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Native America's Necessary And Imperfect Law

The return of sacred objects and human remains from museums honors Native Americans' human rights. But there's still much work ahead.

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By Chip Colwell

In the spring of 1872, the skull of an Apache woman was dug up from the earth. The year before she had been among 100 [Apaches massacred](#) by a vigilante group from Tucson, who believed her people, the Aravaipa and Pinal bands, had perpetrated a series of raids. (They were likely committed by unrelated Chiricahua Apaches.) The woman's skull was exhumed by a U.S. Army surgeon named Valery Havard who hoped the skeletal remains could serve the new science of anthropology. He signed his name on the side of the skull and deposited it in the collections of the Army Medical Museum. The skull was later transferred to "America's Attic," the Smithsonian's National Museum of Natural History where it would stay for more than a century.

In 2013, the Smithsonian relinquished the woman's skull to a group of Aravaipa Apache descendants for reburial. This would not have been possible except for federal laws guiding a process called repatriation—the return of human remains and cultural items to their homelands. For decades museum administrators and Native Americans clashed over the fate of collections—debating whether such objects honored humanity's common heritage or they violated the human rights of Native Americans. These federal laws have done much to help

end the war. But too many battles continue on.

Valery Havard's action was not unique: Since 1620, when Pilgrims first plundered an Indian grave out of curiosity, Americans have habitually collected Native American remains as curios or objects of study. That habit became federal policy in 1868 when the U.S. Surgeon General ordered military personnel to collect skulls from battlefields, cemeteries, hospitals, and graves. Indian bodies soon became a cornerstone of American museums, used to build racial hierarchies that purported to show Europeans as intellectually and emotionally superior.

As the science of anthropology matured in the 1900s, human remains were employed less to feed racial fantasies and more to illuminate history, supporting investigations into ancient migrations, diet, demography, and health. Bones have much to teach us. But these collections were gathered without the consent of Native Americans—and often enough were taken against their express wishes. The birth of modern science did not erase museums' original sin: Native American remains and artifacts continued to be collected for our education and entertainment.

In 1989, Native activists finally succeeded in forcing U.S. museums to face their inheritance. The National Museum of the American Indian Act not only created a new museum on the National Mall, but also included repatriation provisions for the Smithsonian's collections. The next year, Congress passed the Native American Graves Protection and Repatriation Act (NAGPRA), which established a process for descendants and tribes to reclaim cultural items and human remains from all federal agencies and U.S. museums that had received federal funding.

NAGPRA is slowly doing its work. So far more than 50,000 skeletons, 1.4 million funerary objects, and 14,000 sacred and communally owned objects have been repatriated. Yet, NAGPRA cannot truly be called a success: Less than 30 percent of the human remains in museums subject to NAGPRA have been returned. Between 1990 and 2010, of 69 allegations of failure to comply with NAGPRA, only 31 were investigated. NAGPRA proved so ineffective at settling the dispute over the 9,000-year-old skeleton known as the Kennewick Man that Congress had to create a law just to repatriate him. NAGPRA has failed to address the sale of sacred objects in Paris and other auction houses around the globe.

Twenty-six years after NAGPRA was born, the law is proving to be necessary but imperfect. There is still much work to be done. Congress must first take concrete actions to fund

compliance, amend NAGPRA (by, for example, clarifying that the law [applies to ancient skeletons](#) like Kennewick Man), and pass new legislation to extend protections beyond the U.S. (such the [Safeguard Tribal Objects of Patrimony Act](#)). And, just as importantly, museum curators must not only better follow the letter of the law, but embrace NAGPRA's spirit as a means to redress the long, tangled history of turning Native Americans into objects of scientific curiosity.

Repatriation is vital to restoring dignity to Native Americans, as the descendants of the Camp Grant Massacre learned one winter day when the young woman's looted skull was buried near a peaceful creek, sheltered by shimmering cottonwoods. The tears shed after her death and the ones shed during her reburial flowed into the same ground, reconnecting the generations. To weep over bones is to acknowledge even the dead's humanity. The Apache victim's return home made the artifact human once again.

Chip Colwell is senior curator of anthropology at the Denver Museum of Nature & Science. His new book is [Plundered Skulls and Stolen Spirits: Inside the Fight to Reclaim Native America's Culture](#).

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