence to international accords; and 3) Continue to establish legal norms that support repatriation of cultural heritage.

Amend the British Museum Act. As a major contributor to colonialism, Britain has been a powerful collector of indigenous artifacts. In a period of postcolonial shifts that have worked to empower indigenous communities, governments have also shifted policies to make room for the repatriation of objects acquired through colonialism. The shift has caused a strain within Britain, where proponents of maintaining encyclopedic museums intact, clash with those who feel a sense of moral obligation to return integral

and crucial objects to communities working to revitalize their culture. For museum policies to also make the ethical shift in Britain, the British Museum Act would need to be amended to allow for deaccessioning items of important cultural heritage. This would send a powerful message to other museums throughout the United Kingdom who aren't obligated to the British Museum Act but have yet to support the repatriation of cultural heritage.

For this to happen, either the United Kingdom would have to accept the fact that high profile objects, such as the Elgin Marbles would be eligible for return, or the Act would need to be amended in such a way to preclude these types of objects. For example, specific language that clearly pertains to Native American / First Nations communities could be used, which would exclude items that pertain to national heritage rather than tribal heritage. As described by Andy Wilson (personal communication, March 8, 2016) and through the literature review, we can see that it may be difficult, but not impossible to amend an act of Parliament (Keeler, 2012; Fforde, Hubert & Turnbull, 2002). A precedent has already been set when the Act was amended to support efforts of Australia, Tasmania and New Zealand to have human remains returned to their country of origin (Mauze, 2010).

Through concerted efforts, such as letter writing campaigns to appeal to Parliament, the use of the media to place pressure upon the British government, and developing government to government understanding about the importance of the issue, it isn't out of the question for the Act to be amended to reflect twenty-first century values.

Legal compulsion. It has been noted that international accords are ineffective because they are non-binding agreements (Allan, personal communication, March 11, 2016; King, personal communication, April 8, 2016; O’Neil, personal communication, March 14, 2016; Curtis, March 11, 2016; Peers, personal communication March 9, 2016; Chechi, 2014; Kuprecht, 2014; Fforde, Hubert & Turnbull, 2002; Moses, 2015). Repercussions for not implementing and following the recommendations outlined and agreed to by each signatory, are non-existent. For the recommendations made in the accords to be effective, there needs to be implementing domestic legislation by nation states (Chechi, 2014). NAGPRA is a good example of domestic legislation passed that upholds and supports the 1970 UNESCO Convention, the ICPRCP, and the 1995 UNIDROIT Convention. Countries that were former colonial powers, such as the United States, England, Spain, France, and Russia should enact similar domestic legislation to provide criteria and guidelines around the repatriation of cultural property to reconcile the ethical and moral dilemma caused by retaining objects acquired through coercion and duress.

As was the case for the passage of the National Museum of the American Indian act, a respected political official in each nation state would need to champion legislation throughout all levels of the judicial branches (King, personal communication, April 8, 2016). It would be beneficial for repatriation organizations and tribal governments to identify high-profile political supporters in the United States and Canada and persuade them to engage in a group dialogue with high-power political allies from the colonial countries mentioned above. It is also important to remember, and remind officials, that

federally recognized tribes in the United States are sovereign nations and should be afforded the respect given to nation states during diplomatic negotiations.

Continue to establish legal norms. Each time repatriation occurs, it works to establish legal norms that support further efforts. Prior to the return of the Ghost Dance Shirt to the Lakota, it was rare for cultural property to be returned internationally. Yet, this incident provided a precedent for the return of a sacred bundle to the Kainai and sparked dialogue across continents about the importance of repatriation.

Universal repatriation policies

As discussed throughout this paper, efforts to repatriate cultural heritage have not been fully supported by international accords, nor has it been feasible to seek redress through costly and time consuming international courts of law (Kuprecht, 2014; Chechi, 2014; Fforde, Hubert & Turnbull, 2002; Moses, 2015). The research has shown that several museums have made efforts to support the process by modifying policies and procedures; whereas some have worked creatively to support returns through long-term loans (Curtis, 2014; Peers, 2010; Bell & Paterson, 2008; Krmpotich & Peers, 2013). It is surmised that the reason why European museum policy is not concerned with the repatriation of cultural heritage to indigenous communities from “former settlement colonies” is due to the thinking “that Native patrimony is part of the universal patrimony belonging to the world community and as such must be available to educate the public” (Mauze, 2010). Yet, the countries where these museum are located, adopted the United Nations Declaration on the Rights of Indigenous peoples thirteen years ago, which specifically states that “states shall seek to enable the access and/or repatriation of

ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with Indigenous peoples concerned” (Mauze, 2010).

ICOM Code of Ethics for Museums. Although not an international accord or legally binding document, the ICOM’s resolution on the ‘Return of Cultural Property to its Countries of Origin’ in ICOM’s Code of Ethics affirms that if museums are legally able, they should make reasonable efforts to facilitate the return of cultural property that has been demonstrated to be part of the cultural heritage of a group of people (Greenfield, 2014; Chechi, 2014; Keeler, 2012, Kuprecht, 2014). This relies on museums acting in good faith and on behalf of indigenous peoples. We can see through the research presented that Scottish museums have acted with the intent to do what was ethically right. Whereas, British museums have been challenged to do the same, whether limited by laws or inhibited by opinions of where objects belong.

Recommendation. ICOM is the best poised organization to foster conversations about international repatriation while helping to develop a universal repatriation policy. An all-encompassing policy could prevent indigenous communities from having to respond to various legal systems, administrative policies, and barriers each time they engage in repatriation efforts. Criteria could be established based upon the various international accords and through the lessons learned from the successful cases of repatriation. Once clear criteria is established and approved by all participating museums, it continues to support the establishment of legal norms founded through the accords.

In addition, a decision making body, made up of both indigenous people and museums representatives, working in partnership with the United Nations Human Rights

Council, could be established to help decide cases of repatriation, providing governance without the hassle of navigating international courts.

Financial and Human Resources

Online collections are often incomplete, inaccurate, and sometimes an inappropriate method for displaying certain sacred objects. This makes it challenging for tribal communities to locate objects within European collections from afar. Without a mechanism to enforce comprehensive inventories of museum collections, similar to what is required through NAGPRA, an accurate number of Native North American objects will remain unknown. Museum staff tend to be reluctant to discuss the full extent of their collections due to the misconception that this knowledge will open up the “floodgates” for the repatriation of a large part of their holdings (Curtis, 2014; Keeler, 2012).

Organizing delegations to visit European museums is costly and time consuming. Indigenous groups tend to be extremely impoverished, whereas museums are inclined to allocate their resources to much more exciting opportunities than that of deaccessioning part of their collection. The lack of consistent, paid staffing provides another challenge that impedes the ability of indigenous groups to engage in consistent communication and persistence when working with large institutions.

Recommendations. The Australian and New Zealand governments have been a forerunner in supporting international repatriation by funding many successful efforts to return cultural patrimony back home. In this way, they have established a government to government relationship which has worked to apply pressure on the government holding the objects. The United States, through NAGPRA, also provides small grants to help

underwrite domestic repatriation efforts. In a similar vein, the following recommendations could be considered: 1) government funding to provide support for repatriation efforts; 2) the development of a comprehensive inventory of cultural heritage and an analysis of items eligible for return; and 3) increase accessibility to collections.

Government Funding. As a signatory of applicable international accords, governments should be compelled to allocate resources to support international efforts to bring home cultural heritage. Some of the various activities that governments could fund include: employment for Native American / First Nations at the federal level to support repatriation negotiations amongst nations; establishing career pathways for Native American / First Nations people who are interested in working on international repatriation; and direct funding support to organizations to undertake research or provide administrative and project management support to tribal communities.

Comprehensive inventory and analysis. Indigenous communities will never know the extent of museum holdings until a comprehensive inventory is established and completed (Curtis, personal communication, March 11, 2016; Keeler, 2012). Due to the fact that an overwhelming majority of objects within collections were acquired without the consent of indigenous people, the responsibility to inventory and notify tribal groups of the contents of collections should fall either on the government or holding institution. An organization such as ICOM, supported by funding acquired through membership to ICOM, government, corporate and private funders, and through tribal funding, could spearhead the creation of an expansive, universal database of indigenous collections online. This could be modeled after the Arts Loss Register, a private database that contains lost and stolen art, antiques and collectables (The Arts Loss Register, n.d.).

Ideally, the database would have the capability to link with the existing databases that museums are currently using to minimize the duplication of work.

Simultaneously, a standardized test could be executed on each object to determine if it would be eligible for repatriation, thereby providing a comprehensive understanding of the breadth of repatriation.

Increase accessibility to collections. With the move to digitize museum holdings and put them online, there is a growing access to collections (Allan, personal communication, March 11, 2016). Some refer to this digitization as “digital repatriation” or “virtual repatriation” as a way to circumvent actually returning objects in question (Keeler, personal communication, March 22, 2016; Gonzalez, personal communication, March 16, 2016). Although the digitization of objects with Native North American provenance can be helpful for communities to locate their cultural heritage, it poses many challenges as well. Native communities have considered this to be “the continued exploitation of Indigenous cultures by posting of possibly sensitive cultural and religious information online without consent” (Keeler, 2014). Many of the objects desired for return could be considered to be sacred and not “intended to be seen by anyone except select members of the tribe, and especially not anyone outside of the community” (Keeler, 2014). It is important for museums to respect these objections and work closely with indigenous communities before placing images online, and well as taking care in how objects are described. (For further information about intellectual property and the management of Native American museum collections, please refer to master projects by Patricia Lord and Suzy Huizinga, which can be located at <http://library.jfku.edu/>)

What is proposed by increasing accessibility is for museums to actively encourage and support indigenous groups to visit their institutions and access collections. For indigenous communities, access to collections can close “gaps in community knowledge of the past” and ensure that younger generations are no longer “outsiders to their own history” (Brown & Peers, 2006). In addition, the museum’s “procedures, terminology, indexing and descriptive language, storage and research facilities” may pose barriers for indigenous people unfamiliar with the industries vernacular (Brown & Peers, 2006). Institutions should make concerted efforts to “facilitate re-engagements and repatriations through appropriate procedures and tools, from open access databases and print-out catalogues in appropriately framed language”(Brown & Peers, 2006).

Developing relationships

It is clear from this research is that the key to successful repatriation has been through the development of compassionate and respectful relationships. By humanizing the issue, museum personnel have been able to empathize with Native American/First Nations peoples and come to understand the gravity behind withholding their cultural heritage (Curtis, 2014; O’Neill, personal communication, March 14, 2016). While the power of the claimant may be restricted in the absence of legislation, “the development of professional support for engaging with requests can result in a more careful consideration of requests and sympathetic decision making that is not limited to particular types of material or claimants” (Curtis, 2014). As Neil Curtis from the University of Aberdeen explains in regards to the split-horn headdress from the Kainai (Blackfoot) Nation:

Unlike many repatriation requests, this has been marked by understanding and friendship on both sides and has had a very positive outcome for us

all. The museum has learnt much more about the headdress and traditional life on the Plains. I hope that the museum's care of the head-dress has contributed to the strengthening of Blood cultural traditions and that its return will be the beginning of new links between Aberdeen and one of the First Nations of Canada.(Mauze, 2010)

Recommendations. To ensure that deep, meaningful relationships are fostered, future efforts should focus upon: 1) employing indigenous people to help inform institutions about their collections; 2) deepen engagement and collaborations with indigenous communities; and 3) work to educate globally about the importance of repatriating objects of cultural heritage.

Employ indigenous people. For indigenous people, repatriation represents the righting of historical wrongs, showing respect to their ancestors, and the healing of their communities. By employing indigenous people to work with collections, develop exhibits, and engage communities, both native and non-native, institutions can play a meaningful role in supporting and empowering marginalized communities. Ideally, museums would hire full-time, permanent Native American / First Nations staff with deep connections to indigenous communities to help engage and educate visitors and museum staff about the accurate history and culture of indigenous people, while supporting the maintenance of their Native American / First Nations collections. Secondly, museums should consider hiring Native American / First Nations people on a temporary, project basis to inventory and update their databases or to design and implement exhibitions.

Candidates for these positions could be recruited from graduate programs. This may be challenging due to the lack of diversity within the museum field. It may be necessary to take a step back and begin to engage and recruit more Native American / First Nations people to enter into a museum studies degree program.

Engagement and collaborations. The efforts made by the Pitt Rivers Museum to engage and collaborate with indigenous communities could be replicated and implemented by other institutions to improve upon their collection practices while creating meaningful relationships with source communities. It is important that these collaborations are approached from a place of equality, where institutions recognize that indigenous communities are vital to the process. For indigenous groups, it is important not to take an antagonistic approach, but rather to “project strength, patience, professionalism and courtesy” (Keeler, 2012).

Museums need to be mindful that indigenous communities embark upon these efforts as “a matter of cultural duty” rather than solely a matter of legal right (Keeler, 2012). Honor Keeler (2012) further explains, “We need them to support our efforts to be responsible living descendants that are providing requisite care to the ancestors which only we know how to do.” Brown and Peers (2006) explains their approach to collaboration where “both sides are negotiated and both parties collaborate and support each other.”

Educate. As the repatriation movement travels overseas, museum professionals, government officials, and tribal communities from North America have a lot to learn about the topic. This entails not only sharing the importance of repatriation to foreign institutions, but to educate tribal communities on how to approach this work. Part of this

education includes sharing findings from the more than twenty years of work that has been done around NAGPRA, specifically the facts that repatriation “did not lead to the emptying of collections, and Native American participation in the process had a highly stimulating effect on all parties involved” (Kuprecht, 2014).

Media Relations

The media can be a powerful tool in educating communities and persuading museums and governments to repatriate. By engaging local and national newspapers, prominent blogs, and social media, pressure can be placed upon museums and governments to acknowledge requests and make decisions in a more timely fashion (Keeler, 2014).

Recommendation. Tribal communities should be encouraged and supported to develop marketing and media plans pertaining to their repatriation efforts. If funding isn't available to employ a marketing director, communities should reach out to various universities to identify suitable candidates for internships to help with this work. Tribal communities can also look to develop partnerships and coalitions with social justice groups that are doing related work to combine efforts and draw correlations between, for example, environmental efforts and cultural revitalization.

Healing Communities

Museums that support the return of cultural heritage are helping to heal communities and bring closure to centuries of abuse and maltreatment. It has been well documented that an individual and communities connection to their material cultural is “integral to self-identity and psychological well-being” (Bell & Paterson, 2008). As Bell and Paterson (2008) elaborates:

Cultural context and differentiation is also inextricably linked to one's sense of dignity, emotional strength, personal development, and well-being. Material cultural heritage is an important expression not only of individual creative processes but also of individual and group spiritual, cultural, and political life. It is for this reason that controlling, removing, and destroying "cultural heritage is such an effective tool of domination. (Bell & Paterson, 2008)

As discussed by Xanthaki (2007), "the topic of repatriation is important as it is difficult to teach our children to be proud of who they are as native people if museums continue to believe that they can 'own' the remains of our ancestors and our sacred objects."

Domestic efforts in Canada and the US support the movement toward a universal understanding of the importance of tribal groups to regain cultural property as a way to revitalize and heal their communities while providing "some closure on traumatic events of their history, a closure which was not possible as long as human remains and cultural objects associated with these events were held by museums and other institutions" (Fforde, Hubert & Turnbull, 2002).

To heal, individuals and communities must process grief. In regards to objects held within museums, it isn't uncommon for indigenous people to experience sadness and discomfort when working with cultural heritage as they are reminded of all that their communities and families have lost (Peers, 2010). Repatriation becomes less about restitution through compensation, and more about "making amends for a wrong that has been committed" (Echo-Hawk, 2013).

Recommendations. To address how repatriation can help to heal indigenous communities, whether it is the physical return of objects or through knowledge sharing, the following recommendations are made: 1) further research that combines inter-discipline thinking between museum studies, anthropology, sociology and psychology; and 2) the development of exhibitions that address the topic of healing through repatriation.

Further research. The most fascinating component of my research entailed the work that has been done around historical trauma. There has been movement in academia to further explore this topic, and I would recommend that additional research about a museum's role in healing trauma through repatriation be undertaken. As an issue that extends through various disciplines, the field of psychology, sociology and anthropology could be engaged to provide a well-rounded view of the topic. The results of this research could positively influence further decisions to repatriate as well as influence the development of specific criteria that is considered when making decisions to repatriate. For example, a criteria could be established that takes into consideration the level of historical trauma the requesting community has endured and how beneficial it would be for that community to regain the item in question. I would imagine that the ensuing argument for the repatriation of a ceremonial mask belonging to a Native North American community on the basis of healing historical trauma would be radically different from the nation of Greece arguing for the return of the Elgin Marbles.

Exhibitions on healing through repatriation. Engaging indigenous communities to design and implement exhibitions that speak to historical trauma could be cathartic for the individual as well as educational for the institution and visitor. This type

of exhibit could be multi-disciplinary and can not only provide a basis of understanding for the pain and anguish that is felt by indigenous communities, but could also seek to answer questions, such as: How does trauma affect the brain, the body, and the spirit? How does we collectively record the traumas of our past? How does resiliency determine how quickly we bounce back after a trauma?

Museums that have been receptive to building relationships with indigenous groups, but have yet to engage in repatriation, could be targeted for these exhibits as a way to educate the institution, their board, and their visitors on the importance of repatriation to indigenous communities.

Summary

The conclusions and recommendations presented here have considered several ways to address future efforts for international repatriation, which range from amended acts of Parliament to engaging native communities to work with European museums to educate overseas communities on the various facets and importance of repatriation. These recommendations require a continuing shift of thinking about cultural heritage and where these objects should belong. These shifts must include the following in order to rectify the millennia of atrocities that indigenous people have faced: 1) government to government relationships must include sovereign indigenous nations in order to adequately address the needs of marginalized populations, a component of which is the repatriation of vital cultural heritage; 2) standardized policies pertaining to repatriation need to be upheld on an international level and enforced by a unifying body of decision makers, inclusive of indigenous people; 3) the importance of repatriation should be elevated so that resources are allocated to the effort, particularly by national governments

or museums; 4) collaboration with indigenous communities will increase the integrity of a museum's collection and repatriation should be seen more as an opportunity rather than a loss; and 5) the return of cultural heritage should be seen as a form of restitution for the atrocities tribal communities endured at the hands of colonizers and collectors.

It is undeniable that repatriation is an issue that resonates profoundly with Native American / First Nations peoples. From my own personal experiences and beliefs, which were emphatically supported by the interview subjects of indigenous descent, there is no question that sacred items and vital cultural property should be return to their place of origin. Although there are many non-indigenous individuals that support the concept of returning these objects, most offered a disclaimer that repatriation is a complex issue and it is the responsibility of the source communities to put forward a far stronger case to the museum community to compel repatriation. It is evident that this reasoning highlights that the 'controversy' surrounding repatriation continues to be rooted in the logic of colonialism, and colors the relationship between museums and indigenous communities seeking repatriation. It is my hope through this research, that I will have helped to dismantle the 'logic' of colonialism and nurture an understanding that museums can and should take the initiative to help heal communities by returning the sacred to their rightful place.

Product Description

The previous recommendation for educating museum professionals and tribal communities about the importance of international repatriation and the benefits of collaborating together could be discussed through various conference presentations and panel discussions. I propose to take advantage of the following three opportunities to share the findings of my research while helping to educate museum professionals, tribal communities and graduate students about the challenges and benefits of working together to repatriate Native North American cultural property.

Product 1: Round Table Panel Discussion

How do we take the experiences of domestic repatriation and influence international institutions to repatriate cultural property? My thesis covers various aspects of the National Museum of the American Indian Act (NMAIA) and the Native American Graves Protection and Repatriation Act (NAGPRA) and how they have been used as models to develop policies and approaches to repatriation in large museums in the United Kingdom. Although Europe is far behind the United States in implementing legislation similar to the NMAIA and NAGPRA, there has been some movement to make changes to policies and develop relationships that have resulted in the return of a few objects.

I will have an opportunity to discuss this component of my thesis on June 7, 2016 at John F. Kennedy University in Berkeley, California. Entitled “Principles of NAGPRA Collections Access for and Consultation with Native Peoples,” the panel will include myself; Megon Noble, Faculty at National Preservation Institute and NAGPRA Project Manager at University of California, Davis; and Katherine Wallace, Lecturer and Community Liaison with NAGPRA at San Francisco State University. The panel will be

moderated by Susana Macarron, an instructor at John F. Kennedy University and collections consultant.

Type of Proposal: A 2 hour round table panel discussion with question and answer session.

Primary Area of Museum Work: Collections and Administration.

Content Level: Introductory – for attendees with relatively little knowledge of repatriation on an international level.

Title of Proposed Program: Principles of NAGPRA Collections Access for and Consultation with Native Peoples.

Session Abstract: My specific component: How do we take the experiences of domestic repatriation and influence international institutions to repatriate cultural property?

Learning Outcomes: Participants will become familiar with the challenges of international repatriation and how efforts have been deeply influenced by domestic legislation.

Audience Participation: The audience will be engaged to pose questions and dialogue will be elicited to deepen understanding around a very complex topic.

Product 2: Western Museums Association 2016 Annual Meeting Panel Session

How can museums build and repair relationships with indigenous communities and create meaningful and impactful partnerships, exhibitions and programs? My research has discussed how museums can help change the legacy of colonialism within their institutions by working respectfully and intentionally with tribal communities. This generally results in the museum staff developing a deeper understanding and appreciation

of indigenous cultures as they: collaborate to ensure the accuracy of the museum's information pertaining to specific objects; involve tribal communities in the care, access, and exhibition of their culture's heritage; and as they work to heal communities through the return of important objects of cultural heritage.

The second confirmed opportunity to discuss my thesis findings will be at the Western Museums Association 2016 Annual Meeting to be held on September 25-28 in Phoenix, Arizona. Entitled "Moving Forward: Ways to Create Meaningful and Impactful Relationships between Museums and Indigenous Communities," this panel discussion will include myself; Teresa Valencia, Curator at Iolani Palace, Hawaii; and Marina Vlnar, NAGPRA Researcher at the California State University, Sacramento. Facilitated by Margaret Kadoyama, a self-employed museum consultant and instructor at John F. Kennedy University, each panelist will discuss our thesis research on cultural competency, community engagement and international repatriation as well as offer suggestions for ways to build bridges and repair relationships.

Type of Proposal: A 90 minute panel discussion.

Peer Reviewed: Yes

Primary Area of Museum Work: Collections, community engagement, and administration.

Content Level: Intermediate- for attendees that are familiar with repatriation concepts but may not be as familiar with the challenges of repatriation on an international level.

Title of Proposed Program: Moving Forward: Ways to Create Meaningful and Impactful Relationships between Museums and Indigenous Communities.

Session Abstract: How can museums build and repair relationships with indigenous communities and create meaningful and impactful partnerships, exhibitions and programs? Discussing topics that include cultural competency, community engagement and international repatriation, this session will help participants develop strategies for working more intentionally with tribal communities on complex and sensitive topics.

Learning Outcomes: Attendees will become more confident in approaching their work with tribal communities and are able to better navigate cultural and political challenges associated with international repatriation.

Audience Participation: The audience will be engaged to pose questions and dialogue will be elicited to deepen understanding around multifaceted and sensitive topics.

Product 3: Conference of Indigenous Archives, Libraries, and Museums Ignite Talk

How can tribal museums work with large European institutions to regain important objects of cultural heritage? My thesis shows that there are several approaches that tribal communities have taken to regain objects of cultural heritage; resulting in either the return of objects or negotiations for long term loans.

An third confirmed opportunity to discuss this component of my thesis will take place at the 2016 International Conference of Indigenous Archives, Libraries, and Museums to be held October 10-12 in Phoenix, Arizona. Entitled, "Creating Meaningful and Impactful Relationships between Museums and Indigenous Communities," this presentation will be structured as a 10 minute Ignite Talk and will also include myself, Teresa Valencia and Marina Vlnar. The previous presentation to the Western Museum

Association will be shortened and geared toward the perspective of how tribal people can work with non-tribal museums.

Type of Proposal: 10 minute Ignite Talk

Peer Reviewed: Yes

Primary Area of Museum Work: Collections and administration.

Content Level: Intermediate – for attendees that are familiar with domestic repatriation but may not be as familiar with the challenges of repatriation on an international level.

Title of Proposed Program: Creating Meaningful and Impactful Relationships between Museums and Indigenous Communities.

Session Abstract: How can tribal museums work with large European institutions to regain important objects of cultural heritage? This quick presentation will highlight a sample of successful approaches that tribal communities have taken to regain objects of cultural heritage.

Learning Outcomes: The audience will be engaged by the topic of international repatriation and motivated to further their work into the international arena.

Audience Participation: Due to the fast pace of this presentation, audience participation will be minimal but presenters will be available to discuss the content throughout the remainder of the conference.

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Appendix A: Research Instruments

Case Study Interview Questions for Museum Professionals

1. What is your position and how long have you held your position?
2. Describe your institution's Native North American collection and approximately how many Native North American objects are in the collection?
3. Have there been any media and/or public involvement around the issues of repatriation? If yes, how did the museum respond to this?
4. Is it important to you/your institution that items of cultural patrimony/heritage are repatriated? If yes, why?
5. Could you describe any completed repatriation requests and if your institution has any requests pending?
6. What motivated the museum to get involved with Native communities seeking to repatriate either human remains or cultural property/heritage?
7. How was the relationship with tribal communities initiated?
8. Were international laws or declarations, such as those authored by UNESCO, ever utilized within the process?
9. Which museum departments were involved and why?
10. Is the relationship with the tribal communities ongoing or was it for a specific project?
11. Have the tribal communities visited the museum? If so, how often?
12. Could you describe the process of working with tribal communities?
13. What kinds of challenges appeared?
14. What were the benefits or results of working with tribal communities?

15. What were the costs involved for the museum? How were these costs underwritten?
16. Has the museum changed its policies as a result of the work with tribal communities?
17. What needs to be in place or changed (laws, policies, organizational culture) in order to support this work fully?
18. Would you like to add anything else?

Case Study Interview Questions for Native Americans / First Nations

1. Have you been involved with any of the following institutions: British Museum, Pitt Rivers Museum, Marischal Museum, Glasgow Museums? What motivated you to get involved with the museum?
2. Have there been any media and/or public involvement around the issues of repatriation? If yes, how did the museum and/or tribe respond to this?
3. Why is it important to you/your tribe that items of cultural patrimony are repatriated?
4. How was the relationship initiated?
5. Which museum departments were involved and why?
6. Is the relationship ongoing or was it for a specific project?
7. Could you tell me about the process of working together with the museum?
8. Were international laws or declarations, such as those authored by UNESCO, ever utilized within the process?
9. What kind of challenges or struggles came up?
10. What were the benefits or results of working together?

11. What were the costs involved for the Native community? How were these costs underwritten?
12. Do you know if the museum has changed its collections care or exhibit plans in response to recommendations made by the Native American / First Nations community?
13. Have you worked with other museums? How was it similar or different at that museum?
14. What needs to be in place or changed (laws, policies, organizational culture) in order to support this work fully?
15. Would you like to add anything else?

Structured Interview Questions for Museum Professionals

1. What is your position and how long have you held your position?
2. Describe your institution's Native North American collection and approximately how many Native North American objects are in the collection?
3. Is it important to you/your institution that items of cultural patrimony are repatriated? If yes, why?
4. Has often does your museum consult or work with Native American /First Nations communities in repatriation efforts? On other issues?
5. Have international laws or declarations, such as those authored by UNESCO, ever been utilized within the process?
6. Who initiates the consultation and what are some of the goals?
7. What does the involvement generally consist of?
8. Which museum departments are usually involved?

9. What were/are the benefits or results of working with tribal communities?
10. What kinds of challenges appeared?
11. Are the relationships with the tribal communities ongoing or was it for a specific project?
12. What were the costs involved? How were these costs mitigated?
13. Has the museum changed its policies as a result of the work with tribal communities?
14. What needs to be in place or changed (laws, policies, organizational culture) in order to support this work fully?
15. Would you like to add anything else?
16. Can you refer me to other colleagues or museums working in this area?

Structured Interview Questions for Native Americans / First Nations

1. Are you aware of any artifacts located in international museum collections that are from your tribal community?
2. Is it important to you/your tribe that items of cultural patrimony are repatriated? If yes, why?
3. What types of repatriation efforts have you been involved with? International or domestic? 'Knowledge' repatriation? Long-term loans? Etc.
4. Have international laws or declarations, such as those authored by UNESCO, ever been utilized within the process?
5. Which institution and departments were involved?
6. Who initiated the efforts and what were the goals?

7. What did the involvement consist of? What was the process of working together with the institution?
8. Was the relationship ongoing or was it for a specific project?
9. What kind of challenges or struggles came up?
10. What were the benefits or results of working together?
11. What were the costs involved for the Native American / First Nations community? How were these costs underwritten?
12. Where there any stipulations to the repatriation agreement made by the institution?
13. Do you know if the museum has changed its collections care or exhibit plans in response to recommendations made by the Native American / First Nations community?
14. What needs to be in place or changed (laws, policies, organizational culture) in order to support this work fully?
15. Would you like to add anything else?

Appendix B: Interview List

Case Study Interviews

Allan, Patricia. (2016, March 11). By telephone.

Curtis, Neil. (2016, March 11). By telephone.

King, Jonathan. (2016, April 8). By telephone.

O'Neil, Mark. (2016, March 14). By telephone.

Peers, Laura. (2016, March 7). By email.

Structured Interviews

Carmen, Andrea. (2016, March 8). By telephone.

Gonzalez, Cristina. (2016, March 16). By telephone.

Hennum, Paulette. (2016, March 21). By telephone.

Keeler, Honor. (2016, March 22). By telephone.

Macarron, Susana. (2016, March 9). In person.

McKeown, Timothy. (2016, March 11). By telephone

Snowball, Terry. (2016, March 16). By telephone.

Tafoya, Adriane. (2016, May 12). By telephone.

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Appendix D: Represented Institutions

Association on American Indian Affairs, Rockville, Maryland, United States

British Museum, London, England

Glenbow Museum, Calgary, Alberta, Canada

Haida Gwaii Museum, Queen Charlotte, British Columbia, Canada

Haida Heritage Centre, Skidegate, British Columbia, Canada

Haida Repatriation Committee, Skidegate, British Columbia, Canada

International Council of Museums (ICOM), Paris, France

International Indian Treaty Council, San Francisco, California, United States

Kelvingrove Museum / Glasgow Museums, Glasgow, Scotland

Kwakiutl Museum, Quadra Island, British Columbia, Canada

Makah Cultural and Research Center, Neah Bay, Washington, United States

Marischal Museum, University of Aberdeen, Aberdeen, Scotland

Mookaakin Cultural and Heritage Foundation, Calgary, Alberta, Canada

Museum Association of the United Kingdom, London, England

Museum of Man, Gatineau, Quebec, Canada

National Congress of American Indian, Washington, D.C., United States

National Museum of the American Indian, Washington, D.C., United States

National Museums of Scotland, Edinburgh, Scotland

Old Massett Repatriation and Cultural Committee, Old Massett, British Columbia, Canada

Pitt Rivers Museum, Oxford University, Oxford, England

Royal Alberta Museum, Edmonton, Alberta, Canada

Royal Ontario Museum National Museum, Toronto, Ontario, Canada

Skidegate Repatriation and Cultural Committee, Skidegate, British Columbia, Canada

South Dakota Cultural Heritage Center, Pierre, South Dakota, United States

U'mista Cultural Centre, Alert Bay, British Columbia, Canada

United Kingdom Museums and Galleries Commission, London, England

United Nations, New York, New York, United States

Wounded Knee Survivors Association, South Dakota, United States