

## Repatriation, indigenous peoples, and development lessons from Africa, North America, and Australia

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*Repatriation issues—those involving the return of human remains and cultural property of various societies—are a major concern of indigenous peoples world-wide.<sup>1</sup> Efforts have been made by indigenous peoples in places as far afield as Australia, Tasmania, southern Africa, Canada, the United States, Latin America, and the Pacific to get museums and universities to return biological and cultural materials that they believe belong to them.<sup>2</sup>*

On September 1st, 1998, the Chancellor of the University of Nebraska-Lincoln (UNL) signed an agreement with a number of American Indian tribes that allowed for the repatriation of all Indian remains in the possession of the University. This was a landmark decision in several ways. First, the agreement allowed for the return of both affiliated and unaffiliated remains (those remains not linked to a specific tribe). Second, the agreement provides for the return of human remains to a consortium of tribes (all of those tribes who are signatories to the September 1st agreement).

Under the *Native American Graves Protection and Repatriation Act* of 1990, museums, universities, and other institutions in the United States are required to report on the presence of Native American human remains and associated cultural materials to the tribes with whom those remains and materials were affiliated. Repatriation, for purposes of this paper, means the return of human remains, associated burial goods, and cultural materials to indigenous peoples and other groups. The return of remains has become a rallying cry for indigenous peoples in Australia, Tasmania, Africa, and North and South America, who see this matter both as a human rights issue and one involving respect for people. This paper addresses a number of these cases, some of which have been successful, while others have not.

In 1989, the American state of Nebraska passed a state statute, the *Unmarked Human Burial Sites and Skeletal Remains Protection Act* (LB 340), which prohibits disturbance of unmarked human graves and mandates the reburial of both human remains and associated burial artifacts which can be linked to modern tribes or family descendants. In the late 1980s, the Pawnee Tribe of Oklahoma had attempted to negotiate with the Nebraska State Historical Society (NSHS) for the return of Pawnee ancestral human remains and associated grave goods. The Historical Society would not agree to turn over these materials unless the Pawnees met specific conditions, one of which was that the Pawnee had to provide the Society with a reburial plan that ensured the continuous existence of the cultural material. The Native American Rights Fund (NARF), with attorneys Robert Perego and Walter EchoHawk worked with Ernie Chambers, a state legislator from North Omaha, to introduce a legislative bill in the state unicameral (a single house legislature which is unique in the country).

Eventually, the Native American Rights Fund sued the Nebraska State Historical Society. The Nebraska State Historical Society attempted to argue that it was not a public institution and therefore not subject to state law. This attempt was unsuccessful, as the Nebraska Attorney General, Robert Spire, ruled that the State Historical Society was, in fact, a state institution and was supported in part by public funds. Eventually, the Pawnees won the case against the Nebraska State Historical Society, and their remains were returned to them in the 1990s. The Northern Ponca also had human remains returned to them in 1995. The repatriation of the human remains and associated artifacts to the Omaha in 1991 was the

result of a series of negotiations between the Omaha, the Peabody Museum, and the University of Nebraska. It is this repatriation, and the other efforts to get human remains returned, that have been the subject of lengthy discussions and investigations over the past decade, some of which is being addressed at this meeting. There have certainly been some successes in the efforts to bring about repatriation, including the passage of the Native American Graves Protection and Repatriation Act of 1990.

In Glasgow, Scotland, in November 1998 a Ghost Dance Shirt was recovered by a relative of a Sioux who defeated Custer at the Little Big Horn in June, 1876. The shirt originally had been presented to the city during a visit in 1891 by Buffalo Bill Cody's Wild West Show. It had been on display at the Glasgow City Museum for many years. The shirt was considered to be valuable not just to the Glasgow public, but also to those people whose relatives had died at Wounded Knee, South Dakota in December, 1890. It is interesting to note that in Glasgow a public consultation was held and the majority of the people there wanted to see the repatriation of the Ghost Dance shirt. As was the case in Spain, the city's museum services tried to stop it, arguing that the shirt was the rightful property of the museum, and that its return might set a legal precedent. Eventually, it was decided to return the shirt to the Lakota. It was brought back to Pine Ridge, South Dakota, accompanied by Lakota and other American Indian elders, a momentous event for Native American peoples and for the efforts to obtain the rights to culturally significant items.

### **The San of Southern Africa**

The San (also known as Bushmen or, in Botswana, as Basarwa), are indigenous southern Africans who today reside in six southern African countries. Numbering approximately 112,000 people, they are found in a variety of socioeconomic situations. Like other indigenous peoples, they tend to be characterized by relatively high rates of unemployment or underemployment, high poverty levels, low wages and incomes, difficulties in getting access to land, low literacy and education rates, relatively moderate to high infant mortality rates, moderate to poor health (although this varies), undernutrition to moderate nutritional status, lower access to social services than the majority of the population of the country, difficulties in terms of exposure to violence (e.g. alcohol-related spouse and child abuse), and lower standards of living than many if not most other groups in Botswana. They also believe that they lack the recognition of their rights to their own biological, cultural, and intellectual property.

In 1873, an Englishman named Frank Oates made an ill-fated trip to Victoria Falls in southern Africa, traveling through northern Botswana. He said in his posthumously published book that a group of San had been murdered by the Matabele at their encampment the year before his trip (ca. 1872). Mr. Oates visited the site where this incident occurred on the Ramokgwebane River, where he recovered three skulls, mandibles, and some post-cranial bones that were scattered around the site, which also contained the bones of wildlife (faunal remains), huts, and pots. The three skulls were later donated by Mr. Oates' son to Oxford University (Morris 1996:73).

There are numerous trophy skulls and heads of San killed in battle or by execution that are now in the possession of Oxford University, the British Museum of Natural History in London, the Anatomy Department of Edinburgh University, and Cambridge University (Skotnes 1996a, b; Morris 1996). Many of these skulls and heads reportedly were identified as having come from individuals identified as 'murderers' or 'robbers' (Morris 1996:73-75). Some of these remains have become the subject of controversy, as was the case, for example, in 1995, when the Museum of Natural History in London refused to allow a researcher, Pippa Skotnes, to obtain photographs or other images of the remains in its collection (Skotnes 1996a:15).

Ms. Skotnes was able to obtain permission to reproduce photographs depicting San by other museums, some of which were reproduced in her volume entitled *Miscast: Negotiating the Presence of the Bushmen* published by the University of Cape Town Press in 1996 (Skotnes 1996b). Some of these photographs, which include Bushman prisoners of war in Windhoek and of executions of Bushmen, as well as trophy heads from German and British collections, are highly disturbing.

The British Museum has decided to hold on to its collection of San trophy heads because they were considered to have scientific potential. They were unwilling to allow drawings or photographs of them since they, as they put it, 'wish to avoid the offense that may be caused'.<sup>3</sup> As Skotnes notes,

Apart from the more obvious issues of power and control over the material evidence of the past, the attitude of the Natural History Museum points to a perceived hegemony of knowledge, one that values scientific enquiry (the value of the heads for DNA sampling, for example) over other kinds of knowledge (the value of the heads as symbols, as material evidence, or as means to encode knowledge in visual form in the attempt to understand the past). In suggesting that the images of the heads may cause offense, the Natural History museum is not suggesting that the heads should not be 'used.' On the contrary, it asserts the rights of science to use them (Skotnes 1996a:21).

This is a clear example of the efforts of scientists to place their work ahead of the concerns not just of indigenous people, but of other scholars, in this case an artist, as well.

In the 19th century, there were efforts by science to obtain, describe, measure, record, and dissect Khoisan bodies. This concern can be seen in drawings, anthropometric photographs, casts, and collections of body parts. As Skotnes (1996a:20) points out, the images of Bushmen are more often those of a physical type or specimen, defined under the rubric of science generally and physical anthropology specifically, rather than individuals who (1) have specific histories of struggle with powerful political and economic forces, (2) were kind to their relatives and friends, and (3) who were sensitive also to the animals, plants, and other phenomena that were a part of their world.

The Europeans had a long-standing fascination with Khoisan anatomy, including small stature, yellowish skin, steatopygia (fat deposits on the buttocks), wrinkled skin, epicanthic folds over the eyes, peppercorn hair, and the shapes of people's private parts. Their physical attributes were one of the reasons that the Bushmen were so popular in exhibitions in Europe and the United States in the 19th and early 20th centuries (see, for example, Parsons 1988). Several Bushmen were exhibited by a man who went by the name of G.K. Farini, a former circus impresario, who had travelled in the Kalahari in the 1880s and who brought back a group of what he described as 'African Earthmen.' These Bushmen, who were from the southern Kalahari region near the Orange River, were enticed by W.A. Healey, who offered them sugar and coffee, to accompany him to London and to take part in exhibitions on stage. Some of these individuals managed to escape and to return to Cape Town, but they later were recaptured and taken back to England as the 'possessions' of the exhibitors, who claimed to have saved them from slavery (Skotnes 1996b:40).

It was not unusual for museums to request access to San for purposes of study, and there were cases where national science academies and museums sent representatives to the Kalahari to obtain Bushman 'specimens.' In 1907, for example, the Austrian Imperial Academy of Sciences sent a well-known Austrian explorer, Dr. Rudolph Poch, to southern Africa 'to study the last remaining Bushmen of pure race.' He was provided with assistance by the Botswana government after having crossed into the country from what was then German South West Africa. He was provided with some mounted Basotho policemen and a Sarwa servant as an interpreter (Hermans 1977:59; BNA S. 36/5).

Subsequently, in 1909, Dr. Poch wrote to the Bechuanaland Protectorate authorities concerning whether or not there were 'any members of a pygmy tribe of Bushmen' living

there. The government investigated the matter and replied that they were able to find no evidence of any Bushmen of abnormally small stature. One of the correspondents, a Corporal McIntyre, did make an offer to the government secretary, however, saying that there were many Bushmen squatting around Macloutsi (Motloutse) and that it would be no trouble at all to send in a 'specimen.' The Government Secretary then wrote to the Imperial Secretary in South Africa, saying that the Bechuanaland government would be happy to send a Bushman to Dr. Poch. As Hermans (1977:59-60) notes, 'Fortunately, this was never followed up, and the Bushman did not get sent, but the incident gives an indication that officials regarded the Bushmen as being easily manipulated at that time.'

There was a lack of concern for San sensitivities both among the residents of Bechuanaland and on the part of the colonial government. An example of this lack of sensitivity can be seen in the response to a request from the South African Museum in Cape Town in 1908, which expressed a desire to do plaster casts of Bushmen and requested some living examples (Hermans 1977:60; Shaw 1971). It was decided officially that these specimens could best be obtained from Kanye (in the Ngwaketse chiefdom area) because the chief there, Bathoen, 'would take more trouble and interest in the matter than Sebele' the chief of the Bakwena area, where there were also sizable numbers of San). It was finally decided, after some discussions and negotiations, that the people from the South African Museum would come to Kanye to make the casts rather than the Bushmen being sent to Cape Town.

A visit was made by the South African Museum authorities to Kanye in 1918 and Bushmen were provided for the purposes of casting. As Hermans (1977:60) notes, it was interesting to note that the first scientist to develop the technique of doing plaster casts of living people at first made no allowance for breathing and he nearly killed the Bushman of whom a cast was being made (BNA S.36/5). Later on, in 1920, the South African Museum wrote to the Bechuanaland Protectorate authorities, saying that they had heard that one of the Bushmen of whom they had made a cast had died of influenza while serving a jail sentence in the prison in Gaborone, and they asked the following question:

So much scientific interest attaches to the study of this branch of the Bushman race that make bold to ask you to authorize, or issue instructions for the for the removal of the skeleton to this Museum. The place where the body was buried, near Kanye, is, I understand, well known to the local authorities (BNA S.36/5).

This request was granted, and, although the logistics of the move were complicated (Hermans 1977:60), the exhumation and removal of the remains of the unfortunate individual was carried out, and the South African Museum obtained its 'specimen' (BNA S.36/5).

The similarity between this case and that of the treatment of Ishi, the so-called last 'wild Indian' of northern California, a member of the Yahi-Yana Tribe, who lived at the University of California museum of anthropology in San Francisco from 1912 to 1916, is striking (for a discussion of Ishi, see Kroeber 1964). Upon Ishi's death from tuberculosis, a doctor who had befriended him, Saxton T. Pope, did an autopsy on Ishi, which was against his wishes and those of Alfred Kroeber, who was in New York at the time of Ishi's death. Ishi's brain, which had been removed during the autopsy, was shipped to the Smithsonian Institution where it remained in storage until discovered in 1999. Various native communities from California and indigenous support groups across the United States, as well as the Department of Anthropology at UC Berkeley urged that Ishi's brain be repatriated to Native American representatives. This was done eventually by the Smithsonian, which returned the remains in 2000 to California's Redding Rancheria and Pit River Tribe, who reburied them after performing ceremonies.

It should be stressed that the San were by no means always the victims of human rights violations. A well-known murder case was brought against a group of San during the Second World War. This case, which received wide publicity in southern Africa in the 1944-45 period, involved a group of eight Ganade Tyua from the area of Gum//gabi in the northern Makgadikgadi Pans region of Botswana. They were accused of killing two Royal Air Force pilots who had landed their plane at Kuakaka Pan in October 1943, after it ran out of fuel. The best information on the incident itself comes from the trial proceedings, which can be found in the Botswana National Archives. A thick book, about 200 pages long, contains the testimony and the exhibits and makes interesting, though complicated, reading (see BNA file S.198/2, entitled 'Court, High Sessions: Reports to High Commissioner, Showing Criminal Cases Tried at Each and Results'). The eight defendants were found not guilty of the murder because of lack of evidence (Hitchcock 1991). The area where the Ganade lived and where the killings allegedly took place has been the subject of interest on the part school groups and others. This is but one of a number of sites where human rights violations have occurred which have been, in essence, memorialized for the events that occurred there.

The ethics of research is a crucial area of concern in the San and other indigenous people's cases. Clearly, research was done without much attention, if any, being paid to the concerns of the people whose remains and materials were being examined. Even when there were proclamations made to protect cultural materials relating to San, such as *The Bushman Relics and Ancient Ruins Proclamation* (No. 40 of 1911) of the Bechuanaland Protectorate, there was no mention made of Bushman skeletons (biological property) nor of the rights of Bushmen to keep their cultural property (e.g. their strings of ostrich eggshell beads, which were considered so important to Bushman groups that they retained them over several generations, exchanged them in complex systems of reciprocity, and sometimes buried them with the dead).

In 1910, the South African Association for the Advancement of Science began working on the idea of introducing legislation for the protection of what were termed 'Bushman relics.' A major impetus to this initiative was the interest in the large numbers of rock paintings and petroglyphs found throughout southern Africa.

In the Proclamation that was made by the Bechuanaland Protectorate administration, 'Bushman relic' was defined as 'any drawing or painting or stone or petroglyph of the kind commonly known or believed to have been executed by the South African Bushmen or other Aborigines.' The Proclamation also called for the protection of 'ancient ruins' which were defined as 'any building or remains of a building constructed either of stones packed loosely or otherwise which is known or is believed to have been erected by the people who preceded the Bechuana tribes in occupation of the country, or any material which has been used in construction of such a building'. It should be noted that this proclamation did not specify anything whatsoever about Bushman skeletons or artifacts in the possession of Bushmen.

The *Bushman Relics and Ancient Ruins Proclamation* was amended a number of times, eventually being renamed the *Natural and Historical Monuments, Relics, and Antiques Proclamation* (1934). The Resident Commissioner was the one who was to decide what was or was not 'an antique, monument, or relic,' and it was this official who had the power to give permission to study or remove such articles from the Protectorate. This was amended in 1935 to allow for individuals to seek permission from the Chief and the tribe in 'native reserves' in the Protectorate (Hermans 1977:61). It is important to note here that the Bushmen were not recognized as a political entity (i.e. a tribe) nor did they have their leaders recognized as legitimate authorities by either the tribal governments in the Protectorate or the British colonial administration. Thus, researchers presumably could obtain Bushman biological and cultural property by asking permission from other groups,

notably the eight Tswana tribes and the Bechuanaland Protectorate government, but there was no requirement that they seek permission from the San themselves. This is still true today officially in Botswana.

In 1975, a *Presidential Directive* (12/75) was issued, entitled 'Policy Relating to Research amongst Bushmen Citizens' which directs that research which is neither development-oriented nor of particular scientific value in its own right should be reduced. In this case 'development-oriented' research as defined as 'studies which can provide the government of Botswana with information of use in formulating and implementing appropriate development action for Bushmen citizens' (Ministry of Local Government and Lands file LG. 1/6/15 (40)).

The San of southern Africa, like other indigenous groups, have engaged in efforts to have remains repatriated to them. They have also protested the displays that they have seen in museums, such as those in the South African Museum in Cape Town and the Musée de L'Homme in Paris. They joined with other indigenous groups in passing a statement on the importance of repatriation at a 'Consultation on Empowerment, Culture, and Spirituality in Community Development' held in Shakawe, Botswana on September 6-11, 1998. They were aware of the decision made by the University of Nebraska on September 1, 1998, and they backed that decision, saying that indigenous peoples generally should have the right to obtain the human remains of their ancestors and associated cultural materials.

There have been other efforts at promoting repatriation of what are believed to be San remains. In Spain in 1997, after a six-year long campaign, a stuffed African man was removed from a display in the city of Banyoles. This man, whose body had been there since 1916, was in a natural history museum. The body was embalmed, and reportedly it had been exhumed by two French explorers in 1830. The campaign to close the display began in 1991, just before the 1992 Olympic Games were held in Barcelona. It was led by a Haitian-born physician and naturalized Spanish citizen, Alphonse Arcelin. Arcelin wanted the body of El Negro, who he believed to be a 'Bushman' repatriated to Botswana, which was where he felt that the man originally had lived.

The repatriation campaign was resisted by the Banyoles City Council, which said that the individual had been 'properly displayed.' There are some indications that the controversy served to increase the interest in the museum and its holdings. The numbers of visitors rose from 37,500 in 1991 to 69,000 in 1992. The city was concerned that the number of visitors declined to 24,000 in 1993, noting that this happened after the removal of the display of the individual. In this case, pressure was brought to bear on Spain by African governments (e.g. Senegal) as well as by Spain's Foreign Ministry. The full story of what has come to be known as El Negro is told in more detail by others taking part in this symposium.

In general, San have made some headway in their efforts at repatriation, though they have generally had less success than have Australian and Tasmanian Aboriginals, American Indians, and First Nations of Canada. One reason for this situation is that San communities and the organizations working with them have tended to concentrate on development and land and resource rights issues as a first priority. They are aware of efforts of other groups to bring about repatriation. In 1995, San supported the Griqua, whose spokesman, Cecil le Fleur, requested that the South African Parliament intervene in efforts to help get the French government to return the skeletal and other remains of Sara (Saartje) Baartman, a young Khoikhoi woman who was displayed at fairs and circuses in London and Paris from 1818 to 1815 (*Cape Times*, December 12, 1995). The Musée de L'Homme in Paris still has the plaster cast of her body made upon Sara Baartman's death, as well as her skeleton and private parts.

The San have joined with the Griqua National Conference of South Africa in the campaign to bring about her return and burial. Whether or not these efforts meet with success depends very much on the degree to which they get support from the governments

of nation-states such as France, the United Kingdom, and South Africa. It will also depend on the impacts of their efforts at grassroots political organizing and campaign management. Given the sizable number of San organizations and coalitions that have been established in the past 15 years, it is likely that they will have effects on museums, research organizations, and other institutions.

A number of indigenous groups are attempting to establish their own museums or research facilities and repositories. This is the case, for example, among the Tyua Basarwa of the Nata River region of northern Botswana. The Tyua requested materials from the Serowe Museum, a district museum in the capital of Central District, the district in which the Nata River communities are located. The museum administration reportedly refused to provide the materials to the Tyua, arguing that Basarwa were not organized sufficiently to sustain a museum and that they were not capable of running their own cultural tourism program. The Tyua response to this position was that the Serowe Museum was taking the same stance as the Government of Botswana, that is, they in effect were denying indigenous peoples' rights to their own cultural property, identity, and self-determination. Further, the Tyua pointed out that central government and district council institutions were profiting from the use of materials (e.g. baskets) that were made by the Tyua and other Basarwa, while they were being denied the opportunity to benefit from their own traditions and intellectual and cultural property. The Tyua concluded that this was a violation of the provisions of the International Covenant on Economic, Social and Cultural Rights.

### **Australia and Tasmania**

Repatriation efforts are now commonplace in Australia and Tasmania, although efforts to get museums, research institutions, medical schools, and even churches to return cultural and biological property to Aboriginals have met with stiff resistance. The emergence of the Aboriginal rights movement in the latter part of the 20th century has drawn science into the arena of political debate concerning research ethics.

In 1991, the Anatomy Department of the University of Edinburgh returned 9 Tasmanian Aboriginal skulls to Australian government representatives. These remains had been in the possession of Edinburgh University for over a century. Besides the skulls, complete skeletons as well as post-cranial bones were repatriated. Australian institutions have also returned human remains to Aboriginal communities, some of which, such as those from Kow Swamp, have been the subject of controversy because of their age (ca. 10-15,000 B.P.). Such age raises the issue of where the responsibility lies for remains that are thousands of years (and many generations) removed from living Australian Aboriginals.

The refusal by some institutions in Australia and Tasmania to turn over human remains to Aboriginal communities has generally been based on several kinds of arguments. First, they argue that the scientific value of the remains is higher than that of the cultural value places on the remains by specific groups of people. Second, they note that the decision to repatriate remains would set a precedent that other institutions would have to follow. Third, they sometimes argue that there is a lack of cultural continuity between the remains being requested and the group making the request. Fourth, they sometimes suggest that the repatriation of remains will not rectify or compensate for the massive human rights violations that were perpetrated upon indigenous peoples in Australia and Tasmania for so long. Finally, it is argued in some cases that the groups receiving the remains will simply rebury them or will turn around and sell them, and they would be lost to science and to the public at large.

In essence, these arguments hold that science and research should take precedence over both collective rights and individual rights. A classic example of these arguments can be seen in the case of Truganini (also known as Lalla Rookh or Truganina), a Tasmanian Aboriginal woman who was considered 'the last Tasmanian Aboriginal,' who died in May,

1876. Truganini had said that she wanted to have her remains treated with respect. Instead, her skeleton was disinterred and placed on exhibit in the Tasmanian Museum and Art Gallery. Parenthetically, it should be noted that William Laney (Lanny, also known as King Billy) the person considered to be the last male Tasmanian Aboriginal suffered a similar indignity. At his funeral In March, 1869, his head was found to be missing, and the night after the Laney's burial his corpse was dug up and several parts were removed. There were repercussions for the surgeon at the Colonial Hospital in Hobart, a Dr. Crowther, who was dismissed because he was suspected of having removed Mr. Laney's head. It is interesting to note, however, that later that same year the Royal College of Surgeons in London, which mysteriously had ended up in possession of Mr. Laney's head, gave Dr. Crowther a gold medal and a fellowship of the Royal College, the first Australian to receive such an honour (Davis 1974:235-236).

There was a 20-year long debate over the treatment of the remains of Truganini's remains involving Australian government officials, scientists, clergy of the Anglican Church, and Aboriginal spokespersons. This debate centered on the issue of who properly owned the remains and what should be done with them. These debates were played out in the media and in the political and cultural arenas.

In 1947, an Anglican Archdeacon approached the Tasmanian Museum and Art Gallery to ask for the remains for reburial by the Anglican Church. The museum's director replied that the museum board was not on a position to grant this request. Subsequently, the museum turned down church requests, using statements from social scientists as support for their position. Anthropologists and others were unanimous in saying that it was necessary to have the museum retain Truganini's remains for purposes of research. Some of their statements even went so far as to question the morality of those making the request, saying that it was 'a stupid piece of sentimentality' (see Cove 1995:143-144, footnote 2). The reviews also that it would be a 'scientific crime of the worst order' and that 'committing such an atrocious act could in no way atone for the original crimes against living Tasmanians'.<sup>4</sup> As one of the respondents went on to say, 'It is bad enough for the White Race to have destroyed the Tasmanians, but it is worse for us to commit such an act of ignorant vandalism' (Cove 1995:144). It is staggering to realize that reburial of skeletal remains of an individual in line not only with her wishes but also those of the church and Aboriginals generally was viewed by social and natural scientists as a crime worse than genocide.

In the 1970s, Aboriginal rights organizations got involved in the controversy. They did not argue an Aboriginal claim to the remains per se; rather, they requested only that Truganini's deathbed wishes be respected. The Aboriginal Advancement League later demanded Truganini's remains for her descendants. In so doing, they defined the claim of the state and various social and natural scientists that her death was the final event in Tasmanian Aboriginal extinction. It is important to note that the act of claiming her remains for her descendants was, in essence, a statement by Tasmanian Aboriginals that they still existed as a people and as such had basic human rights. As Cove (1995) notes, in some ways, Aboriginal claims for the repatriation and reburial or consecration of Aboriginal remains was as important, if not more important, than the efforts by Aboriginals to assert Aboriginal title to land and resources in Australia and Tasmania.

The public in Tasmania agreed with the Aboriginals that Truganini's wishes should be respected and that her remains should be returned to Tasmanian Aboriginals. Tasmanians argued in the media and in public meetings that Truganini's treatment both in life and in death was a symbol of how all indigenous peoples had been treated. The Victorian Legal Aid Service offered to assist the Aboriginals in their efforts to obtain Truganini's remains. The threat of legal action, combined with changing public attitudes toward Aboriginal rights, led eventually to a decision to amend the Tasmanian Museum Act of 1974. This



amendment vested Truganini's remains in the Crown, thus enabling the state to deal with the issue. The government then proposed to the Aboriginals that Truganini's remains be placed in a mausoleum. The Aboriginals, for their part, argued that it was her descendants, not the state, that should have the rights to her remains and to the decision over the means of treatment of those remains. Eventually, the government gave in, and Tasmanian Aboriginals were able to conduct traditional ceremonies and to cremate Truganini's remains, in line with the customary mortuary rules of her society.

In 1976, exactly a century after Truganini's death, 19 years after the Anglican Church had first raised the issue, and 6 years after the first Aboriginal claim to her remains had been made, her remains were cremated after having been consecrated in Tasmanian Aboriginal ceremonies. In 1997, Australian Aboriginals were able to obtain the head of Yagan, a well-known Aboriginal leader who had been killed in July 1833 by two teenaged bounty hunters. Apparently, Yagan was greatly feared by Australian settlers, ostensibly because he was knowledgeable individual with an understanding of Europeans, and he was a persuasive person who had the ability to influence others. Yagan, like some other indigenous people, became a go-between, or a kind of culture broker between Aboriginals and the European colonists. Not all of his experiences were good ones, however, and he turned into a sworn enemy of the settlers. He eventually was hunted down and killed. His head was removed from his body along with a tattoo that was on his back. His head was later sent to England for study.

Yagan's head was displayed in the Liverpool Royal Institute and later, for 70 years, in the Liverpool City Museum. His head was the subject of much discussion in Liverpool and in England generally. Eventually, the head was buried in a pauper's grave in the city of Liverpool. Yagan's head became the subject of repatriation efforts by Australian Aboriginals in the 1970s, who were deeply concerned about the fact that the remains of some 4,000 people were in the hands of museums and research facilities in Europe.

In August 1997 Yagan's head was exhumed and returned to Australia. Wrapped in a kangaroo-skin cloak, it was accompanied by a number of Australian Aboriginal elders led by Ken Colbung, aged 66, a Perth justice of the peace. As the elders noted, the symbolic significance of this repatriation was tremendous. Spiritually, they said, 'Making the body whole again means that his spirit can rest.' As some groups noted, 'Incomplete skeletal remains confine the spirit.' The repatriation also gave them hope that Aboriginal language and culture could also be restored by the dominant Australian society. Unfortunately, not all Australians were happy about this return. The head of a metal statue of Yagan in the cemetery in Perth was sawed off a few days after the return. There were also break-ins at museums and other places where Aboriginal materials were kept.

In 1984, the *Museum (Aboriginal Remains) Act* was passed in Australia, which allowed for the turning over of all Tasmanian Aboriginal skeletal remains in state institutions to elders of Aboriginal communities. It was decreed that the costs of the ceremonies associated with the mortuary activities would be borne in part by the state.

These actions are similar to those of African governments such as Lesotho and Swaziland, who have agreed in their national legislation on compensation and resettlement policy to cover all costs for exhumation, transfer, and reinterment of all ancestral remains, as well as assuming the costs of all associated ceremonies. Few American states have laws that are as comprehensive as these, and there continues to be opposition to the idea of allowing indigenous communities to determine how their remains should be treated. As the Chancellor of the University of Nebraska was told in meetings with the Working Group—the coalition of tribes attempting to obtain the American Indian remains in the possession of the Nebraska State Museum, 'The dead have rights too.'

On October 7th, 1999 the University of Nebraska finally began the process of returning remains to affiliated tribes, in this case, the Ponca, over a year after the agreement was

made. It is noteworthy that the Ponca are a tribe who had lost federal recognition in 1962 but whose status as a tribe was restored in 1990, in part with the help of anthropologists from the University of Nebraska. The Ponca are also the tribe whose chief, Standing Bear, was arrested and tried over a century ago by the federal government for returning to his homeland in Nebraska from Oklahoma, where he and his tribe had been relocated. Standing Bear was declared a 'human being' by the federal judge who oversaw his case in Omaha, the first time that a Native American was recognized as such. Because of this rule, Standing Bear and the Ponca were entitled to the legal protection of the laws of the United States

Today, it is uncertain as to whether the U.S. government will allow the Nebraska decision on return of unaffiliated Native American human remains to stand. At hearings in April 1999 in the U.S. Senate, organizations such as the Society for American Archaeology attacked the agreement between the University of Nebraska and the tribes. If the archaeologists are successful in their opposition to the repatriation of remains to Native Americans, then the United States government will once again have reasserted its unprincipled stance against the rights of indigenous peoples and in favor of the rights of scientists, universities, and museums which have long profited from the mistreatment and exploitation of indigenous peoples.

### Notes

1. Price 1991; Echo Hawk and Echo Hawk 1994; Yellow Bird and Milun 1994; Powell, Garza, and Hendricks 1993; Jones and Harris 1998; Elliott 2000; Mihesuah 2000; Thomas 2000.
2. Kenyon 1978; Merwin 1989; Bray and Killen 1994; Cove 1995; Goldberg 1999; Ayau 2000; Harper 2000.
3. Letter from R. Cocks, Keeper of Paleontology, British Museum of Natural History to Pippa Skotnes, November 2, 1995 (Skotnes 1996a:20).
4. For a summary of some of these crimes, see Turnbull 1948; Morris 1972; Diamond 1993; Tatz 1991; Cove 1995.

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