

A History of the Native American Graves Protection and Repatriation Act of 1990

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Ever since Europeans first set foot on this continent, they have plundered the possessions of the many indigenous tribes that were already here. They did not merely appropriate gold jewelry and fine pottery; they also took human remains and other items associated with funeral ceremonies. Though uncommon, when non-Native Americans felt the need to justify their actions, they claimed they sought “a representative collection of what anthropologists thought were disappearing cultures.” (Hawkins, 2021) According to Evan Hawkins (2021), tribal relations specialist at the Center for Environmental Management of Military Lands at Colorado State University, “Anthropologists wanted the pre-contact material of these tribes, which to them was especially relevant in the time of westward expansion, assimilation, and further culture loss.” Further, he states that museums countered they could “care for these objects in ways they felt that tribes could not (or would not).”

The first official gesture to end this practice was the Federal Antiquities Act of 1906, which purported to stop widespread looting of archaeological sites on federal and tribal lands. In practice, however, Hawkins (2021) asserts that “it neutralized the individuality of Native Americans buried there. . . (who) became ‘archaeological resources to be studied, not individuals with the right to remain respectfully buried’.” Real progress only began in the 1960s, however, once indigenous people were granted a voice in the discussion. Thus began the ongoing practice of having sacred items returned to the tribes, who wished to disposed of them “in accordance with tribal customs and traditions.” (“Providing for the protection,” n.d.)

Initial requests proceeded on a case-by-case basis, but the problem was much bigger than a handful of objects sitting in a few museums. As Smithsonian Secretary Robert McCormick Adams testified in a 1987 hearing by the Select Committee on Indian Affairs, “of the 34,000

human remains currently in the Institution's collection, approximately 42.5% or 14,523 . . . are the remains of North American Indians, and another 11.9% or 4,061 . . . represent Eskimo, Aleut, and Koniag populations." ("Providing for the protection," n.d.)

Perhaps moved by the sheer scale of the issue, Congress enacted the Native American Graves Protection and Repatriation Act (NAGPRA) three years later. It awarded tribes the right to reclaim their ancestors' remains as well as funerary items, sacred objects, and objects of cultural patrimony. NAGPRA also encouraged a "continuing dialogue between museums and tribes to promote a greater understanding between the groups . . . (and) recogniz[e] the important function museums serve in society by preserving the past." ("Providing for the protection," n.d.) Additionally, NAGPRA prohibited trafficking in Native American human remains unless the appropriate culturally affiliated tribe was aware and/or involved.

Though NAGPRA was an historic and long-awaited gesture of respect, some decry it as needing serious improvement. Rutgers University student and archaeologist Tyler Heneghan (2020) has asserted that "NAGPRA leans heavily in favor of Eurocentric ideals of science over Indigenous American religious freedoms and oral history. . . . Congress failed at greatly considering the issue's greatest stakeholder—Indigenous Americans." He cites loopholes and a lack of enforcement mechanisms as some of the problems, and notes that 73% of remains that are untraceable to a contemporary, federally recognized tribe remain in museum collections.

By such observations, it is time for NAGPRA to evolve into legislation that reverts control over such sacred treasures. After all, as the Association on American Indian Affairs so acutely points out, "Only the free, prior and informed consent from the Native Nation can transfer ownership of these sensitive items to someone else. Native Nations have never given up their inherent sovereignty over their cultural heritage." (n.d.)

References

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