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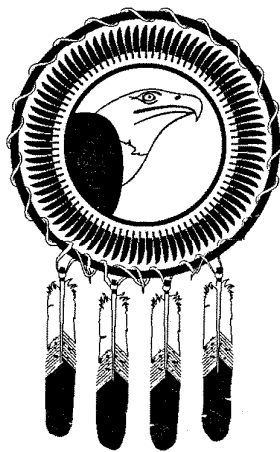
*The Repatriation Project of the Oglala Sioux Nation
A Report to the Repatriation Committee*

by

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The Repatriation Project of the Oglala Sioux Nation: A Report to the Repatriation Committee

Introduction

My work for the Oglala Sioux tribe will cover, but not be limited to, the repatriation process. As a tribal consultant, I have been asked to write what will amount to a repatriation guidebook or manual for the Oglala tribe. However, I recently learned that NAGPRA grant money will be available to American Indian tribes to pay for documentation procedures. (See the 1994 NAGPRA Grants for Indian Tribes, Alaska Native Villages and Corporations and Native Hawaiian Organizations, Administered by the Archeological Assistance Division of the National Park Service.) Due to the complexity and specificity of the application, a completed grant application will amount to something like a project guide or repatriation manual in and of itself. The grant will also provide funds to defer costs related to the return of objects and human remains to Indian Nations. Due to this fact, it is not practical for me to write a guidebook separate from the grant application. Instead, I will contribute when and where I can to the process of writing the grant, as well as to any other projects related to repatriation.

I have begun to put together a preliminary outline of the repatriation process. This outline will also contain a summary of anticipated problems and complications. When complete, I hope this summary will contain an evaluation of Oglala resources, potential costs, the NAGPRA regulations, research into museum archival records, discussions with museum professionals, and comments from individuals from various fields working on repatriation issues. The research I have completed so far may be helpful to us when writing the NAGPRA grant proposal.

The passage of the Native American Graves and Protection Act (NAGPRA) has provided all affected parties with new challenges and responsibilities. The groups most affected are, generally defined, federally funded museums, and Indian Tribes, Native Alaskans and Native Hawaiians. The museums have had to document every Native American, Alaskan, and Hawaiian artifact and all human remains in their care. This documentation has been compiled into complete inventory records of the objects and human remains in the museum collections. The inventories were separated into lists of objects known to have come from a particular tribe or general geographic location. Sometimes the original source is not clear from the records. (For example, an object from "The Dakotas" might mean that it came from North or South Dakota, or from the "Dakota" Indians, also referred to as the Lakota, or Sioux. All are possible origins.) The summaries were mailed in November to a representative from each Tribe.

The Gray Eagle Society of Elders and the Repatriation Committee of the Oglala Tribe have begun the task of reading through the thousands of pages of inventory listings to identify which items are of importance to their tribe. All objects of interest should be listed and the list sent back to the museum that holds the collection so that the next step of "secondary documentation" can begin. The tribes should plan on sending representatives to the museums to see the collections first hand as soon as possible.

The impact of NAGPRA on the museums is quite different from its impact on native peoples, and consequently, the museum perspective is very different as well. To put it bluntly, it is in the best interest of the American Indian Nations to have their things returned to them. It is not necessarily in the best interest of the museums, given that the purpose of a museum is to care for and exhibit objects, as well as to function as a resource for scholars, researchers, scientists, and the general public. This is not to say that all museums oppose the return of objects to American Indian tribes, but Indian Tribes should expect to find some museums more supportive and more willing than others to facilitate tribal repatriation efforts. Tribes should be aware that even the museums most supportive of repatriation efforts will be severely limited in how much and how quickly they can help Indian Nations, due to limited funding and small and extremely busy museum staffs.

The Bigger Picture

The Oglala will need to consider several issues as they begin to prepare for the repatriation process. It will need to evaluate the monetary resources available to both museums and tribes, which will have to include federal and private grants and other sources of funding. The tribe will also need to understand both the federal and the individual museum repatriation policies and procedures. An important resource for the Oglala Tribe will be the successful repatriation cases from other Indian tribes, which may provide examples or models to follow. Also, in examining the problems had by other tribes, the Oglala might be able to avoid the same mistakes or pitfalls. From what I gather through conversations with anthropological consultants, museum professionals and others, I will produce an analysis of the Oglala situation and discuss how they might benefit by referring to these successful and problematic models. It will help to understand what has and hasn't worked well for other Tribes, as the Oglala prepare for the repatriation process.

Since museums are the primary institutional organizations Indian Tribes will work with in their repatriation efforts, I want to include a brief sample of the differing opinions and perspectives on repatriation from individuals within the museum world. The members of the museum world include museum professionals such as curators, conservators, collections managers, directors, archivists, and others, anthropologists, scientists, professors, researchers, and students. The big

picture also includes the attitudes of the general public, as well as museum supporters, contributors, and attendants. The perspectives of these people form a part of the "big picture" regarding repatriation and many related issues that the Oglala and other Indian Nations will have to face. I include the following commentaries to illustrate a sample of viewpoints, supporting and opposing, with regard to museum policy changes brought about by repatriation.

W. Richard West, Jr. is the Director of the National Museum of the American Indian (NMAI). In his address to the American Anthropological Association, West stated that Native Americans have adapted to non-Native cultural forces, but he emphasized that "adaptation" is not to be confused with "assimilation." West said, "the essence of our indigenous nature continues to exist and to evolve in dynamic and culturally significant ways."¹ From this perspective, the museum should not function as a repository of objects collected to represent a "dead" culture. Rather, the purpose of the museum is to represent cultures that are in the process of being and becoming. West states that the NMAI recognizes the "time continuum and contemporary existence of the indigenous cultures of our Hemisphere." Therefore, a principle of the NMAI is to affirm and support the cultural continuity of Native Peoples. West understands the museum as "as much an institution of living cultures as it is a 'museum' in the conventional meaning of the term." He stresses the necessity of the museum to hear the voices of Native Peoples in order to determine what is "cultural 'truth'" and how it relates to their cultural experiences and history. To provide the most accurate representation of American Indian cultures, the museum requires the bringing together of multiple perspectives, and the participation of Native Peoples from a wide range of backgrounds. West calls this approach "the new inclusiveness," an inclusiveness that makes NMAI policies and purpose quite progressive.

Richard Handler, a Professor of Anthropology, has expressed a different opinion regarding the function of the museum. In his article "An Anthropological Definition of the Museum and Its Purpose," the museum is considered "anthropologically" by Handler as an institution that is first of all a social arena and not simply a "repository of objects."² Handler defines this social arena as one of relationships oriented in terms of a collection of objects, where the objects are made meaningful by those relationships, although the objects can also have meaning independently of those social relationships. Museums embody and typify the values of possessive individualism in two ways, according to Handler. First, museums created individual identities by displaying objects attributed to those identities, which are taken to prove the existence of the entities said to have created or possessed them. Second, museums are "individuated corporations whose

¹ W. Richard West, Jr., "Research and Scholarship at the National Museum of the American Indian: The New Inclusiveness." *Museum Anthropology*, Feb. 1993. Vol. 17, No. 1. pgs. 5-8.

² Richard Handler, "An Anthropological Definition of the Museum and its Purpose." *Museum Anthropology*, Feb. 1993. Vol. 17, no. 1. pgs. 33-36.

existence or survival as independent entities depends upon a highly fetishized collection of properties.”

Consequently, Handler points out that for some museum supporters, repatriation means that the museum is faced with a threatened loss of control over the objects which define its very existence. Handler points to the obvious fact that museums will not survive without the objects which uphold not only their reputation, but their very reality. If the ultimate purpose of the museum is survival, as Handler suggests, then perhaps it is time for the museum to redefine its social role. It is certainly a fact that repatriation has caused museums to re-evaluate their purpose and address these difficult issues. The result may be a museum that is more responsive to the needs of the public it claims to serve.

William C. Sturtevant is highly critical of the NMAI's new collections policy statement on Native American Human Remains and Cultural Materials. He calls the policy significant (and threatening) because it is being presented as a model for other museums in the process of redefining themselves, a redefinition that is partially a result of the Native American Graves and Protection Act and partially a result of the direct impact repatriation will have on museum collections. Sturtevant calls the NMAI policy a major shift in “accepted” principles (accepted by whom?) of museum philosophy, curation, and administration. He is disturbed by the fact that all Native American materials in museums are to be treated as the sole property of the affected Native American groups. Sturtevant calls the categories of items to be repatriated, “broad” and “ill-defined,” referring to the policy's categories of “funerary objects, unassociated funerary objects, communally owned property, and ceremonial and religious objects.”

Underlying Sturtevant's criticism seems to be a belief that these poorly defined categories will make it possible for Indian tribes to take absolutely anything that they want from the museum collections. Worse yet, according to Sturtevant, many of the objects returned to Indian tribes will be destroyed, either on purpose or as the unintended consequence of improper care. Sturtevant is also opposed to the new policy of restricted public access adopted by the NMAI to protect objects from the activities of researchers or the general public that may alter or destroy the sacred or traditional nature and function of the object. Sturtevant's attitude epitomizes an all-too-common blatant disregard in Western Christian society for cultural traditions and the “sacred” within a non-Christian culture which is considered inferior and inauthentic because it is non-Christian.

Sturtevant is further upset by the fact that the policy allows religious and ceremonial objects to be exhibited or displayed only with the consent of the culturally-affiliated group. Obviously Sturtevant is more concerned with his right to access the objects than the rights of the individuals who created and first possessed them to determine their care and handling. The NMAI policy acknowledges the rights of American Indian tribes to determine the care, handling, and ultimate fate of the objects and human remains that originated with their societies. Sturtevant doesn't like

this. My guess is that his dislike stems from the fact that the policy takes power and control away from those who have always had it, and relinquishes this power and control to a population which, since first contact with Europeans, has been dis-empowered, objectified, defined, and controlled by the dominant culture, of which the museum institution and anthropologists such as Sturtevant are representative.

I think that Sturtevant objects to the fact that the "concept of title is redefined" in the NMAI policy precisely because this redefinition disempowers him and his kind. Under the new definition, the museums of the dominant culture no longer have title to human remains and certain categories of artifacts. Sturtevant also objects to the restriction of "public access" because he is a member of the public to be restricted. He objects to the "religious tests for use and ownership" because the tests are not controlled by him, rather, they are to be determined and applied by Native Americans. He objects strongly to the "dispersal and potential destruction of collections," to and by the people who created them because such an action will prevent his continued control over and use of the objects. He will lose his privileged status as a researcher and anthropologist who views these human remains and objects as valuable only as materials for study.

When Sturtevant argues that these objects should be accumulated and preserved for the benefit of future generations, the future generations he is most concerned with are not the children of Native Americans. He wishes to preserve the right of access for future generations of non-Indians who may want Native American artifacts available for the purposes of research, aesthetic enjoyment, or simple curiosity. Sturtevant is arguing to preserve the status quo. Indian Nations about to undertake the repatriation process should keep in mind that this attitude is still prevalent among some individuals and institutions, and it will need to be confronted and overruled.

A Look at The Peabody Museum Harvard University

I am a work study student at the Peabody Museum of Archaeology and Ethnology at Harvard University. My position is in the Collections Department, which is also responsible for various aspects of the repatriation project. I thought my work at the Peabody might help me to understand the repatriation process a bit better. I am most familiar with the attitudes and perspectives of the professionals at this museum, although I have interviewed professionals at other museums as well.

In my opinion, the Peabody is supportive of and willing to aid tribes in their repatriation efforts. The Director, David Pilbeam, has taken a proactive stance on repatriation, and seems committed to observing the spirit and not only the letter of the law. Barbara Isaac is the Assistant Director of the museum as well as the Director of the Repatriation Project. She supports tribal

efforts, but asks that tribes follow the procedural guidelines closely and accurately. Mrs. Isaac interprets NAGPRA to mean that everything cannot be returned to the tribes. Items that qualify for repatriation are only those that fall specifically within the categories provided by and defined in the law. (See NAGPRA for definitions of unassociated funerary objects, sacred objects, and objects of cultural patrimony.)

Kathy Skelly is the Peabody Collections Manager. Kathy possesses a great deal of knowledge and respect for the objects in the Peabody's care. With regards to the Native North American collections, Kathy is very concerned that the objects belonging to American Indians be properly and respectfully cared for, and she hopes to work closely with tribal elders and others to develop a policy of "Collaborative Management." The purpose of this policy is to determine guidelines for the storage and care of the objects in the Museum collection, including those identified as "culturally sensitive." The Peabody would like guidance from the tribes with regard to the handling, storage, and accession of each object, based on its sacred character or cultural significance. As a related part of this policy, the Peabody plans to accommodate tribes in the preparation of ceremonies and/or rituals to benefit the objects still in the Peabody's care. Kathy welcomes any tribal members who wish to visit the Museum. She will arrange for Tribal members to view the objects, conduct research, or hold ceremonies. The collaborative management policy will be in effect for as long as culturally sensitive items remain in the museum's care. Other individuals working at the Peabody in the area of Repatriation include Anne-Marie Victor-Howe, John Stubbs, and Lane Beck.

As a part of my general research into this topic, I have also participated in a Peabody Museum "Repatriation Reading Group," which was created as a forum to discuss the many issues related to repatriation. Participants in this group include professionals from the museum, Indian and non-Indian graduate students, professors, and several others. The discussions often became heated debates over historical and contemporary Indian - White relations. We have touched on the subjects of colonization, American Indian history before and after contact, governmental Indian policies, exploitation, genocide, appropriation and reciprocity, dominant culture, the purpose of the museum, the survival of Indian communities, the Anglo perspective of the Indian, the Indian perspective of the non-Indian, legitimacy and authenticity, definitions of the sacred, the Indian and non-Indian world views, cultural values, belief systems, repatriation policies, art, craft, and artifact, ethics, and many other topics as well.

As a consequence of my research into the subject of repatriation, I find myself in the unique position of having to understand the opinions, laws and policies of the dominant culture while concurrently, I am a student of Indian affairs and I am personally committed to understanding the Indian perspective and helping tribes in any way possible. Certainly I know more about my own culture than Native American cultures, which is why I ask the Indians I will be working with to

please educate me on the many points where I remain ignorant. Even with my limited knowledge regarding American Indian history, religion, and culture, I probably know more than the average non-Indian.

I have arranged my job and my classwork in a way that allows me to see into many worlds and understand many perspectives, such as those of Museum professionals, the policy-makers of the white dominant culture, and American Indian Nations. This vantage point has provided me with an understanding that is more accurate and holistic (although certainly not perfect) than a person might have who is immersed entirely within one world. This understanding provides an advantage in perspective that I will pass on to the Oglala tribe. The document I produce should enable the Oglala to follow the federal and museum regulations in a way that is sensitive to their particular beliefs and values, and reflective of their goals.

Oglala Repatriation Procedures

The NAGPRA required museums to document Native American human remains and sacred and cultural items within their collections, and notify all Indian Tribes likely to be affiliated with these items. By November of 1993 museums were to have sent partial inventories (summaries) of objects in their possession to Indian Tribes across the country. Full inventories must go out by 1995. The Repatriation Committee should preserve and organize these summaries, as they represent for the Oglala the only sources of information about the objects in the collections that they will receive. More detailed information may become available at step two of the documentation process, which involves what the museums call the "secondary documentation."

The first step in the repatriation process encompasses all necessary pre-repatriation planning, including completion of the NAGPRA grant application, and a review of the summaries to identify objects in the collections that the Oglala may wish to repatriate. The Repatriation Committee may also wish to discuss how individuals will be chosen who would be willing to travel to the museums to carry out research, meet with museum staff, identify objects and human remains and conduct religious ceremonies, if so desired. The second step will involve understanding the Federal and museum repatriation policies and procedures, and how they apply to the Oglala Tribe. The third stage will include plans for preserving, caring for, or disposing of the human remains and objects after they are returned to the Oglala.

The Oglala must submit an application to the 1994 Native American Graves Protection and Repatriation Act (NAGPRA) grant program. Grants from this program are intended to assist Indian tribes and other affected communities in identifying and repatriating human remains and cultural items, including funerary objects, sacred objects, and objects of cultural patrimony with

which they are culturally affiliated. The grants are administered by the Archeological Assistance Division of the National Park Service. I should point out that much of what the grant is intended to fund is identical to what the Oglala tribe has asked me to do. After reviewing the entire process, I would suggest that the tribe apply immediately for a grant and use the funds to hire a staff to carry out the many necessary documentation tasks.

What I can do is provide some pieces to the "bigger picture" and point to some of the possible problems or complications that might occur along the way. My knowledge and suggestions arise from conversations with various people who have been working on the same problems and issues in repatriation. They have been incredibly helpful in providing me with information that I will organize and present to the tribe. Of course, I realize that many tribal members have been working on the topic of repatriation for years, which may mean that whatever I learn is nothing new to them. I will do my best to use my position and the resources of Harvard University to produce some original information. I ask the Tribal members to please let me know if there is anything in particular that I could do to be helpful. I have been warned that the repatriation procedures will be complicated and long-term. The tribe should prepare itself for a process that could last several more years.

- I. Understanding NAGPRA; Regulations and Guidelines
 1. The Summary, Inventory, and Notification
 - A. Definitions
 - B. How they should be used by the tribe.

- II. Pre-Repatriation: Preparing the Nation
 1. Choosing a Repatriation Committee
 - A. Knowledge, Goals, Objectives
 2. Community education and involvement
 3. NAGPRA Grant Application for a "Documentation Award"
 4. Resources:
 - A. Federal Archeological Newsletter
 - B. NAGPRA on-line data base, through the National Archeology office. (?)

- III. Documentation Award Funds are available for the following:
 - 1) Assess and evaluate summaries, inventories, and documentation provided by museums and federal agencies.
 - 2) Train staff members in techniques for documenting the cultural affiliation of Native American human remains and cultural items.
 - 3) Train staff members in consultation techniques.
 - 4) Communicate with museum and Federal agency officials regarding culturally affiliated human remains and cultural items.
 - 5) Travel to inspect collections and consult with museum and federal agency officials regarding proper care, treatment, and disposition of Native American human remains and cultural items.
 - 6) Document the cultural affiliation of Native American human remains and cultural items in the possession of museums and Federal agencies.
 - 7) Plan for the care or treatment of repatriated human remains or cultural items.

Preparing the Case: Documentation

The documentation procedure cannot begin until the grant money is available. Tribes can design documentation projects with budgets ranging from \$5,000 to \$75,000. The grant application process is itself an excellent first step in developing an overarching repatriation plan. To complete the grant application the tribal repatriation committee will need to come to a consensus on several key issues. To be included in the application are the names of individuals to be responsible for authorizing and directing the project and responsible for the fiscal management of the grant. The application also requires a project description, schedule of completion, and a budget. Further documentation is also necessary. Once the grant application is complete, the tribe will have a very thorough and complete project outline. The grant application should be completed as quickly as possible so that documentation may begin. Award applications must be postmarked by February 25, 1994. (See the draft of the NAGPRA grant proposal for details) This date could change.

Repatriation Awards

Applications for repatriation awards will only be considered after publication of the required Notice of Inventory Completion or Notice of Intent to Repatriate in the Federal Register. It is the step following the completion of documentation. The applications will be considered as they are submitted. There is no specific deadline.

Other Expenses:

The federal grants will not cover all expenses, so the Indian Nations should prepare a repatriation fund to cover legal fees or costs of litigation, including expert testimony, care and curation of repatriated Indian human remains and cultural items, construction of facilities, purchase of land and/or buildings, and overhead or indirect cost rates above 25%.

Documentation Procedures

Native American tribal representatives will receive inventory summaries from museums around the country. The Oglala will receive a collection summary from every museum with a list of cultural items that have been identified as "Sioux." The summaries contain information on each object that the tribe will have to use to determine whether or not the object is of interest to the tribe. The Repatriation Committee/Gray Eagle Society should read through all of the summaries, object

by object. When an object has been identified as falling within the definitions given in the repatriation legislation and having possible significance to the tribe, the information on the object should be recorded as it has been requested in each museum policy. The Peabody museum requires the accession number, the description of the object, and if available the state or geographic region that the object came from.

In some cases, the objects cannot be traced to a specific Sioux tribe or individual. The ambiguity of the records will pose a real problem for Sioux tribes making claims to the objects. The museums are working to document and identify tribal affiliation, but the records can be unreliable and incomplete. Tribes should work together to maximize intertribal cooperation and minimize the incidents of multiple claimants to an object. Multiple claims to the same object will only cause delays and other bureaucratic obstacles to the process. It is better for tribes to decide collaboratively which tribe has a right to claim certain objects in advance of posting the Notice of Intent to Repatriate. For obvious reasons it is in the best interest of the tribes to minimize intertribal conflict.

John Steele is the Oglala Tribal President. Mr Steele has asked Roger Byrd to lead the repatriation efforts within the tribe. Mr Byrd has been working on repatriation issues for the last 20 years, and he is also a member of the organization American Indians Against Desecration. Along with Mr Byrd, the Oglala Gray Eagle Society of Elders headed by Elaine Quiver, Sam Loud Hawk, Wilbur Between Lodges, Melvin Lee, and a number of other individuals have been asked to contribute to the repatriation project.

I met with Roger Byrd during my December visit to South Dakota. I asked him how he planned to use the information in the museum inventory summaries to identify objects of significance to the Oglala. I was also concerned with the potential problem of multiple claimants to an object or to human remains, given that many of the objects and human remains could not be identified with a particular Sioux Tribe or individual, at least according to the museum records. Roger's response is significant, for it represents the world view and belief system of the Oglala Indian, and thus illuminates several fundamental differences between the Indian and non-Indian perspective of the entire repatriation problem.

To begin with, I have said that I voiced concern that the Tribes would not be able to identify objects of significance to the tribe, or those related to the Tribe, based on the limited data available in the summaries, or even through a visit to the museum to view the objects first-hand. I blamed this problem on incomplete museum records that at times cannot specifically identify place or Tribe of origin for some of the objects or human remains in the museum collections. My concern belied my position in a rational, scientific, and deductive culture that believes in only one form of knowledge, that is to say, physical and observable facts. Roger's response reflects his

location within a culture that has a very different understanding of knowledge and what we might call “unconventional” sources of information.

Native Americans, like many other indigenous people around the world, believe in sources of knowledge that Western, Scientific, “rational” people might label “irrational,” “extra-sensory,” or “extra-ordinary.” These sources of knowledge are not scientifically provable, yet for the Native American they are just as valid. Roger believes that identification will be easy because a Lakota person will “just know” when a particular object or when human remain is connected to him or herself. Connections exist between these objects or skeletons and the Lakota families from which they came that escape factual or scientific definition. These connections are simply *felt* by the people with the connections, and not by anyone else. This knowledge will be related to the person from, (for lack of a better term,) the spirit world. Therefore, only the individual who receives this information and feels that there is a relationship or connection is qualified to identify and claim a particular object or human remain. If the human remains or the object has no connection to the person, then none will be felt. This fact, says Roger, also explains why multiple claims will not be a problem for Indian Nations.

My concern, of course, is that there are museums that will not understand or recognize this form of knowledge as legitimate. The Native American method of identification using their ability to *feel* a familial relationship may not be considered valid or adequate according to Federal and Museum policies. If, for example, an Oglala elder recognizes by *feeling* that a particular skeleton was a relative, or that a pipe belonged to his or her family, what happens if the museum refuses to acknowledge this personal recognition as a legitimate form of identification? I don’t have an answer for this, but I foresee an area of potential misunderstanding and conflict between the Native American way of defining, identifying and documenting objects and the official governmental and museum procedures for doing so.

Once the Oglala Repatriation Committee has identified the objects from the summaries that may be repatriated, the completed lists should be sent to the museums, along with specific inquiries about each object. The museums will then research each item in order to provide more information to the tribe, if indeed more information exists. The tribe should not expect to receive a detailed historical record of each object. Even if a record does exist, museums will not have the staff or resources available to gather a detailed report together for every single object, for every tribe with requests for more information. Consultation with the Peabody museum is welcome by letter, telephone or visit, and this policy is probably true for most museums. The tribe should be aware that the Peabody and other museums are constrained in their effectiveness and efficiency by a small staff and limited funds. Eventually, a delegation from the Oglala tribe will need to travel to every museum containing a collection of Sioux artifacts to view the items firsthand. Such an undertaking will be time-consuming and expensive. The grant money from NAGPRA should help to fund this.

As a more immediate alternative to traveling to the objects, I suggest that a video or photographs be taken of the objects in the museums that can be sent back to the Oglala Repatriation Committee, and the Gray Eagle Society. A visual record would be a less expensive and faster way to facilitate the identification process than sending an entire tribal delegation. Using a video or photographs, the Oglala may be able to spot what objects belong to their tribe and what objects may belong to another Indian tribe or Nation.

If we reach this stage, I would be glad to undertake the task of visual documentation at the Peabody Museum. There are many sacred and culturally sensitive objects in the Peabody collection. I do not consider myself the appropriate person to decide which of these objects should be viewed by myself, or photographed, or otherwise disturbed in any way. Until I am given permission to view these items, I will leave them alone.

The very terms *sacred* and *secular* and *culturally sensitive* may deserve some attention at this point. The following is an example using these terms. A museum would probably consider a basket made for the everyday purpose of storing food a secular or functional object. On the other hand, a medicine bundle created as a part of a religious ceremony or ritual and imbued with power and significance would be considered culturally sensitive, or sacred. Of course, it should be recognized that the very constructions of "sacred" and "secular" do not exist in Native American religious traditions in the same way that they exist in Judeo-Christian traditions. The sacred and secular are theoretical oppositions informed by Western philosophy and traditions of thought and the Judeo-Christian belief-system. The sacred and secular are Western Judeo-Christian cultural terms used to construct and organize cosmologies, and to define what qualifies as "religious," or valuable. That which is defined to be sacred is somehow "better" according to the Judeo-Christian hierarchical organization of everything in the universe. This value starts with God who is at the top as the divine perfect Creator. Man is immediately below God, and then progressing downwards in perceived value, are women, children, slaves, animals, and non-animate objects.

I have been taught by Native American scholars such as Raymond J. DeMallie, Joseph Epes Brown and Inez Talamantez that categories such as the sacred, secular, holy, spiritual, and the like are not really applicable to a discussion of Indian religions, because such distinctions do not exist in the Native American cosmology. The Native American construction of the universe is not hierarchical, and thus it does not attribute different values to things based on their rank or position in the hierarchy. Instead, all things are related to one another through myriad connections, forming a complex web. As I understand it, according to the Indian world view, all is sacred, and all is holy, because everything comes from the Creator. Following the web metaphor, because everything is connected to everything else, interdependent, and related as brother and sister creations of The Creator, all things possess equal value. From this perspective, the food basket is no less important, or holy, than the medicine bundle.

This fundamental cosmological and theological difference between Native American religions and the Judeo-Christian religion of the dominant culture creates an insurmountable barrier to Indian people ever being understood on their own terms. For example, under the NAGPRA definitions, the medicine bundle may qualify as a repatriable item because it is a "sacred" ceremonial object, "needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present day adherents."³ The food basket is not considered sacred. It would also fail to qualify as an object of cultural patrimony, defined in NAGPRA as "having ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual Native American."⁴

It makes no difference to the law-makers if a Native American believes that the food basket is as sacred in its origin from the Creator as the medicine bundle. It also seems to make no difference to the law-makers that traditional Native American societies do not have a concept of "private property," as it exists in the dominant culture. Tools, food, clothing, and other resources in Native American societies are communally held, nothing is privately or individually owned. Furthermore, the NAGPRA definition of cultural items is based on a Western Judeo-Christian religious perspective, and thus it fails to reflect Native American theological and social constructions and tribal variations. Amendments should be made to NAGPRA to more accurately represent the Native American world view.

I apologize to Native Americans for even using distinctions such as sacred and secular, but unfortunately I must adhere to the vocabulary of the dominant culture because it is the also language of the museum records and the federal laws. Please let me know if there is a way I can better define and discuss these categories.

The Peabody Museum has created a new category to distinguish "culturally sensitive" objects. This group includes objects that are known to be "sacred," that is, a part of an identified religious ceremony or ritual. It also includes objects of cultural patrimony that may be disturbing and powerful by their very nature, or through their historical association and context, or for what event or idea they might represent. These objects represent and symbolize extremely significant events, memories, or concepts for Indian Nations.

At present, the culturally sensitive objects in the Peabody are stored in a locked room, covered with acid free paper, and protected from view. No one has access to the objects without a very good reason for needing access them. I have not seen any of the culturally sensitive objects, although I know in general what is in the Peabody from my research into archival records. I will

³ The United States Department of the Interior, Native American Graves Protection and Repatriation Act.

⁴ The United States Department of the Interior, Native American Graves Protection and Repatriation Act.

provide this information to the tribe in detail upon request, although I encourage tribal elders and medicine men to come to the museum.

It is for this collection of highly sensitive and sacred objects that the museum is most concerned with developing the "Collaborative Management" policy. These objects may require special care and attention, or isolation from other objects or people, or particular ceremonies. The Peabody would like the guidance of tribal elders and religious leaders so that the objects can be cared for as respectfully as possible. I would ask you to please reflect on this issue, and relate to me whatever guidelines you would like to pass on to the Peabody Museum. Kathy Skelly is the Collaborative Management contact at the Museum, should you wish to deal with her directly. tel. (617) 495-2975.

Please consider the preceding report a rough introduction to the subject of repatriation and a few related issues. This purpose of this paper was to share some of my thoughts and research findings as they exist so far. Obviously, NAGPRA funding must be obtained before we can go much further. Our next task will be to complete the NAGPRA grant application form. I will participate in that process wherever I am qualified to do so, if it would be helpful. I would like to continue to work on the following projects:

- 1) Aid in writing the Peabody Museum policy of "Collaborative Management" to reflect the wishes of the Oglala Tribe regarding the proper care and handling of objects in the Peabody collection that have been defined as culturally sensitive and of Sioux origin, and other objects in the collection as well. (To be in effect until said objects are returned to the Tribes.)
- 2) Complete the NAGPRA grant application form, i.e. The Oglala Nation Repatriation Plan. (the draft copy gives a deadline of Feb. 25, 1994, but this may have changed.)
- 3) Discuss plans for the care or disposal of Repatriated Human Remains and Cultural Objects
- 4) Research Peabody Museum archives for documentation evidence to support Oglala Tribal claims to the objects to be repatriated.
- 5) Aid the Oglala in compiling a list of objects to be repatriated based on an organizational hierarchy of importance and significance to the tribe.
- 6) Continue the process of interviewing: tribal consultants, anthropologists, federal and museum employees, attorneys, tribal members, and other individuals for information that will be helpful and valuable to the Oglala repatriation effort.
- 7) Anything else that the Tribe believes is important or necessary related to this subject.

An exact deadline for the completion of my project has not been determined. If necessary, I could continue to work on this project until May of 1994. If the Tribe receives grant funding, the Oglala could choose to appoint me as one of the repatriation staff that will work on the project until it has been completed to the satisfaction of the Tribe.

According to the NAGPRA grant specifications, funds will not be available to Tribes until at least four months after they file the application. All applicants will need to submit a schedule for completing the project activity discussed in the repatriation plan. The entire project should be completed within 18 months of receiving the award. The Oglala should schedule enough time to plan, conduct, and phase out the proposed project.

Liesl Wilhardt
December 15, 1993
Report to Barbara Isaac
and Kathy Skelly

Collaborative Management

During my trip to South Dakota I was able to discuss the issue of collaborative management with three individual members of the Oglala Sioux Tribe. Mike Her Many Horses is the Tribal Director, Roger Byrd is the Officer in Charge of Repatriation, and Sam Loud Hawk is a tribal council member.

I explained the idea behind collaborative management, and why the Peabody Museum feels it is important to establish such a policy. In separate discussions I asked Mike, Roger, and Sam for advice with regards to the care, handling, storage, and accession of objects in the museum collection. All three of them said that they were not knowledgeable in such matters and that only the tribal medicine men could say what should be done with the objects. They recommended that the Peabody consult with Oglala (and other tribal medicine men) and ask that these religious leaders come to visit the museum and see the collections first-hand. If the Peabody is interested in pursuing this option, I will request the names of individual medicine men within the Oglala Tribe that could be contacted. No names were given to me at the time of my inquiry. I do know that a tribal elder by the name of Alex White Plume has been working on repatriation issues with Roger Byrd for many years. I am not certain whether or not he is also a medicine man. I will ask how he can be contacted. Other tribal members at work on repatriation issues include: John Steele, the Tribal President; Elaine Quiver; the Gray Eagle Society of Elders; and Julie Lakota and Ted Hamilton (who is white) at the Oglala Lakota College. There are several others as well, but I have not yet received all the names and positions.

Regarding the culturally sensitive objects, Roger Byrd did suggest that sage be placed underneath the box containing the object, as well as on top of the protective paper covering the object. He was glad that the objects were isolated and given restricted access. He said that no one should be allowed to touch the objects, other than medicine men. Other than this, I was not told very much. All three agreed that medicine men were the only people with the knowledge of these things. All three agreed that a group, medicine man or representative from the tribe should plan to travel soon to see the Peabody collection.

Please let me know if you have any questions or requests. I'll be glad to pursue this subject further.

REPATRIATION REVIEW

May 1994

There has been much to report since the completion of the first paper in December of 1993. The first necessary update is the outcome of the 1994 NAGPRA Grant application. The deadline for this 1994 grant has come and gone, and I was told that very few museums or Indian Tribes were able to complete their applications on time. The Oglala Sioux did not. Therefore, it will be very important for the Oglala to begin work on the 1995 NAGPRA grant application as soon as possible to guarantee at the very least that this grant will be available as a source of funding for repatriation expenses. As far as I know, a 1995 NAGPRA grant application can be obtained by writing to the following address:

United States Department of the Interior
National Park Service
Archeological Assistance Division (436)
P.O. Box 37127
Washington, D.C. 20013-7127

At the time of my visit to the Pine Ridge Reservation in December of 1993, I provided members of the tribe with a copy of the draft of the 1993 NAGPRA grant proposal. This copy may be used as a reference until a new grant application is acquired. However, the Oglala repatriation committee should be aware that the procedure and requirements of the grant may have changed since last year.

Over the course of the year the emphasis of my involvement and my contribution to the Oglala Sioux repatriation project has shifted and redefined itself. This is due in part to the fact that during my visit to the Pine Ridge Reservation in December of 1993, I was told that my input would be appreciated but that community members should be the ones to write the NAGPRA grant application and develop tribal repatriation policies. Therefore, I continued to research and analyze the law and search for information that may be of use to the Oglala Tribe and Repatriation Committee as issues and questions arise. However, I will not contribute directly to the writing of the NAGPRA grant application unless I am asked directly by the Oglala Repatriation Committee.

This report is divided into the following sections:

- I. A Detailed analysis of the Zuni Pueblo Repatriation case - What Worked and What Did Not: Lessons for the Oglala Sioux
- II. The Theological Approach to Understanding Repatriation Controversies: Western/Christian and Native North American Definitions of the Sacred
- III. The Conservation and Care of Sacred Objects Within A Museum Context: What the Sioux Should Know and How They Can Help
- IV. Museum Archives: Important Tribal Resources
- V. Comments and Suggestions

The Return of the Ahayu:da : An Analysis of the Zuni Pueblo Repatriation Case

In December of 1993 a very significant article appeared in the journal of *Current Anthropology*. I would recommend that every tribe in the country facing the challenges and issues of the repatriation process familiarize itself with the Zuni Pueblo case and their repatriation process. There are many valuable lessons to be learned that may save the Sioux tribe a lot of time, effort and money if they are aware of the Zuni case. As time goes on and other tribes begin to repatriate objects, they should make an effort to share information and experiences with one another. Because I found the Zuni case to be full of valuable advice and insights, I have devoted much of this paper to a detailed examination of this case as well as the responses and comments regarding the case offered by a number of museum professionals and tribal members. I also spoke at great length to T.J. Ferguson, who was involved personally in the case and is a co-author of the article.

The article "The Return of the Ahayu:da: Lessons for Repatriation from Zuni Pueblo and the Smithsonian Institution" was co-written by three individuals who have been working on repatriation-related issues for many years. The first author is William L. Merrill, a curator of western North American ethnology at the Department of Anthropology at the National Museum of Natural History, Smithsonian Institution. Edmund Ladd is curator of ethnology at the Museum of Indian Arts and Culture, Museum of New Mexico, Santa Fe. T.J. Ferguson is director of Southwest Programs for the Institute of the North American West in Tucson, Arizona. All three possess knowledge of the negotiations based on the roles they played as some of the principle participants in the process.

The story they tell is of the nine years of negotiations between the Zuni Pueblo and the Smithsonian Institution. Their story is valuable for the many lessons they learned that may also be

of use to other Indian tribes and museums who will be involved in the great number of repatriation requests that are anticipated in the next decade. The authors begin with a history of the negotiations and follow it with their own individual perspectives of the events. Fundamental to the paper is the analysis of negotiations between the Museum and Zuni tribe, including a discussion of why both parties believe they were successful, what mistakes they feel were made, and how the process could have been improved. The authors of this article are convinced that the negotiations between the Smithsonian Institution and the Zuni tribe provide a positive model that, with some modifications, should be emulated by other tribes and museums.⁵

There are many differences between the Zuni and Oglala Tribes. They differ in their cultural heritage, religious beliefs, tribal organization, style of negotiation, and in numerous other ways as well. The path the Zuni chose in approaching this very sensitive issue was shaped by many complex culturally related factors. From my familiarity with the Lakota culture, I doubt very much that the Oglala tribal government, Repatriation Committee and others who are aware of the issue will find the Zuni approach very appealing or well-suited to them. However, it will be up to the Oglala tribe to decide what can be learned from the case.

The general situations of the two tribes are also very different. To begin with, the Zuni wished to repatriate only a specific category of objects, the Ahayu:da, or War Gods. The purpose of the war gods to Zuni culture and society is to protect the people from harm and bring fertility and good things to all the peoples of the world. New War Gods, represented as carved wooden images, are created and placed in shrines every year while the old Gods are retired to another part of the shrine to gradually disintegrate and return to the earth. Once the Ahayu:da are installed at a shrine, no one has the authority to remove them. In fact, Zuni religious leaders believe that to do so will bring disaster to the world. However, over the years many of the War Gods have been stolen or wrongfully taken from their shrines. For this reason, in 1978 the Zuni religious leaders decided to recover all Ahayu:da that existed in museums, art galleries, and private collections and return them to the shrines where they belonged.⁶

The nine years of work and negotiation that it took for the return of the objects can tell us a lot about the relationship that exists between Indian Nations and museums. This relationship has undergone some radical changes over the last 30 years, and it will continue to change, particularly as the impact of the passage of the Native American Graves Protection and Repatriation Act becomes more apparent. However, when the Zuni began this project, they did not have the legal right to request the return of religious or sacred objects from any museum. Today tribes do have

⁵ William L. Merrill, Edmund J. Ladd, and T.J. Ferguson, "The Return of the Ahayu:da : Lessons for Repatriation from Zuni Pueblo and the Smithsonian Institution," in *Current Anthropology*, Volume 34, Number 5, December 1993. p.525.

⁶ *Ibid.*, p.525.

this right, which should be kept in mind through the discussion of this case. The Zuni, like other Indian Nations, have experienced many changes in their needs, goals, and expectations. Many Indian Nations have experienced a cultural and religious as well as political resurgence, which has led to an expanding participation of Amerindians in formal museum activities, along with formal requests by tribes for the return of sacred objects and artifacts.

In the Zuni case, the religious leaders were convinced that any War Gods found off the reservation must have been stolen, because no Zuni person would have ever removed them. The museum was not the legitimate owner of the War Gods, and thus the Zuni expected that Museums with War Gods in their collections to turn them over to the Zuni representatives immediately. The first museum the Zuni approached was the Denver Art Museum. The Zuni felt that they had a fairly straightforward and legitimate request. The museum officials were concerned that if they returned the Ahayu:da they would violate their trust as a public institution and set a precedent that could result in the loss of much of their collection.⁷ Zuni meeting with Smithsonian representatives a few weeks later encountered the same reluctance from the museum staff to return any objects, who indicated that they had acquired the objects legally and that they had a trust responsibility to preserve the collections for all people.

The Smithsonian Institution which was later approached by the Zuni was also concerned with setting a precedent that could lead to the eventual loss of entire collections, particularly of religious or sacred objects. The Smithsonian also added that it could not in good conscience return any object unless they could be assured that it would be cared for and protected using modern museum conservation practices and technology. The Smithsonian was aware that it had thousands of Zuni artifacts as well as the two War Gods in its collections. An obvious problem in this case (one which will no doubt surface again in other repatriation cases,) is the fact that the Zuni religious leaders wanted to return the Ahayu:da to their shrines so that they could be exposed to the elements and allowed to decompose naturally. The religious leaders had no intention of preserving and caring for the War Gods in the same way as the Museum. In their view, exposure to the elements and the resulting decay was a part of the ritual process. In fact, to preserve the Ahayu:da and prevent them from decomposing and "returning to the earth" was considered both a dangerous and sacrilegious act. In contrast to this view, the purpose of a museum is to preserve objects. Recognizing that the return of the War Gods would mean their destruction, from the perspective of the museum this would be a great cultural loss. The museums refused to return the Ahayu:da.

The Zuni delegation returned to Zuni Pueblo and met with the religious leaders to tell them what had occurred with the Smithsonian. Together the group then developed a document to address the issue of the curation and return of sacred artifacts and to reach a consensus on the

⁷ Ibid., p.531.

positions the Zuni Tribe should take. The Oglala should also develop such a document and come to a tribal consensus on similar issues if they have not already done so. The Zuni document may be helpful, for it makes six basic points regarding sacred and religious artifacts and items that could be applicable to other Indian religions. The document makes it very clear why the War God objects are considered sacred and vital to the ongoing practice of Zuni religion. The Oglala will need to follow a similar model as they begin to formulate their arguments and requests for repatriation.

For example, if the Oglala plan to request items from Museum collections that they consider to be "sacred" they will have to prove that these are "specific ceremonial objects which are needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present day adherents."⁸ Briefly, in their list of key points, the Zuni made it clear that the sacred objects in question were important to the practice of their religion, that the creative process of creating the objects bestowed the objects with spiritual life, that the objects are communally owned and cannot be removed from Zuni land by any one for any purpose, the Zuni have suffered religious persecution by the U.S. and Spanish governments that has led to a loss of religious harmony, that Zuni religious and art objects have been stolen due to the value they have acquired in the museum and art worlds, and the Zuni require the assistance of the museums and other relevant parties to secure both their return and guarantee that they will not be taken unlawfully again from off the reservation.⁹

What strengthened the Zuni case is the fact that the objects were almost unarguably recognized by everyone as sacred, and they were considered communally owned, and that due to the Zuni religious beliefs and the horrible consequences of taking a Ahuya:da from the reservation, it was fairly certain that no Zuni person would have done so. The objects were most likely taken without permission by non-Zuni individuals. Being communally owned, no Zuni person could have conveyed title to them to the Smithsonian Institution, or any other institution for that matter. The Zuni people could also document that some of the War Gods had been taken from the pueblo in the 1800s by Frank Cushing and James Stevenson and eventually placed in the collection at the Smithsonian.¹⁰

⁸ The Native American Graves Protection and Repatriation Act (Public Law 101-601 November 16, 1990)

⁹ William L. Merrill, Edmund J. Ladd, and T.J. Ferguson, "The Return of the Ahayu:da : Lessons for Repatriation from Zuni Pueblo and the Smithsonian Institution," in *Current Anthropology*, Volume 34, Number 5, December 1993. p.532.

¹⁰ William L. Merrill, Edmund J. Ladd, and T.J. Ferguson, "The Return of the Ahayu:da : Lessons for Repatriation from Zuni Pueblo and the Smithsonian Institution," in *Current Anthropology*, Volume 34, Number 5, December 1993. p.523.

It will be possible and indeed necessary, for the Oglala to likewise provide specific documentation proving that certain objects and artifacts were stolen from off the reservation. The Oglala will in most cases need to examine the accession and collection records of the museum holding the objects to determine how they were acquired and who was responsible for taking them from the reservation, and under what circumstances they were taken. (NOTES) For example, in the Peabody Museum collection at Harvard University, there are many human remains, grave goods, and other objects which were taken without the permission of the Tribe by the U.S. Government Indian Agents and surgeons practicing on the reservations or who were present at certain battle and massacre sites.

However, the Zuni perspective of the issue of ownership and title differed from that of the Denver Art Museum and the Smithsonian Institution. The Zuni believed that "all Zuni religious objects embody knowledge that belongs to the Zuni community as a whole and is held by specific individuals only in trust," and moreover, "all such objects derive their existence ultimately from Zuni knowledge and thus belong to the Zuni people."¹¹ On these grounds, the Zuni then asked that all religious objects in the Smithsonian be returned. The Museum was more concerned with how the objects came to be acquired, and focused on "rightful ownership" issues. These involved questions such as whether or not the objects were paid for, or if they were they given to the museum. Certainly there have been instances where a Native person sold an item to a museum, such as a blanket, jewelry, an art object, or anything else. According to the repatriation law, and the strict interpretation of the law made by most museums, property owned by individual Native Americans cannot be repatriated. Only items which have an "ongoing historical, traditional or cultural importance central to the Native American group or culture" can be requested.¹²

The Zuni tribe and the museums with which they were negotiating were able to move beyond this issue, but it may arise for the Oglala as well, particularly relating to "objects of cultural patrimony." The problem here is the basic cultural difference in understanding the notion of property. It has been well documented by many scholars of Native American studies that most Indian tribes have no traditional notion of private property, that is "property owned by an individual Native American." Everything, from food, to horses, to anything else, was shared, exchanged, given away, and traded with great regularity, so that most items were held in common and considered important to the entire well-being of the community. It is true, as I have seen for myself in the accession records of at least one museum, that Indian individuals sold or exchanged goods with white collectors. However, for ethical purpose the circumstances of the sale must be

¹¹ William L. Merrill, Edmund J. Ladd, and T.J. Ferguson, "The Return of the Ahayu:da : Lessons for Repatriation from Zuni Pueblo and the Smithsonian Institution," in *Current Anthropology*, Volume 34, Number 5, December 1993. p. 542.

¹² The Native American Graves Protection and Repatriation Act (Public Law 101-601 November 16, 1990)

taken into consideration. For example, an Indian person may have been forced to sell what ever they had in order to buy food because they were starving, often due to the fact that the rations promised by the Government never arrived and they were forbidden to hunt to feed themselves. We can assume that it is possible that under such desperate circumstances, people might be willing to part with certain things, however sacred and culturally important those things may have been to them, in order to survive.

Both museums and Indian tribes will have to face up to the fact that many objects in museum collections were acquired in highly questionable and unethical ways. Had they not been diseased, starving, taken from their native lands, forbidden to practice their native religions and speak their native languages, the Native Americans may not have been quite so willing to part with the things they sold to the Indian agents, anthropologists, art dealers and the like. This situation is much closer to that of exploitation under desperate circumstances than it is a fair sale between willing and equal parties. I think the Oglala will be able to demonstrate that many of what the museums will call "legitimate sales and exchanges of title" were made under duress, and that when forced to sell or starve, a person is left with little option but to sell.

For the Zuni, their ordeal with the museums ended nine years after it began. The War Gods were finally deaccessioned from the Smithsonian and returned to the tribe in a private ceremony. The images were then taken to Zuni pueblo where they were returned to a fortified shrine, and left with the appropriate prayers among the other Ahayu:da. The personal perspectives of Merrill, Ladd, and Ferguson will provide some more insight into the case and the aspects of the negotiations that may either be worthy of emulation or avoided by other Indian tribes.

Merrill begins his essay by pointing out that the relationship between museums and Indian tribes has changed dramatically in the last thirty years, and will continue to change. There has been more interaction, exchange, sharing and attempts on the part of the Museum to establish programs to increase Indian participation in museum activities and provide Indians with greater access to the Museums. I include the following discussion of the Smithsonian's position because some of the points which they raised and their concerns will probably remain relevant to future repatriation cases.

Merrill says that many at the Smithsonian Institution regarded the formation of tribal museums as a prerequisite for the return of objects from its collections to the tribes. Objects could then be permanently transferred or "returned" through long-term loans to tribal museums. From the museum's perspective, tribal museums and loans of objects would be important to allow the Smithsonian to ensure that the collections were curated and exhibited in accordance with current museum standards and that they would be returned to the Smithsonian in the event that the tribal museums ceased to exist. I know that this is also a concern of the Peabody Museum, in that the staff at the Peabody would like to be assured that these artifacts and objects, most of which are

unique, irreplaceable and of great value, will be properly cared for by a trained staff of curators and conservationists in a protected and secure environment. I have also been told that there might be some reluctance to simply transfer entire collections of artifacts from one museum to another, (such as from a federally funded museum to a tribal museum.)

Museums will begin to receive hundreds of repatriation requests, and each request will most likely have to be considered on its own merits. The problem with any repatriation policy is that any policy that would be applicable to the great diversity of Indian cultures would have to be so general as to be of little use. Both tribes and museums will have to realize that these cases will each be unique, and that in fact, the return of every single object may require a careful process of individual consideration. This process will be very complex and time-consuming.

The museums will also take into consideration how the objects in question were acquired. If the object was acquired ethically and legally in the museum's view, the museum will be very reluctant to part with the object, preferring instead to compromise on a way to keep the object in the museum, and use Indian input for its continued care and curation.

Throughout the negotiations the Zuni maintained a deliberate and non-confrontational approach, and they showed that they tried to understand why their request raised so many additional difficult issues for the museum. They were also polite at all times, sensitive to the Smithsonian's position and perspective, and very patient. The Zuni never lost faith that eventually the Smithsonian would come to see their side and honor their request. The Zuni eventually got what they asked for, but not all tribes will be able to dedicate nine years to the return of just a few objects. I will return to this issue later on.

Edmund Ladd says that the role played by the Zuni religious leaders was an extremely important part of the negotiation process. The campaign for the return of the Ahayu:da was initiated and directed by the religious leaders. They were able to provide the dedication and commitment necessary for the success of such a long-term project. This is something that the Oglala should also consider, and I believe that they are. The tribal council, government and all tribal members will need to play a part in the repatriation process, but the museums will want to see the support of the Oglala religious leaders in repatriation-related decisions, particularly those related to sacred and religious objects and human remains. If the tribal government and tribal religious leaders do not support each other and work together, it will be much more difficult to negotiate with the museums.

Ladd played an important role in the process because not only was he involved as an anthropologist, but as a tribal member of the Zuni pueblo as well. In this position he was able to serve as some what of a go-between, acting as mediator for both sides. He also helped when necessary to translate differences in language and concepts. Ladd had both the education in the necessary fields as well as the personal understanding of the Zuni culture. The Oglala and other

tribes would be wise to find individuals within their own communities who have been trained either as anthropologists, archaeologists, historians, archivists or conservators, attorneys, or who may have other skills, experience, or educational backgrounds that would be helpful as part of the repatriation committee.

Another point to recognize is that the museums and the Indian tribes will view the collections differently. For example, in the Zuni case, the museum seemed to view the artifacts as a collection considering the entire set as important as the component pieces. The Zunis viewed the collection as individual objects many of which are not meant to be preserved (which is the goal and trust responsibility of the museum.) As I mentioned already, for the Zuni, many of these sacred artifacts are supposed to be deposited in the ground and allowed to disintegrate. As long as the sacred object is whole, the ritual power in the object is trapped and cannot be released to accomplish the purpose of the ceremony. If the spirit or power is trapped in the ritual object, it is not free to help the people, which explains why the world and particularly Indian people are suffering so much today. The sacred object must then be allowed to disintegrate to complete the ceremony.

As Ladd points out, medicine bundles and fetishes are similar in that upon the death of the medicine man or woman who owned them they are supposed to be buried and sent to the after world. When they are preserved in museum context, the spirit is trapped. The whole museum concept of the preservation of artifacts is somewhat alien to many Native American religious cultures. Indian religious leaders would in some cases be horrified to see what museums are trying to preserve, since to them the preservation of religious paraphernalia is insensitive and immoral.¹³

The Zuni religious leaders were always polite - as their religious oaths required them to be. They never demanded the immediate return of the Ahayu: da. They made requests, not demands, they were always respectful, and infinitely patient. This distinctly Zuni "manner of being" translated into a style of negotiation that was very non-confrontational. This negotiation style may not be as appropriate or "natural" for other tribes. The Sioux in particular are noted for their outgoing, and at times, forthright and confrontational style.

Ladd believes very strongly that the implementation of the NAGPRA should not entail setting fixed time limits because there are so many important questions that are going to take a long time to answer. For example, Ladd says we must ask, "Whose belief system is to be applied?"¹⁴ This simple question really forms the foundations of many of the conflicts that are surfacing between indigenous Native North American religion and the Euro-American Judeo-Christian

13 William L. Merrill, Edmund J. Ladd, and T.J. Ferguson, "The Return of the Ahayu:da : Lessons for Repatriation from Zuni Pueblo and the Smithsonian Institution," p.547.

14 William L. Merrill, Edmund J. Ladd, and T.J. Ferguson, "The Return of the Ahayu:da : Lessons for Repatriation from Zuni Pueblo and the Smithsonian Institution," p.547.

religious tradition. Euro-American Judeo-Christians wrote the repatriation law, and it reflects their understanding of key concepts such as property, public and private, religion, and the sacred. As more disagreement arises over these concepts and issues, who is to decide which belief system and which set of definitions is to be applied? These issues will all need to be worked out on cases by case basis. Again we are looking at a process that will take years of commitment from all affected parties.

Ladd goes on to make several important points and he offers some suggestions. He believes that religious leaders should be the ones to direct the work and make the decisions and that museums should make it possible for religious leaders to see the collections and conduct documentation research, if necessary. Ladd also advises that the entire process be very carefully documented. All letters and correspondence, research, documentation, and information on the artifacts should be organized and preserved.

T.J. Ferguson also emphasizes the important role played by the Zuni religious leaders. Their request and unwavering involvement grounded their approach in Zuni culture, which was also to approach the museums in humanistic terms rather than legal ones. Ferguson advises religious leaders to make repatriation requests on the basis of spiritual needs. Also, since these spiritual needs may not manifest themselves until some time in the future, Ferguson believes that tribes should retain the right to request repatriation of sacred artifacts whenever the need arises. They should not be expected to give up the right to make future claims. The NAGPRA gives tribes important lee-way in deciding what items to request. The schedule of repatriation requests should reflect the cultural needs of Indian people and not the bureaucratic and administrative convenience of museums.¹⁵

However, all tribes should have legal council. Planning, preparing and paying for legal council should be a priority of all Indian tribes, and legal council underscores the need to carefully document every step of the process including all supporting evidence in favor of the tribe's repatriation requests. Ferguson believes that the Zuni were successful because they were careful to document every step of the process and disseminate information and explain their point of view to museum personnel and to publicize tribal concerns in appropriate forums in ways that did not compromise esoteric information.¹⁶ The Zuni case demonstrates an incredible out-pouring of time, administrative costs, and travel expenses. Other tribes preparing for the repatriation process should do what they can to accomplish their goals as quickly as possible. Even so, Tribes should be prepared for a large investment of tribal resources.

¹⁵ William L. Merrill, Edmund J. Ladd, and T.J. Ferguson, "The Return of the Ahayu:da : Lessons for Repatriation from Zuni Pueblo and the Smithsonian Institution," p.549.

¹⁶ William L. Merrill, Edmund J. Ladd, and T.J. Ferguson, "The Return of the Ahayu:da : Lessons for Repatriation from Zuni Pueblo and the Smithsonian Institution," p. 549.

Ferguson also discusses the concern museums will have for the care and preservation of the objects once they are returned to the reservation. For example, in the case of the Zuni War Gods, there was nothing to prevent them from being stolen again. Ferguson advises tribes to be ready to address questions from museums about the security of artifacts after repatriation. Museums, who have a trust responsibility for the materials being repatriated should, in Ferguson's view, "be ethically bound to raise this issue and do what they can to help resolve it in a manner appropriate to the tribe involved."¹⁷

Unlike the Zuni-Smithsonian negotiations, future repatriation requests will take place within the framework of the NAGPRA. This will pose several challenges for both tribes and museums. For example, the NAGPRA calls for identification of the necessarily vaguely defined terms such as "sacred artifacts" and "cultural patrimony" which is to occur through exchanges between museums and tribes, but it does not explain how this is to occur, or who is to define these terms. As far as the negotiations go, Ferguson offers some suggestions. To begin with, each party should commit itself to understanding the concerns and perspectives of the other and to reaching a mutually satisfactory agreement in a non-confrontational fashion. Everyone should recognize the vast cultural differences existing between Museums and indigenous cultures. Even their understanding of concepts as "sacred" and "object" may differ radically, says Ferguson, a point I have already touched on.

Each party should also appoint an appropriate person or persons to handle negotiations on a day-to-day basis. Ideally, these individuals will be knowledgeable of both tribal and museum procedures, interests, and perspectives, and have a knowledge of the objects and human remains in question, including their meaning, value, importance to the tribe. The representative should understand the NAGPRA extremely well. They should also have the authority to make final decisions (which presumably will reside in religious leaders, tribal officials, and museum administrators,) and their activities should not be disrupted by changes in tribal or museum administrations. This final point is very important for Indian Nations, particularly considering that some tribes hold government elections as often as every two years. In all likelihood the repatriation process will take many years and new administrations may have to pick up where old ones leave off. This fact reinforces the need for a person or group of people who can commit themselves to the process for the long-haul. It will be a very culturally and legally complex case, and neither tribes nor museums will be able to take the time to re-educate new participants into the process. The representative(s) will also be responsible for the documentation process, which will include keeping a written record of all correspondence, requests, and research.

¹⁷ William L. Merrill, Edmund J. Ladd, and T.J. Ferguson, "The Return of the Ahayu:da : Lessons for Repatriation from Zuni Pueblo and the Smithsonian Institution," p.549.

Tribes must be prepared with their own documentation and be able to present cultural and religious information. This is why the involvement of the elders and the religious leaders will be important throughout the process. It is also important that they tribe maintain continuity and consensus throughout.

Ferguson advises tribes not to make blanket requests such as for "all sacred objects." Instead, he suggests that tribes go over the inventory summaries and identify specific items and provide a detailed explanation of the significance of these items and the justification for their return. He recommends that tribes make the effort to explain both contemporary perspectives on these items and use the information within the established cultural traditions and published sources, particularly information from the time period in which the items entered the museum collections. (I have already sent several detailed lists of bibliographies and other sources of information to the Oglala-Lakota College archivist, Julie Lakota.) Museums should also be willing to share information on these objects in their collections. Museum archives will be able to provide tribes with a great deal of information regarding the accession circumstances of the item in question. Tribes may also decide to send representatives to the museums to conduct research and to see the objects firsthand.

Ferguson emphasizes the need for both sides to communicate well and often and to make consistent efforts to document everything and save all paperwork along the way. He suggests that the museum and tribes meet at both the museum and on tribal lands to allow each party to present their view in a familiar setting. When a decision is reached to repatriate human remains or artifacts, tribes should provide museums with explicit and detailed instructions on the culturally appropriate protocol for packing and shipping those materials.¹⁸ Ferguson also asks that both tribes and museums be willing to consider alternatives to repatriation. It may be in some cases that tribes cannot care for particular items and would prefer that the museum continue to care for them.

Comments and Responses to "The Return of the Ahayu:da"

I include the highlights of the responses to the article by Merrill, Ladd, and Ferguson because I think the commentators make some important observations regarding the bigger issue of repatriation that will also be important for the Oglala to consider.

Elizabeth Cruwys of the Scott Polar Research Institute identifies the issues as a debate over the fate of the objects which exists among indigenous peoples, archaeologists, anthropologists, and museums. Cruwys says that no solution is likely until fundamental questions are answered

¹⁸ William L. Merrill, Edmund J. Ladd, and T.J. Ferguson, "The Return of the Ahayu:da : Lessons for Repatriation from Zuni Pueblo and the Smithsonian Institution," p. 550.

which relate to the past and to cultural relativism, which is to say, can anyone "own" the past and its relics, and if so, who? One of the basic problems to reaching a decision she says, is the belief on the part of the museums that they are fulfilling "a trust responsibility to preserve these collections for all people. . .they could not in good conscience turn over any objects without assurances that they would be afforded the care and security required by modern museum practices."¹⁹ However, as we have seen in the Zuni case, the preservation of the object is counter to the purpose for which it was created - in many cases the object is meant to disintegrate as a part of its sacred or religious function. Cruwys also asks if and how the objects are to be considered for their value to scientific research. She concludes by stating that she advocates a case by case evaluation and decision process for the repatriation requests to be reached among the parties involved, and not a reliance on general laws.

The next to comment is Alan S. Downer, a Navajo with the Navajo Nation Historic Preservation Department. He limits himself to a consideration of the museum's fiduciary obligations to Native Americans. He states that museums do have a fiduciary obligation to the "public" for their collections. However, regarding the collections of American Indian human remains and sacred and ceremonial items, and items of cultural patrimony, which under NAGPRA are no longer even arguably "owned" by the museum, the museum's trust is no longer a public one in Downer's opinion. Instead, it is one owed directly and solely to the sources of the collections and to their descendants. The museums' fiduciary responsibility is to ensure that these collections are treated with respect in accordance with the cultural values and traditions of the people who were their sources and of their modern descendants. Moreover, Downer states that American Indians should not have to prove themselves worthy of serious consideration and that museums cannot assume nor should they expect a non-confrontational attitude as the basis for discussion of repatriation issues.²⁰

Christian Feest writes from the Institut fur Historische Ethnologie in Frankfurt, Germany. Feest warns that neither the Zuni repatriation case nor the way it was handled should be regarded as typical because most of the claims for the return of the "cultural heritage" of indigenous peoples is much less well founded. He found the case typical in that the museum's point of view was largely phrased in "supposedly universalistic terms of law, ethics, and sensitivity for the needs of other cultures, whereas the Native American side is given the privilege of arguing on the basis of

19 *Comments*, Elizabeth Cruwys, regarding William L. Merrill, Edmund J. Ladd, and T.J. Ferguson, "The Return of the Ahayu:da : Lessons for Repatriation from Zuni Pueblo and the Smithsonian Institution," p. 556

20 Alan S. Downer, Navajo Nation Historic Preservation Department, Comments on William L. Merrill, Edmund J. Ladd, and T.J. Ferguson, "The Return of the Ahayu:da : Lessons for Repatriation from Zuni Pueblo and the Smithsonian Institution," pgs.556-57.

particularistic cultural beliefs and practices."²¹ Feest notes that the case discussed and the issue of repatriation in general involve questions of inter-cultural understanding that are not really addressed by the authors. The museum presents the case largely as a legal one, and the Zuni side as a religious one. Feest asks if the First Amendment and the whole structure of American society which intentionally separates Church and State, can really appropriately address what Feest terms the theocratic societies such as the Zuni.

The problem with our constitutional perspective of religion as a separate and distinct category does not apply to most Native North American cultures where religion is not considered a part of life, but a way of life. There are many Indian tribes that consider everything to be sacred. Certainly the museums have stated quite clearly that they are unwilling to part with even just a few of the objects in their collections. It took the Zuni nine years to be given back two pieces of wood. Will tribes succeed in having everything sacred returned to them?

Feest also wonders how these cases will be handled on the purely practical level. He asks, given the "tens of thousands of dollars and several years of staff time to reach a mutually satisfactory agreement" in this fairly simple case, (resulting in the return of the two pieces of wood) how will U.S. museums carry out the recommendation that all repatriation requests covering literally millions of objects and human remains be handled on a case-by-case basis? Feest is right to point out that such an approach would require almost unlimited funds and an unlimited staff with unlimited time to devote solely to repatriation issues. This, obviously, is impossible. But we have yet to develop an alternative.

Charlotte Frisbie of the Anthropology Department of Southern Illinois University agrees with Feest that the Zuni case is not a broadly applicable model. In fact, says Frisbie, "just as there is no single American Indian language, political organization, religion, or response to self-determination and sovereignty or economic development issues, so, too, there will be no single answer to the legal, ethical, political, religious, and other questions raised by the NAGPRA."²² Each tribe will have to decide for itself what repatriation means and what impact it will have on them. Frisbie also has criticisms of the NAGPRA. First, it is unclear what potential it will have for curtailing trafficking in sacred objects. It also creates what Frisbie calls double-binds for Native Americans who in order to protect their religious freedoms and intellectual property rights, must make sacred matters secular, with no assurance of confidentiality. And, of course, it is once

21 Christian Feest, Institut für Historische Ethnologie, Frankfurt, Germany, Comments on William L. Merrill, Edmund J. Ladd, and T.J. Ferguson, "The Return of the Ahayu:da : Lessons for Repatriation from Zuni Pueblo and the Smithsonian Institution," p.557.

22 Charlotte J. Frisbie, Anthropology Department, Southern Illinois University, Comments on William L. Merrill, Edmund J. Ladd, and T.J. Ferguson, "The Return of the Ahayu:da : Lessons for Repatriation from Zuni Pueblo and the Smithsonian Institution," p.558.

again noted that although Congress has created an enormous amount of work and expense for all parties involved, it has failed to appropriate anywhere near the amount of funding that will be necessary for compliance with the law.

Schuyler Jones of the Pitt Rivers Museum in Oxford comments that this article should be "required reading for all museum curators in charge of ethnographic collections."²³ Jones points to a number of the problems in the repatriation process which are evident in this case, even though goodwill existed on both sides. For example, the complicated issue of determining what is 'sacred' and what is not. There is also the problem of not enough financial and human resources to deal with the repatriation procedure. There is the problem of deciding ownership, the complex notion of intellectual property rights, the issue of returning objects so that they can be ritually destroyed, and so on. These problems will most likely surface in every case and they will never become easier to solve.

Robert Layton is with the Anthropology Department of the University of Durham. He begins his approach to repatriation with a discussion of indigenous rights. Three things are required for indigenous rights to be recognized. First, the laws of the dominant community must recognize indigenous title in their laws. Second, there must be a practical incentive to settle the indigenous claim. Third, there must be popular support for the settlement.²⁴ These points may be helpful for the Lakota to consider.

Layton also notes that there are close links between land rights and rights to cultural property, and that in the past, non-Western concepts of ownership have proved fatal stumbling blocks on the recognition of indigenous rights. In the case of repatriation, the Native Peoples identify legitimate links between the living and the remains of the dead, which in the past required that they prove genealogical rather than a general ethnic or community affiliation. This is an example of the engagement of anthropology with indigenous rights. The issue is further complicated by the fact that notions such as the sacred and as "artifact" and even our view of what qualifies as a "natural object" is culturally constructed, says Layton, and not intrinsic to the material items. What do we do if there are really no "natural" meanings? Is our only alternative to allow a "contest of power to determine whose meanings prevail?"²⁵

23 Schuyler Jones, Pitt Rivers Museum, Oxford England, Comments on William L. Merrill, Edmund J. Ladd, and T.J. Ferguson, "The Return of the Ahayu:da : Lessons for Repatriation from Zuni Pueblo and the Smithsonian Institution," p.560.

24 Robert Layton, Anthropology Department, University of Durham, Durham England. Comments on William L. Merrill, Edmund J. Ladd, and T.J. Ferguson, "The Return of the Ahayu:da : Lessons for Repatriation from Zuni Pueblo and the Smithsonian Institution," p.561.

25 Ibid., p.561.

Larry Zimmerman of the University of South Dakota seems to pick up Layton's line of thought when he says that the repatriation process has been wrongly viewed as largely political although "certainly politics is involved in the sense that repatriation is a contest for 'control' over cultural materials and intellectual property rights about them, and in some cases there has indeed been open pursuit of publicity and power."²⁶ However, Zimmerman, who is very familiar with Plains Indian tribal issues, says that often the more vocal Indians, adept in dealing with non-Indians, are often "front" persons taking guidance from spiritual leaders and elders. The issue of repatriation for Indians is really about cultural and religious survival.

Zimmerman notes that other core repatriation issues relate to the meanings of "ownership," "curation," and "law." Like many other Indian studies scholars, Zimmerman has recognized that among traditional peoples many cultural materials or remains simply cannot be owned except perhaps in the collective sense. He points out that this idea is in fact surprisingly similar to museum concerns about maintaining a collective, public world heritage. The notion of "curation" was also very different for the Zuni and the Museum, in that the Zuni felt the Ahayu:da should disintegrate and the Museum wanted to artificially preserve them. No compromise could be found here. Zimmerman also reminds us that "adjudicative law may have no meaning in sacred matters, in which natural law must take precedence; rigid adherence to human law may actually be disrespectful - a complication that implementation of the NAGPRA increasingly will face."

Although Zimmerman agrees with many of the suggestions of Merrill et. al. and their conclusion that each case will have to be dealt with individually, he does differ on one major point. Zimmerman does not agree with the view of the authors that "non-confrontational" negotiations work best to accomplish mutually satisfactory agreements. The Zuni were extremely patient and persistent, but a nine year time frame simply would be unacceptable and impossible for some groups. Zimmerman even feels that it was a bit presumptuous for the authors to suggest how a tribe's negotiators should behave. Zimmerman notes rather wryly that it was very fortunate for all parties in the case that the Zuni ideas of appropriate behavior coincided with the wishes of museum staff and administrators for very little confrontation. Zimmerman reminds us that Indian nations vary widely in their views of proper behavior, along with everything else. For example, Zimmerman notes that the anthropologist Ruth Benedict used the Zunis as her model for the "Apollonian ethos" which had sobriety, measure, and distrust of excess as its important values. And we have seen that the Zuni certainly valued non confrontation. However, the Plains tribes with whom Zimmerman has worked most often on repatriation issues were Benedict's model for the "Dionysian ethos," in which "excess" is valued. Zimmerman uses the Lakota as an example of

²⁶ Larry Zimmerman, Archaeology Laboratory, University of South Dakota, Vermillion, S.D. Comments on William L. Merrill, Edmund J. Ladd, and T.J. Ferguson, "The Return of the Ahayu:da : Lessons for Repatriation from Zuni Pueblo and the Smithsonian Institution," p.562.

a people who enjoy and use confrontation to help build consensus. Confrontation can also bring about mutually satisfactory agreements, and sometimes very quickly. On the whole, notes Zimmerman, Indian religious people and elders from most tribes have demonstrated a remarkable degree of patience with the museum, administrative and academic world.

The authors Merrill, Ladd, and Ferguson have also presented their reply to the above commentators. They remain convinced that although confrontation may be integral to the style of individual tribes, non-confrontation will be the most effective approach for all tribes in their negotiations with museums. They warn tribal representatives that the approach to reaching a consensus that they use among themselves may be counterproductive when adopted with museum staff members. Merrill et al. seem convinced that "confrontation tends to engender a confrontational response and may preclude the formation of the positive relationships upon which future cooperation among tribes and museums depends. Moreover, should non-confrontation fail to work to reach a compromise and consensus, the NAGPRA provides for increasingly adversarial forms of negotiations if initial negotiations cannot produce mutually satisfying results.

Merrill et al. respond to the concerns of Jones and Feest who question the impact the NAGPRA will have on the ability of museums to fulfill their roles as research and educational institutions. The authors are convinced that adequate funds must be made available to both museums and tribes if the repatriation process is to be carried through properly without jeopardizing the functioning of either. If Congress does not appropriate funds to museums and tribes for the repatriation process, the NAGPRA will be as ineffective as the American Indian Religious Freedom Act, say the authors.

And what to do about the issue of vast differences between the Western scientific tradition and the cultural traditions of many non-Western people? Conflict is inevitable, as it was between the Zuni and the Smithsonian. The museum refused to agree with the Zuni claim that all objects made on the basis of Zuni knowledge belong to the Zuni people. Everyone represented here would agree that the necessity to translate and, if possible, reconcile such divergent perspectives represents the greatest challenge to future repatriation negotiations.

Another issue of some concern to tribes is the NAGPRA's acknowledgment of a museum's "right of possession" to an object, even a sacred object, if the museum acquired the object "with the voluntary consent of an individual or group that had authority of alienation." Merrill et al. comment that the ultimate disposition and treatment of such objects will be determined by moral consideration rather than legal dictates. I am certain that tribes will argue this issue from a point of ethics considering the circumstances under which many objects and artifacts were sold or transferred to non-Indians. We have already touched on this issue a bit earlier and I am sure it will become the topic of some heated debates in the years to come.

Merrill et al. disagree with Downer's view of the NAGPRA as a document that instantly shifts a museum's trust responsibility from materials covered by the legislation from the public at large to specific tribes. The authors state that if a museum's right of possession to any of these objects is confirmed, then the NAGPRA does not require them to curate the objects according to the tribe's wishes. As we have seen already, in many cases a tribe's view of the proper care and treatment of an object will violate standard museum practices of conservation and curation. Finding compromise in such cases will be difficult. Merrill et al. conclude by noting that although the NAGPRA is a crucial first step toward transforming the relationships between tribes and museums, completing this process will depend on the ability of both parties to cooperate in addressing the diverse issues - many of which are ethical rather than legal.

A Theological View of the NAGPRA

The NAGPRA is a law meant to apply to a diverse and large population of people and to an extremely complex issue. As a consequence, the law is at times purposefully vague and unhelpful to specific individuals and tribal groups struggling with the new demands and opportunities created by the NAGPRA. The law also fails to address or even to recognize certain fundamental cultural differences that exist between the two affected populations, roughly defined as the museums and the Native American tribal groups. Diversity does exist both intertribally and among the various museums, but the differences are greater between indigenous Americans and Euro-Americans. This issue was raised by many of the commentators discussed above, and it deserves elaboration.

Through the interactions of the Zuni and the Smithsonian Institution it soon became obvious that the two sides held very conflicting views about many issues, concepts, and terms. For example the notions of "curation," "sacred," "ownership," and even "religion." These differences arise from the Western, Christian, scientific perspective of the dominant culture in this country that there should be a separation between the Church and State, between the sacred and the secular, and between an individual's personally held religious views and their public involvement with the rest of society. These same separations and distinctions are not recognized by many Native American groups. Both populations can function quite successfully independently of one another, but when both are brought together to interpret and apply the same law, differences and conflicts are bound to occur. This is what has happened with the NAGPRA.

The NAGPRA was written from the viewpoint of the dominant culture, and thus it does not reflect the values or the world view of indigenous Americans who in fact represent a large percentage of the population that the law is meant to address and serve. Faced with this conflict, will the application of the NAGPRA turn into "nothing more than a contest of power to determine whose meanings prevail?" as Robert Layton asks in his commentary to the article by Merrill et al. This would be an unfortunate situation for Native Americans who have ended up as the historical losers whenever a conflict of interest arose between Indians and Whites. The NAGPRA cannot become a contest of power, or else the Indian people will lose. Instead the repatriation process must include a process of education to hopefully bring the members of the dominant culture closer to an understanding of the Native American world view. The following is a brief discussion of the concept of the sacred from the perspective of the Native American, contrasted with a Judeo-Christian understanding of the sacred.

Cosmological and Theological Differences

According to many Judeo-Christian theologians, the religious experience can be divided into the sacred and the profane. In the view of Mircea Eliade, the sacred and the profane represent two modes of being in the world. These ways of being are applicable to all human societies across time and cultures, says Eliade. This distinction is a basic human tool for organizing and making sense of the world.²⁷ Eliade notes that in primal or archaic societies, people want to live as close as possible to the sacred, because for them, the sacred = power = reality = being. Thus, "religious man," who is really any person living in an awareness of these connections, "deeply desires to be, to participate in reality, to be saturated with power."²⁸ For many Native American groups, ceremonies, rituals, prayers, and a conscious awareness of being in the world are what provide this saturation with power and participation in reality. Eliade says that the religious experience is the experience of the sacred, which is the greatest mystery, or the numinous, also called "God." For the Lakota people, the numinous is called Wakantanka (lit. Big Sacred.)

Eliade defines a hierophany as a moment when the sacred manifests itself. It is also the act of the manifestation of the sacred - when something sacred shows itself to us. Religion, therefore, is constituted by many hierophanies.²⁹ Eliade gives the example of the sacred as able to manifest in almost any form - from a stone to Jesus Christ. Humans may then worship and venerate these things as manifestations of the sacred. However, there is a paradox in this hierophany, because although the object becomes something else, it also remains itself. A stone may remain a stone, and nothing distinguishes it from other stones, but "for those to whom a stone reveals itself as sacred, its immediate reality is transmuted into a supernatural reality."³⁰ For such people, says Eliade, "all of nature is capable of revealing itself as cosmic sacrality. The cosmos in its entirety can become a hierophany."³¹ I find this to be quite an accurate expression of the Lakota theology, which perceives of all living and non-living things as manifestations of the Great Mysterious, Wakantanka, the Big Sacred. From the Lakota world view, because all things come from

²⁷ Mircea Eliade, *The Sacred and the Profane*, p.14.

²⁸ Eliade, *The Sacred and the Profane*, p. 13.

²⁹ Eliade, *The Sacred and the Profane*, p.12.

³⁰ Eliade, *The Sacred and the Profane*, p.12.

³¹ Eliade, *The Sacred and the Profane*, p.12.

Wakantanka, all things are sacred and holy. Even thoughts, sounds, and words are sacred.³²

In contrast to this primal or tribal theology (which are not in any way meant to be derogatory terms) the modern industrial scientific society has become non-religious, which has changed the modern perspective of the world and our place in it. As a result, a fundamental divide has formed between the modern and the tribal person's perceptions of the sacred and the profane. I would argue that the dominant Judeo-Christian western scientific culture of the United States falls squarely into Eliade's definition of the modern "non-religious (hu)man." In contrast, most tribal societies remain "religious," in that they are able to experience the sacred in the profane (or "every day") experience of the world.

I will use the example of sacred space to illustrate how the Judeo-Christian and Native American religious traditions understand the concept of the sacred differently. People who study human beings (anthropologists, theologians) have noticed that for us, space is not homogeneous. We recognize that there is sacred space and all other space. Whenever and wherever there is a hierophany, or a manifestation of the sacred, that point or place becomes at once a center point, an axis mundi, an orientation for the ontological creation of the world. It becomes a sacred place for us.

For the Judeo-Christian and Islamic traditions, sacred space is made through the erection of physical boundaries such as the walls of a church, temple, cathedral, or mosque. These things then function as markers or symbols denoting a sacred space. They are, says Eliade, "the earthly reproductions of a transcendent model." Outside the building is the profane space, which is viewed as chaotic or neutral. The door and entrance of the church or temple becomes a vehicle of passage from one space to the other.³³ Thus, for these three religious traditions, architecture becomes very important. The sacred building becomes a sanctified image of the cosmos, a place for ritual transformation to take place, a place for ceremony, and a place to communicate with the Sacred Beings, or Gods. Often the construction and decoration of the sacred building are full of symbolism which is important for the manipulation of the sacred. According to Eliade, for the Judeo-Christian, the church or temple "incarnates and at the same time sanctifies the world," and makes possible "the ontological passage from one mode of being to another."³⁴ The sacred building has come to represent the center, the break in the heterogeneity of profane space. This method of dividing space into the profane (which we view as natural, or non-manipulated space) and the sacred (which we view as transformed or human-manipulated space) gives rise to a belief that the "natural world" or places in nature, do not qualify as sacred or holy places. For example,

³² William Powers, *Sacred Language*, p.12.

³³ Eliade, *The Sacred and the Profane*, p.24.

³⁴ Eliade, *The Sacred and the Profane*, p.62.

if one showed a Catholic person a painting of a church in the midst of a forest and asked them to identify the sacred space, they would point to the church. If one were to show the same painting to a traditional member of a Pacific Northwest coast Indian tribe, they would point to the trees.

There is not just one Native North American religious tradition - there are hundreds. The diversity among cultures, tribal histories, languages and belief systems is so great it would fill volumes. However, certain generalizations are possible regarding the traditional Native American understanding of sacred space. Most Indian tribes share what Joseph Epes Brown calls a recognition of sacred geography. The land itself is sacred. This is a presiding characteristic of all primal people, according to Brown, which may come from their "special quality and intensity of interrelationship with the forms and forces of their natural environment."³⁵ Being so dependent on the land, plants, and animals for survival necessitates a detailed knowledge of everything in the natural world. According to Brown, this accumulated pragmatic lore was always interrelated with a sacred lore, which together could be said to constitute a metaphysics of nature.³⁶ Such a metaphysics no longer exists in the Judeo-Christian tradition. The following explanation from Brown is very helpful in understanding this difference in world view:

"Unlike the conceptual categories of Western culture, American Indian traditions generally do not fragment experience into mutually exclusive dichotomies, but tend rather to stress modes of interrelatedness across categories of meaning, never losing sight of an ultimate wholeness. Our animate-inanimate dichotomy, or our categories of animal, vegetable, and mineral, for example, have no meaning for the Indian, who sees that all that exists is animate, each form in its own special way, so that even rocks have a life of their own and are believed to be able to talk under certain conditions. Creatures we relegate to the category "animal" or "bird" and consider inferior to humans, the Indian refers to as "peoples" who, in a sense, have a recognized superiority to humans. It is generally believed that in the order of creation animals were here before humans, and in these cultures what is anterior in time has a certain superiority over that which comes later."³⁷

According to Brown, the generally understood meaning of the symbol - as a form that stands for or points to, something other than the particular form or expression - is also incomprehensible to the Indian person. This may explain why Indian cultures did not produce permanent buildings such as the church or temple to symbolize sacred and holy space. In most

35 Joseph Epes Brown, *The Spiritual Legacy of the American Indian*, p.4.

36 Brown, *The Spiritual Legacy of the American Indian*, p.4.

37 Brown, *The Spiritual Legacy of the American Indian*, p.71.

traditional indigenous religions, everything in nature is a manifestation of the sacred, and sacred space can be created almost anywhere through the act of ritual. Usually the sacred space is created through a ceremonial procedure that designates a place as sacred by drawing onto the ground or somehow using objects to form a circular shape. During the time of the ritual, festival, or ceremony, that place on the earth is considered special because it has been temporarily recognized as more sacred than everywhere else. A way to understand this may be to envision degrees of sacredness, where all beings and all places are assumed to be sacred but at certain times and places for specific reasons and needs, one place may become more sacred than another. The location of a sacred place may shift as well, since there are no physical or permanent boundaries to identify and situate it. Often the location for a ceremony may be revealed in a vision or otherwise shown to a sacred person sometimes by an animal or spiritual guide. After the ceremony, it is customary in the Lakota tradition to leave the place as it was, and allow the material objects used in the ceremony to remain there until they have gone back into the earth.

This somewhat generalized indigenous perspective could not differ more from the Judeo-Christian. For the Native American, the Great Spirit, Creator-Being, or Gods have "manifested the different modalities of the sacred in the very structure of the world and cosmic phenomena."³⁸ In other words, nature reveals the sacred. A human-made structure is not necessary for the manifestation of the sacred or to transform the profane into sacred space. The cosmos as a whole is an organism at once real, living, and sacred, and it simultaneously reveals the modalities of being and of sacrality, says Eliade. The world viewed in this way reveals a supernatural that is indissolubly connected with the natural, and a nature that always expresses something that transcends it.³⁹ A Lakota person may understand that a stone is sacred both because it is a stone and because it came from the Creator of All Things. For the same reason, thoughts and words are considered sacred and holy because they come ultimately from the Creator of All Things.

In 1978 the American Indian Religious Freedom Act was passed to establish federal policy to protect and preserve traditional religions of native people, including worship at sacred sites. Since then American Indians have found that the policy has no teeth and has meant nothing to federal agencies. Since 1978, federal land managing agencies such as the Forest Service and the Park Service have repeatedly been allowed by the courts to destroy irreplaceable native sacred sites. The courts have not been willing to find any protections under the First Amendment or any statute. Why this total lack of understanding and regard for Native American sacred sites? Our previous discussion may explain it somewhat. Most of these sacred sites are places in nature - Big Horn Mountain in Wyoming, the Black Hills of South Dakota, a forest, a lake, a pile of rocks.

³⁸ Eliade, *The Sacred and the Profane*, p.116.

³⁹ Eliade, *The Sacred and the Profane*, p.118.

There is nothing about any of these places in nature that identifies it as a sacred place to the modern Judeo-Christian mind. These sites have no buildings on them! To the mind of the Judeo-Christian a forest cannot be a sacred place because it is just a forest. The Judeo-Christian will automatically look for evidence of the land's sacrality - a shrine, an ancient temple, or a church. Finding none, the response of the Judeo-Christian then becomes, "well, we need this forest for a logging road, so go and find another forest. A tree is a tree." This is the very attitude expressed by the Supreme Court in the case of *Lyng vs. the Pacific Northwest Cemetery Protection Association*. The court decided to allow the construction of a logging road through a Native American ancient holy place of worship, which would destroy the forest and make worship there impossible. Walter Echo Hawk, staff attorney with the Native American Rights Fund, says that as a result of *Lyng*, "there are no legal safeguards for native worship at sacred sites under the U.S. Constitution and laws, laying bare a basic attribute of religion itself. This legal anomaly has frightening implications for remaining tribal religions struggling to survive."⁴⁰

This basic lack of understanding and respect for Native American sacred sites underscores an even greater lack of understanding for Native American religion in general, including the Indian view of the sacred. This ignorance of the dominant culture has once again manifested itself into law, in this case, the NAGPRA. How is this law to serve and protect the religious practice and material culture of Native Americans if it does not even reflect their religious beliefs? Yet again I foresee a law that will inevitably produce a battlefield of dispute as Indian tribes and museums conflict over different interpretations and understandings of the law and the definition of certain fundamental concepts such as what constitutes the "sacred."

⁴⁰ Walter Echo Hawk, "Sacred Sites Laws Needed," *The Lakota Times*, October 9, 1991.

Sacred Materials in the Museum Context And the Issue of Conservation

In the coming years, the Sioux may plan to create their own museum. It may be helpful to consider briefly the function, purpose and operations of a museum. First, we can assume that many objects of Sioux origin may remain in museums across the country and that the Sioux people would like to play a role in their future use, display, treatment, and conservation. Second, the Sioux people are considering the creation of their own museum for the purpose of preserving, protecting and storing many of the items expected to be returned as a result of the NAGPRA. For these reasons I have included the following essay written by two conservators who are concerned about the future of sacred objects.

Whether or not the Sioux are successful in repatriating some of their sacred and religious objects, it is very likely that museums will continue to possess many items of a sacred nature or of great cultural significance to the Sioux people. I am doubtful at this point that considering the thousands of objects in question here that the Sioux will have them all returned. Besides which, the repatriation process will take a long time to complete, and in the meantime, the objects are in the care of the museums. Many museums, such as the Peabody Museum in Cambridge, Mass., are working towards a policy of "collaborative management" that will take into consideration the knowledge and concerns of Native religious specialists. As I have already mentioned, the Peabody has already isolated and put on restricted access any items which they have been told or which they believe may be culturally sensitive, sacred, or of a religious nature. The staff at the Peabody would very much like to work with tribal elders and religious specialists. The Oglala should contact Kathy Skelly, the collections manager, regarding this matter.

It may be of benefit to the repatriation Committee and the religious specialists to know a bit about the conservation and preservation practices of the typical museum, as well as the attitudes and perspectives of the typical museum professionals. For this I would refer them to the book, *The Concept of Sacred Materials and Their Place in the World*, edited by George P. Horse Capture. The following is a discussion of the chapter on "Sacred Objects and Museum Conservation: Kill or Cure?" written by Lisa Milbach and Sarah Wolf Green. It deals with the areas of potential conflict that exist between professional conservation responsibilities and traditional restrictions regarding Native North American sacred objects. I think it is helpful, particularly following from the case of the Zuni and their War Gods.

Museums collect objects which form collections which are meant to represent a particular people at a certain place and time, and to amplify and balance written and oral histories. Milbach and Green state that sacred objects pose a dilemma for material culture research because they are

too important to ignore, but almost impossible to fully understand from outside the culture which created them. However, these authors assume that the sacred objects in question will remain in the trust of the museum, and the question is just a matter of how best to care for them. Keep in mind that they are writing before the passage of the NAGPRA, and so they do not consider the right of tribes to repatriate sacred objects above and beyond what is suggested in the American Indian Religious Freedom Act passed in 1978.

The first issue to be addressed is the problem of exhibit specialists - how to visually interpret something which you are told should never be seen? Now, you may wonder how, in good conscious, they could go ahead and exhibit something which (presumably) a Native American tribal member or religious specialist has requested that they not exhibit. Well, the museums have two responses. First, say Milbach and Green, they can choose to ignore the "problem" by shutting sacred objects away in storage, or by considering them as artifacts like any others, as long as no immediate problems of ownership arise.⁴¹ However the conservators, whose job it is to care for the physical condition of the collections in the museum where they work, are now becoming aware that some of the procedures used for this purpose could compromise the non tangible aspects which make these objects worth preserving.⁴²

Milbach and Green recognize that there is a possibility that sacred materials will be returned to Indian tribes and given a functional role again. Given this fact, as conservators they believe it is in keeping with their established code of ethics that whatever they do should not affect the ability of the sacred objects to carry out their function. The future disposition of these materials will be a critical consideration in deciding on the appropriate program of conservation.

Milbach and Green begin by outlining the ethical framework in which conservators work, and the areas in which their work could affect sacred objects and the dilemmas which this creates. The reason conservators are concerned with ethics is due to their awareness that even the simplest and most routine daily tasks, such as cleaning, may irrevocably change the nature of the object being worked on. Both the U.S. and Canada have a Code of Ethics for the museum context to address this issue. The Canadian Code of Ethics defines conservation as

All actions aimed at the safeguarding of cultural property for the future. Its purpose is to study, record, retain and restore the culturally significant qualities of the object with the least possible intervention.

⁴¹ Lisa Milbach and Sarah Wolf Green, "Sacred Objects and Museum Conservation: Kill or Cure?" in *The Concept of Sacred Materials and Their Place in the World*, ed. George P. Horse Capture. p.57.

⁴² *Ibid.*, p.58.

The American Code of Ethics charges conservators to be,

governed by unswerving respect for the aesthetic, historic, and physical integrity of the object.

Both codes go on to suggest that the conservators do whatever is necessary to preserve the objects in the way which will least modify or affect them, to maintain the physical integrity of the object and to avoid the use of techniques the results of which cannot be undone, which is called the "principle of reversibility." Milbach and Green say that the question for conservators is whether "the integrity of the object extends to non-physical characteristics which we cannot see or measure, but which we are told in some cases affect the ability of that object to carry out a possible future function."⁴³ This is particularly relevant to the function of a sacred object, whose sacred character and power could be destroyed through improper handling and treatment by an unknowing conservator. With the realization that these sacred objects may be used in a religious context once again at some future time, sensitive conservators are more concerned than ever about the "principle of reversibility." Tribal repatriation committees and religious specialists may want to consider opening a dialogue with museum conservators regarding this issue. From what I know, most conservators are very willing to do all that they can to treat the objects in the most respectful manner possible, and they would appreciate the input of tribal members.

To help clarify what conservation is and what it means, I include the following from Milbach and Green's article. They explain that conservation treatments fall into four categories: preventive conservation, documentation studies, remedial treatment and preparation for display. Preventative conservation includes all efforts to prevent damage and to slow deterioration. Of course, referring once again to the Zuni case, we know that in certain instances, preservation of a sacred object works counter to the ritual function for which the object was originally created. I know from my research into the ceremonies and the Seven Sacred Rites of the Sioux that it is customary for the materials and objects used in a ritual to be left out exposed to the elements so that they will decompose and return to the earth. In such cases, preservation becomes sacrilegious.

Documentation of an object often requires an examination and documentation in photographs and writing, of the condition and materials of the object, and of any work done to it. The American code of ethics is very specific in its requirements for the documentation procedure, and these requirements are not an option up to the individual performing the treatment. Therefore, Milbach and Green are concerned because they have been told that many sacred objects should not be seen, except by their owners or other specified people. For religious reasons many objects

⁴³ Ibid., p.59.

should not be photographed, either. Yet in every museum known to the authors, sacred objects, such as medicine bundles, are opened, examined, and sometimes photographed.

Milbach and Green do say that some museums have found creative solutions to these contradictory requirements and many others are open to suggestions from tribal religious specialists. The authors provide an example from the Provincial Museum of Alberta. At this museum, all sacred material was acquired through traditional transfer ceremonies from previous owners who expressed the wish that the material should remain in permanent safekeeping in the museum. The new ceremonial owner is a museum staff member, who is the only person allowed to handle or examine this sacred material. He also performs the necessary ceremonial caretaking functions associated with these materials.⁴⁴ This may be an option for sacred objects which need immediate attention during the time it takes for the repatriation process to occur, or in the event that a certain object is not returned. It is also an option for the appropriate elders and religious leaders to visit the museums personally for ceremonial or caretaking purposes, but due to the traveling expenses and other costs, this is usually not a viable option.

The remainder of Milbach and Green's article goes into more detail than is necessary here regarding the treatment procedures and effects. It is important information for the repatriation committee to know, however, and I would recommend that the article and the entire book be read. The authors conclude by providing a list of several interim approaches which they feel might be a step in the right direction for museums. These approaches to conservation arise out of a change in attitude on the part of conservationists, from "a confidence in technology which encouraged an interventionist approach," to a more holistic approach "in which less is more." Museum professionals are now beginning to recognize that "there may be more aspects to an object than we may have previously considered, and that the future disposition of sacred objects may not be within the carefully controlled environment of a museum," so conservators are attempting to re-examine their standard treatments to identify the procedures that improve the physical condition of an object but do not unintentionally destroy its integrity, purpose and future usefulness.⁴⁵ The authors make the following recommendations to museums:

- 1) Practice preventive conservation, and do the absolute minimum possible.
- 2) Make contact through representatives of the North American Indian Museums Association with legitimate religious, rather than political, elders of those groups represented in your collections, so that they can assist in the development of an emergency preparedness plan" to deal with situations which threaten the existence of those objects.

⁴⁴ Ibid., p.61.

⁴⁵ Ibid., p.65.

- 3) Investigate traditional methods of maintenance for approaches that might be adaptable to the museum setting.⁴⁶

The authors, like conservators everywhere, realize that they may not be the most appropriate people to provide the ideal treatment for sacred objects. However, they are in a situation where they have been charged with the responsibility for doing so, and they do not feel that they know enough to do this well. Therefore, conservators across the country urgently need the help and advice of those Native American religious specialists who may have the knowledge to contribute and share what they know to aid in the appropriate care of the sacred materials currently housed in these institutions.

The Sioux Nation may wish to ask its elders and sacred people to compose a list of suggestions or guidelines for the care and maintenance of sacred and religious objects that could be sent to the curators of museums with collections of Sioux artifacts. This action may help to prevent any unintentional harm from being done to the objects.

The Ethical Implications of the Museum Archival Record The Peabody Museum

The requirements of the NAGPRA state that museums must compile summaries and inventories, identify the geographical origination and cultural affiliation of each object whenever possible, and research the acquisition history of each item. Each Indian tribe with objects that can be identified as belonging to it, must be notified. These tasks must be complete by January 23, 1995.

However, another issue now being considered is the fact that museum archives and manuscripts are not explicitly covered under repatriation legislation. As a part of complying with the NAGPRA, however, museum staff must use archival records as analytic tools for studying repatriable materials. The archival records are full of information regarding sacred ceremonies, sacred objects and beliefs, of burials exposed by excavations, sensitive photographs, and masses of other information and materials that raise many ethical questions related to their use and accession. Archivists and other professionals at the Peabody Museum are beginning to question the ethical implications of the use of such information and documents. They wonder if access to such materials, such as descriptions of traditional beliefs and ceremonies, should be restricted, and if so, who should determine access. Who should have access to these documents and who

⁴⁶ Ibid., p.64.

should not? Should certain images not be exhibited, reproduced or photographed? Who should determine how all of this culturally sensitive material is to be used?

Upon request by a tribe, museums are obligated to share what information they possess regarding the material in question. Information on the objects and artifacts in the Peabody collection exists in many forms, including accession files, field notes, letters, catalogs, object descriptions and labels, catalog cards, photographs, sketches, museum ledgers, and accession cards. These records aid the staff in the somewhat challenging process of determining provenance, and learning more about the circumstances under which the objects were obtained. This information will be necessary at times to determine the cultural affiliation of an object if the affiliation is unclear in the records. This sort of documentation will also be helpful when the purpose or function of the object itself is unclear. For example, the accession records may clarify if a particular object came from a grave or burial site and could therefore qualify as an "associated funerary object" or "unassociated funerary object."

Sometimes the accession files and collection records will even be able to provide the name and tribe of the person from which the object was acquired. In my own research at the Peabody Museum I discovered, for example, a knife scabbard said to have belonged to Chief Sitting Bull, and a buffalo horn ornament said to have belonged to Crazy Horse. The record states that Crazy Horse was killed by his military guards at Camp Robinson, Nebraska in 1877, and that the ornament was purchased from Louie Sitting Bull, the step-son of Sitting Bull. We are even told that the dots on the horn indicate the number of horses captured by Crazy Horse during his life. Of course, tribes have already begun to question the "authenticity" of these objects as well as the accuracy of the identifications and descriptions of the objects provided in the original records. Greg Bourland, Tribal Chairman of the Cheyenne River Sioux was quoted as saying,

If Red Cloud had that many shirts, he'd never have been able to wear them all. And Crazy Horse's pipe. Crazy Horse must have had a pipe for every day of the week.⁴⁷

I would recommend to the Oglala Repatriation Committee, and indeed, to any Tribal Repatriation committee, to find a way to send representatives to the museums with the largest Sioux collections. Choose a person or a group of people who would do a good job researching the history of the objects. This task will require searching through the masses of data provided in the documentation and collection records listed above. The researchers will want to determine which objects can be identified as originating from the Oglala Tribe - not an easy task. Ideally this person will have some familiarity with tribal history, the history of Sioux/White relations, and a large amount of sacred and religious knowledge.

47 Terry Woster, "Tribes Seek Ways to Rescue Relics," *Argus Leader*, Saturday, Dec. 18, 1993.

The representative or group should bring with them a letter from the Oglala Tribal President and the Repatriation Committee stating that they are present at the Museum officially representing the tribe, and having the authority to conduct research and view the objects in the museum collection if such a thing is desired or necessary. Depending upon the religious role of the representative within the tribe, and if they were willing and able to do so, it would also be possible for the representative to hold a ceremony for the sacred objects and the "culturally sensitive" objects in the collection. The representative(s) should also be prepared to answer the questions of the Peabody conservators and collections managers regarding the care and preservation of the objects, as I have already discussed in the section above. If they do not themselves possess the knowledge and training of a religious specialist or sacred person, they should try to bring with them a letter or document composed by such a person, or persons, regarding the issues discussed in the above mentioned article on the conservation and care of sacred objects.

Keep in mind that the museum staff will regard the presence of the tribal representative(s) as a unique resource and an opportunity for them to learn more about the objects in their care. As the Oglala representatives learn from the records and history of the museum, they will also be able to teach the museum staff quite a lot about what it means to be an Indian, and what importance the items in the Museum collections have for Indian people, Indian culture, and Indian religion. From my experience at the Peabody Museum, I would say that all of the people whom I worked with were concerned that the objects be properly and respectfully cared for. Everyone on the staff would welcome Tribal representatives and researchers, and they hope that such visits lead to the improved care and management of the collections until they are all or in part repatriated to the representative tribes.

The Peabody Museum archivist, along with student interns and consultants - many of them Native Americans have raised a number of ethical questions regarding some of the documents present in the Peabody archives. They have discovered that in an effort to observe and accurately interpret Native American culture, early anthropologists created vocabularies, drawings, genealogies, photographic records, and maps, and gathered together many other bits and pieces of relevant cultural information on whichever particular tribe or community was being studied. Unfortunately, the circumstances under which many of these materials were created remains obscure. In their research through the Peabody records, the interns and Archivist began to question the way in which many traditional religious ceremonies may have been recorded, believing some of it to have been done surreptitiously. Some of the information collected is known to be regarded by tribal religious specialists as highly esoteric and sacred.

The Peabody Archivist believes strongly that archivists and other keepers of the documentary record have a professional responsibility to understand how these records came to be. Archivists and others must consider the issue of whether or not they are violating the privacy of the

affected tribes by providing unrestricted access to documents describing traditional beliefs and ceremonies.⁴⁸ At the present time, anyone may request access to the documents for the purpose of research. Knowing that the documents possess information which would be regarded as extremely sacred and for the knowledge of tribally affiliated religious specialists only, archivists are faced with a difficult ethical dilemma. Should access be restricted? If so, who should determine what is to be restricted and what is not? Who should be allowed access to the materials? What should be done with the materials?

There is no doubt that the Archivist at the Peabody Museum, Elizabeth Sandager, would greatly appreciate any input on this subject that Tribes are able to provide to her. The Oglala may want to also consider this rather complex subject and prepare a tribal statement regarding their position on the issue of sacred and religious knowledge stored in museum documents and archival departments. It is likely that all museums are aware of this issue, but I know that the Peabody museum is actively addressing the problem, and the staff and the student interns would benefit from any guidance or comments the Oglala and other Sioux tribes are able to provide.

Comments and Suggestions

As I am sure the Oglala are already aware, the repatriation process will be long, expensive and complicated. You will want to examine the Zuni case and the related comments for some very valuable suggestions as you embark on your own repatriation experience. The lack of funding to carry out the myriad repatriation-related tasks will be the largest stumbling block for tribes. You will need to acquire funding from as many sources as possible, but be aware that every other federally recognized tribe in the country will be competing with you for the same funds. You will be more successful, I think, if you choose a particular museum with an important collection, and began with that. Go to the museum - send a group or one representative and begin to identify objects you would like to repatriate. Once you have been through the entire process a few times, it will become easier. However, the NAGPRA is new to everyone and no doubt it will be rough going for both museums and tribes until all parties have had more experience with it.

I hope that this paper will provide some useful insights into both the issue of repatriation and the much bigger issue of Native American religious freedom.

⁴⁸ The Peabody Museum Archives, "Ethical Implications of the Documentary Record" work in progress. April, 1994.