

Protecting the Past: Finding Common Ground in the Native American Repatriation Movement

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Abstract: Maria Pearson began her career in Native American Rights Activism in the 1970's when she encountered flawed grave protection legislation in Iowa. She worked for the equal treatment of Native American and Euro-American remains, and fought for the repatriation of Native American bones and artifacts. Her efforts led to the passage of a new piece of grave protection legislation in Iowa, the first of its kind at the state level, and then further culminated in the historic passage of the federal Native American Graves Protection and Repatriation Act (NAGPRA). This case begins with an examination of the colonial history that led to the necessity as well as controversy surrounding repatriation, then explores both the perspective of Native American communities and archaeological communities in regards to burial protection, and finally recounts Pearson's personal efforts and journey striving for legislation. This case demonstrates that a dialogue can be created between two opposing groups and compromise can be made even when building upon a complicated history. Though the process of creating new legislation is never perfect, and will never please all parties involved, in the case of Native American and archaeological communities, NAGPRA has been an important step towards improvement in the handling of Native American remains and artifacts.

Making an Entrance

One early morning in 1971, a woman dressed in a beaded, buckskin dress—the traditional regalia of the Yankon Sioux Native American tribe—walked into the Iowa State Governor's Office. She asked politely but firmly to speak with the governor, though this was no ordinary meeting. She did not have an appointment, and she would not take a seat to wait for Governor Robert Ray. Her hair in two long braids down her shoulders and her eyes unblinking, Maria Pearson told the receptionist that morning that she was an ambassador for her people, and she had something important to say (Pearson 2000).

When the governor asked what he could do for her, Pearson declared “you can give me back my people's bones and you can stop digging them up” (Colwell 2017, 231). She had made the 90-mile trip to Des Moines following an incident that would come to be known as the “Glenwood Controversy,” where a colonial cemetery had been discovered and the skeletal remains of a Native American woman and her child were repossessed for study by an Iowa State archaeologist (Gradwhol 2005). Iowa grave protection laws did not cover ancient burial sites, so Pearson decided that the law needed to change. Her goal was to increase repatriation rights, or the return of remains and other culturally important artifacts to the groups to which they originally belonged (Colwell 2017).

Maria Pearson, also known as *Hai-Mecha Eunka*, or Running Moccasins, is widely considered to be the “founding mother of the modern Indian repatriation movement” (Gradwhol 2005, 13). Her work sparked a dialogue in the 1970’s surrounding repatriation that would inspire action around the country in the years following. Even so, repatriation is by no means a modern issue. Especially in the United States, where so much of cultural history is rooted in colonization, tensions between Native American groups and archaeologists have been building for centuries.

Colonial History

Though the foundation of what is considered modern anthropology in America would not be established until the mid-19th century, anthropology as a discipline has roots in much earlier exploration. The first ‘anthropologists’ were European collectors throughout the colonial era known as “Indian Hobbyists” (Keeler 2012, 740), who would remotely acquire Native American cultural objects and study them as a pastime. This practice contributed to the emergence of an international looting market, a market that still has an estimated value of one billion dollars a year (Colwell 2017).

The penalization of looting practices is much stronger in the United States today, but this has not always been the case. For much of American history, what amounted to grave robbing was not punished, but encouraged. The practice of looting is as old as the European discovery of the Americas. Beginning in 1492, Christopher Columbus set a precedent for the treatment of Native American ceremonial sites by invading these spaces in the hope that they would be sources of gold and other wealth. The conquistadores that followed Columbus, also in search of material wealth to bring back to Europe, further embedded the theft of Native American cultural objects into acceptable colonial practice with their brutal policies of murder and raiding (Keeler 2012).

In the 16th century, European colonial powers gave trading companies jurisdiction over large tracts of land without the consent of the native inhabitants (Keeler 2012). The development of international law is rooted in this history, meaning laws today include a tradition of overriding the protests of indigenous people, particularly in acquiring remains and sacred objects. Supreme Court Justice John Marshall formulated the federal concept of “domestic dependent nations” and first applied it to Native American communities in the mid-19th century. He claimed that Native Americans were unable to make decisions for themselves, and should become “wards” of the United States government (*Cherokee Nation v. Georgia* 1831, 17). This decision set a legal precedent for the treatment of Native American peoples, and they would not be considered naturalized as US citizens until 1924 (Keeler 2012).

John Marshall’s decision coincided with the Indian Removal Act of 1830, which mandated that large numbers of eastern Native American nations move west of the Mississippi River. Native groups were forced to exchange the land they occupied within US borders for unsettled territory that had no historical or cultural significance to them. The Removal Act left Native American gravesites largely unprotected, and they became targets for either the collection of remains for scientific study or for so-called curiosity collections (Keeler 2012).

The 19th century was also the era of Social Darwinism, and early anthropologists such as Herbert Spencer became obsessed with finding scientific evidence of a racial, evolutionary hierarchy. Thousands of skulls from abandoned Native American gravesites were taken and measured in the hopes of proving Spencer’s idea that indigenous races were less advanced (Colwell 2017). Samuel G. Morton, still considered the father of American physical anthropology, published *Crania Americana* in 1839 to support Spencer’s proposed “survival of the fittest” (Keeler 2012, 737). Morton skewed the data he collected from skull measurements to determine

that Native Americans fell below Europeans and Asians, but just above African Americans, in the “hierarchy of races” (Keeler 2012, 737). This information was also used throughout the Civil War to justify slavery, and even though all of the fallacies in Morton’s “science” would later be exposed, he would negatively impact anthropological study for years to come (Keeler 2012).

Instead of being reburied, the Native American remains collected for these 19th and early 20th century studies were moved into the new museums emerging throughout the United States and Europe. The Antiquities Act of 1906 defined archaeological resources found on public land as property of the United States and required these items to be stored in a permanent museum collection (Watson 2017). State, university, and museum-funded excavations of Native American ceremonial sites also began in this era. A collegial exchange had begun to increase the depth and breadth of collections, and more and more objects were being put into archives instead of displayed (Keeler 2012).

Today, more than 200,000 Native American skeletons and some 1 million sacred ceremonial or funerary objects sit in the storerooms of various museums across the United States, collecting dust or remaining in seldom-used archival collections (Colwell 2017). In 1986, Cheyenne leader William Tallbull brought to public attention that 18,500 individual Native American skeletal remains had been inventoried at the Smithsonian Museum of Natural History alone (Watson 2017). Many researchers consider these collections to be valuable databases—human archives of sorts—and want to have them available for future study should the need arise. However, for many Native American groups today “the dead are not really dead at all. The museum’s collection has interrupted the natural order of the world, threatening the health of the living and the spiritual journeys of the ancestors” (Colwell 2017, 3).

The archaeological and greater anthropological community today recognizes the problems in its foundation and is actively working towards reform (Zimmerman, 1999). However, despite attempts to change their reputation, anthropologist’s relationships with Native American communities are strained because they are still viewed as “looters” and “gravediggers,” even though there has been valuable scientific discovery produced from their archaeological research (Fine-Dare 2005). Historically, interactions between Native Americans and the scientific community have been tense, and there is much to be done before this hostility can be resolved.

Scientific Inquiry

Moving beyond colonial roots, archaeological research today has been invaluable in understanding past social organization. Many anthropologists believe that if archaeology is not done, ancient people remain without a history (Meighan 1993). To restrict the study of archaeological material would be wasting a valuable and limited resource for understanding greater questions of humanity—questions and answers that can, and have, directly benefited Native American groups in the past.

Dr. Ethne Barnes, a medical anthropologist at Wichita State University, argues, “it [reburial] is just like burning books” (Peck and Seabourne 1995). Barnes’ research is primarily focused on genetic variation made visible through bone, but she has also done work in paleopathology and ancient DNA analysis. Skeletal material can reveal data critical to understanding disease patterns of the past. A study of Native American remains done in collaboration with the Omaha Nation helped to uncover why Omaha people are predisposed to diabetes, allowing scientists and doctors to move forward in developing more specialized treatment for this specific group of people (Swidler 1997). Barnes maintains that if Native groups limit access to this ancient genetic material,

progress in paleopathology and recognition of ancestral disease patterning would be brought to a standstill.

Archaeologists have also been invaluable in helping to establish the cultural patrimony that was needed for Native American groups to reclaim ownership of land-use rights. Biological data, archaeological evidence of geographic locality, and linguistic analysis have all been used to prove tribal land claims (Watson 2017). Furthermore, archaeologists have played a critical role in preserving many important Native American archaeological sites, and have been instrumental in fighting the looting of such sites (Swidler 1997). Today, many anthropologists feel that they are responsible for giving back to the communities that they study, and they cannot imagine how they would do that without access to material to survey. Research has illuminated the pre-history of Native Americans, contributing to some Native groups' own understanding of their past (Zimmerman 1999).

Anthropologists and archaeologists alike have critiqued proposals of the development of more restrictive grave-protection legislation. If scientific access to archeological material was limited, many people in the scientific community feel that valuable information would be sacrificed (Meighan 1993). Even if compromises could be made, and study of certain objects could be allowed for limited periods, the time that could be spent doing scientific research would be lost to obtaining bureaucratic approval. As far as repatriation goes, statistical research requires large sample sizes, so archaeologist Clement Meighan argues that those vast storerooms of skeletal remains still serve a purpose. Those collections are frequently used to train new students, and new analytic techniques—such as advancement in DNA analysis—are always being developed (Balter 2017).

One of the biggest questions surrounding modern repatriation lies in determining exactly who should repossess ancient remains and cultural artifacts. Tribal and/or cultural affiliation has to be determined between ancient groups and modern groups, which can be difficult. This is the case with one of the most famous and controversial repatriation examples: that of Kennewick Man. Two teenagers near Kennewick, Washington, one day accidentally uncovered a skeleton. Local law enforcement had the remains sent to a forensic anthropologist who determined that the skeleton was ancient. At roughly 9,500 years old, Kennewick Man is currently one of the oldest and best-preserved skeletons to have ever been found in the Americas (Watson 2017).

Five local Native American groups sought to claim the skeleton for reburial, but forensic archaeologist Doug Owsley maintained that it is near impossible to determine whether or not people from this long ago can be considered ancestors to Native peoples today. One of the main points in establishing cultural affiliation is through a shared group identity—similar cultural practices, shared belief systems, etc.—but Owsley argued that “it is highly unlikely that any modern Native American tribe can have a ‘shared group identity’ with a population that lived 9,200 years ago” (569). He also stressed that merging contemporary Native Americans and the early peoples of the Americas into one large group denies those early peoples their own identities that can, in part, be studied through morphology (Owsley and Jantz 2001).

This is another difficulty in the relationship between anthropologists and Native Americans because the oral tradition of many Native tribes doesn't recognize the separation between modern and ancient peoples (Watson 2017). There is a fundamental difference in the way that scientific communities and Native American communities conceptualize the past, and it creates even more of a challenge in the discussion of legislating repatriation.

Ethical Obligation

There are 568 federally recognized Native American groups in the United States, and their belief systems vary greatly (Colwell 2017). But, for many, the notion of the Spirit Journey, or the journey the soul goes on after death, is very much tied to a physical gravesite. To disturb the grave of an ancestor is to stop their spiritual journey and interfere with their afterlife (Pearson 2000). For these groups, the issue of repatriation is one of religious freedom. For others, especially in the repatriation of cultural artifacts, it is a question of identity. Many groups rely on oral history to pass on cultural knowledge between generations, and objects like ceremonial regalia are essential in aiding in that tradition (Fowler-Williams, Espenlaub, and Monge 2016).

To archaeologists, the past can be known and studied based on markers that are left behind. To know the past requires that it be discovered through written sources, archaeological exploration, and interpretation of artifacts (Zimmerman 1999). To Native Americans, the past lives in the present. Native people know the past in the sense that it is a cultural element of daily existence. History is as much a part of the spiritual and ritual realm as it is a part of the physical. Some groups even object to heavy reliance on artifacts, preferring to focus instead on oral tradition—the telling of stories about people and how they experienced their lives in that moment. “When archaeologists say that the Native American past is gone, extinct, or lost unless archaeology can find it, they send a strong message that Native Americans themselves are extinct” (Zimmerman 1999, 162). Native Americans want to preserve and understand their culture as much as scientists do, but it is much more personal to them. Many feel they do not need to remember by writing things down, they remember by sharing oral histories and telling stories. And, sometimes, they are not in agreement with the way formally trained anthropologists and archaeologists want to preserve their history (Swidler 1997).

For example, the first people to arrive in the Americas centuries ago are still a mystery to modern science, and new questions and theories about who they were are always emerging. Many scientists seek to study these ancient migration patterns using genetic differences found in osteological remains, and they are eager to share those findings with Native American groups to better establish their physical history (González-José et al 2008). But, Native American groups have their own oral traditions, histories, and stories of creation that do not include migration theory. Bronco Lebeau, a representative of the Lakota people, explains that from his place of cultural understanding, he and his ancestors have always been in the Black Hills. “We’re not biological or anthropological specimens, we’re people,” (Peck and Seabourne 1995) he said. He asserted that he is not trying to discredit the scientific theory of migration, but he believes that Native Americans should be allowed to maintain their religious freedom and decide for themselves whether or not they want their ancestral remains to be used in the pursuit of scientific questions like this one (Peck and Seabourne 1995).

The issue of cultural affiliation between ancient and modern groups is also complicated between Native Americans today. Some groups, like the Lakota, have stated that they welcome any indigenous ancestors for reburial, whether direct genetic ties can be established or not. They define and develop relationships much differently than scientists do; for them, an ancestor does not have to be genetically related to be remembered, celebrated, and sent back on their spirit journey as if they were “family” (Peck and Seabourne 1995). Other native groups, however, do place a great importance on genetic ties. Chip Colwell, curator for the Denver museum, nearly had repatriation efforts with multiple groups from the Great Plains fail because he could not establish direct ancestral ties to any one tribe. The groups did not want to go through the effort of all the bureaucracy to bury strangers; they had made the journey to Colorado for their kin (Colwell 2017).

Ultimately the different religious leaders of the groups represented decided that collaboration was necessary, and that the remains would be reburied with respect to all groups.

For many Native groups, repatriation is often not so much a question of religion versus science or right versus wrong; it is more about civil rights and recognition of equality.

In seeking to protect their ancestors, Native Americans are attempting to secure recognition of basic human rights such as the right to religious and spiritual fulfillment, and the right to control burial sites on ancestral lands, which have been removed from native 'ownership' through colonization and appropriation (Swidler 1997, 67).

Many Native American people are willing to collaborate with anthropologists and archaeologists in the pursuit of science, as long as their religious freedoms are respected and they are allowed to play a role in the way that their material culture is studied (Fowler-Williams, Espenlaub, and Monge 2016). In the pursuit of legislation, though, groups first and foremost want to see laws that mandate equal treatment between Native American and Euro-American remains.

The Glenwood Controversy

Maria Pearson began her own repatriation efforts in such a search for equality. One evening in early 1971, Pearson's husband came home after a day at work for the Iowa Department of Transportation with news that a cemetery had been uncovered while they were building a new highway. The remains of 26 Euro-Americans were discovered by the project archaeologist and promptly reburied at a Christian cemetery in nearby Glenwood. The archaeologist on that team did not feel that Euro-American skeletal remains necessitated examination. Also uncovered were the remains of an "Indian girl and her baby" (Bataille 2000, 132) which, although being contemporaneous with the other remains discovered, were not reburied. They were instead taken to the state archaeologist for further research (Bataille, Gradwhol, and Silet 2000). Maria Pearson went to visit the Iowa State Governor the next day.

This "Glenwood Controversy" sparked media attention first across Iowa, then throughout the nation. Pearson had a sharp sense of humor, and that day in the governor's office she asked him, "If your mother dies and you buried her, what would you think if I decided to re-do my home in 'early white man' décor, and went to the cemetery and dug your mother up? How would you feel?" (Pearson 2005, 135). In the same breath she challenged the governor, telling him that it was time to stop taking orders from the state archaeologist, Marshal McKusick. Governor Ray admired Pearson's passionate, outspoken nature, and replied that he would feel awful should his mother be treated in such a manner. Afterward, he promptly called McKusick to a meeting to negotiate the reburial of the two Native Americans uncovered at Glenwood (Gradwhol 2005).

However, Pearson's problems with McKusick only escalated. Instead of meeting directly with Pearson, McKusick told a reporter for the *Des Moines Register* that "I don't want that woman to think in any way that if she raises a fuss, I'll give her a couple boxes of bones" (Colwell 2017, 230). In response, Pearson told a different newspaper reporter that she wanted to will her bones to the state of Iowa should she die during a surgery that year, so that the state archaeologist wouldn't have to dig her up later (Pearson 2000). McKusick was of the older school of thought, that archaeologists and researchers were the only people truly able to give a voice to those long dead (Zimmerman 1999). However, in refusing to compromise with Pearson, he made a powerful enemy. Pearson had no problem collaborating with anthropologists or people in government

offices, so long as they listened to her when she wanted to be heard (Schermer and Green 2005). Pearson continued to meet with Governor Ray, and over time and through their negotiations the two developed a friendship. Along with other members of the American Indian Movement, Maria Pearson was able to convince the governor to appoint a new state archaeologist who would rebury the woman from Glenwood in the same cemetery that the Euro-American skeletons were reburied, as her principal concern was for the equal treatment of those remains (Gradwhol 2005). They had been buried together before, and she thought that they should continue their journey in an undisturbed manner, both white and Indian (Pearson 2000).

Pearson's Continued Efforts

Duane Anderson became the new Iowa State Archaeologist after McKusick, and the first time he met Maria Pearson he remembers that she told him, "I will be your best friend or your worst enemy" (Anderson 2005, 37). Anderson, terrified in the moment, would later recall that this proved to be true. With a background in museum work, he was willing to learn and collaborate with Pearson and other activist organizations in repatriation efforts (Anderson 2005).

Pearson worked closely with Anderson in the development and advocacy of new burial legislation in Iowa. After her first conversation with Governor Ray, Pearson went on to give speeches and attend meetings throughout Iowa and across America. One of the initial meetings was in Ames among professional Iowan archaeologists. One of the archaeologists in attendance told Pearson that she wouldn't care if her grandmother had to be dug up (Pearson 2000). The archaeologists at this meeting made Pearson feel like Native American groups and archaeologists had a fundamental difference in perspective, a difference that could not be reconciled. Pearson responded that, "your culture does not lie in this land, it lies across the ocean" (Bataille 2000, 139), and that even if some archaeologists didn't care about their own ancestors, the point was that the Sioux people—and many other Native American groups that Pearson represented—*did* care.

Pearson struggled with other anthropological justifications for what she deemed grave robbing. Many studies were never made available to the public at large, and most reports were written in the sort of jargon only anthropologists could understand (Pearson 2000). If Native people did not have access to the studies about their ancestors, what was their motivation to allow them to happen? Pearson continued to attend national meetings of anthropologists, different archaeological conventions, and Native American rights demonstrations to educate and advocate on behalf of her people (Gradwhol 2005).

In 1976, Maria Pearson was invited to a meeting in Des Moines with the state legislature. Senator John Murray and Representative Bill Hutchins sponsored a bill to change burial code in Iowa in order to better protect American Indian graves. They collaborated with Pearson in identifying problems with the current burial law and drafted a new one (Pearson 2000). The new law was passed, and it accomplished four distinct objectives. First, it allocated funds to identify and protect human remains discovered accidentally. Second, it clarified the role of the State Archaeologist in investigating human remains that were more than 150 years old. Third, with direct consultation from Maria Pearson, it established four appropriate reburial sites in the state of Iowa, one in each cardinal direction. And finally, it clarified Iowa Burial Code to extend grave protection to ancient cemetery sites (Anderson 2005). It was the first law of its kind, and it set a precedent for legislation in many states to follow.

After that initial Iowa legislation, Governor Ray established an Indian Advisory Council for the Office of the State Archaeologist, and Pearson was appointed as chair of the council, where she would serve for many years (Schermer and Green 2005). Pearson advised the Iowa State

legislature, the Iowa Lutheran and Methodist Churches, as well as various schools and universities on issues of American Indian education, health, and civil rights (Gradwhol 2005). She remained dedicated to the cause of repatriation, and spent the rest of her life working with various government organizations and different state archaeologists to return Native American remains to their direct descendants, as she was able to do with the skeletons of Sioux civil war prisoners found in the archives of the Putnam museum (Schermer and Green 2005). She also recognized the growing need for federal legislation on grave protection—a bigger issue that went beyond Iowa alone.

Duane Anderson recalls one day, after discussing possibilities for federal action to be taken, Maria decided to call up President Ford. She didn't reach him, but she did give one of his aides an "earful" (Anderson 2005). Anderson remarked:

I think she had more gall than anyone I had ever known... One time I heard someone say that she did so well because she knew how to work the system. I think she was successful because she ignored the system (Anderson 2005, 37).

And 'ignoring the system' had brought her great success in Iowa. Pearson's ability to befriend and educate Iowan government officials, travel throughout the state to advocate for her cause, and collaborate between the new state archaeologist and the Sioux community had worked to bring about real change. But, would she be able to continue her efforts and replicate this sort of success at the national level?

If Pearson increased her work outside of Iowa, she would have to try to meet the needs of 568 federally recognized Native American groups, many of whom have different goals in regards to repatriation, as well as countless other state-recognized tribes that are not yet recognized by the federal government. Any federal legislation would affect these groups in the same way, despite the differences in cultural practices and belief systems among them. Furthermore, repatriation law would impact a great many high profile, high-budget museums; museums such as the Smithsonian that are much beloved and respected by the American public. If her goals were collaboration and education, she would have to be very careful with respect to all these opposing groups. What would national repatriation legislation even look like?

Epilogue

Through Maria Pearson's actions with the legislative precedent set in Iowa, along with the efforts of many other Native American activists, the Native American Graves Protection and Repatriation Act (NAGPRA) was passed in 1990. This federal legislation redefined ownership of cultural items and nationally allowed Native American groups an official avenue for repatriation requests (Swidler 1997). NAGPRA is a law that requires museums and other institutions with large skeletal collections to make a complete inventory of any Native American human remains, funerary or sacred objects, and items of cultural patrimony in their possession (Watson 2017). Native American peoples or organizations can then request a hearing for repatriation. In order for this request to be entertained, a claimant must prove that they are from a group that is lineally descended from the questioned artifacts. These ties are largely determined in collaboration with anthropologists using biological data, linguistic and folkloric tradition, and geographic history (Watson 2017).

This Repatriation Act is by no means perfect. It is underfunded, there are countless backlogged requests, questions of affiliation continue to be unresolved, and sometimes there is

poor dispute-resolution between museums, anthropologists, and competing Native American groups (Fine-Dare 2005). However, the process of NAGPRA consultation has also drawn varying representatives together in unprecedented ways. Anthropologists, archaeologists, and museum curators are now more likely to stress interdisciplinarity in the formulation of research questions and public displays, broadening research and providing access to new ways of teaching (Fine-Dare 2005). There has also been an increased amount of consultation with Native American people when devising new areas of study and designing museum exhibits (Fowler-Williams, Espenlaub, and Monge 2016). Most of all, though, Native Americans have a way to open doors previously closed to them, have increased the opportunity for engagement in indigenous rights issues at an international level, and strengthened activism at the local level (Fine-Dare 2005).

Shirley Schermer, director of the burial program at the Iowa Office of the State Archaeologist, has said that “Archaeologists have learned to appreciate that the past IS the present” (Schermer and Green 2005, 51) and that collaboration with Native American groups is not only necessary, but also rewarding. Native Americans, too, in collaboration with anthropologists have learned the value in preserving material history. The Alaska Native Tlingit concept of *shagóon* refers to the bonds between generations, and being able to preserve and study cultural history strengthens those bonds (Colwell 2017). Repatriation is certainly about righting past wrongs, but it is also very much about hope for a better, more collective future.

Twenty years after NAGPRA became law, only about 27% of Native American human remains had been affiliated and returned to modern groups (Colwell 2017). There is still progress to be made, but the continued and increasing efforts of collaboration between Native Americans and archaeologists gives hope to a future in which objects and remains of cultural significance can be both remembered and respected. There will always be challenges in finding the balance between respect of cultural practices and scientific inquiry, but there will also always be figures like Maria Pearson who are willing to challenge the dominant narrative while creating a dialogue between opposing groups.

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