



Reversing the Flow of Traffic in the Market of Cultural Property

by Eric Bergman

Indigenous nations today are struggling to preserve their cultural identity, not by placing it behind the glass of a museum, but by the active renewal of their collective and individual cultural traditional practices. The unique religious and secular items each culture creates are fundamental to its continuity. For centuries the Indigenous people of the Americas have suffered the steady loss of their cultural property. The international community is finally beginning to recognize the obvious right a community has to its own creations. The new awareness of this important link between people and cultural artifacts is resulting in the successful restitution of previously lost or stolen items.

“**C**onsidering that cultural property constitutes one of the basic elements of civilization and national culture, and that its true value can be appreciated only in relation to the fullest possible information regarding its origin, history, and traditional setting.” So reads the preamble of the Convention on the means of prohibiting and preventing the illicit import,

Eric Bergman is an intern at SAIC and researches articles for Abya Yala News.

export, and transfer of ownership of cultural property, adopted by the United Nations Educational, Scientific and Cultural Organization (UNESCO) at its sixteenth session in Paris on November 14, 1970. This convention is the first major step taken by the international community to address the centuries of plunder of cultural property of Indigenous peoples. Vast quantities of artwork, religious artifacts, and even funerary remains have found their way into museums and private collections worldwide. This traffic, often in the form of outright

theft, continues today. Items are taken, whether for selfish purposes or out of ignorance, without consideration of the damage done to a living culture when it is stripped of the items of its heritage.

The Indigenous Perspectives

To many people who trace their roots to European cultures, the scientific study or museum preservation of cultural property is considered of great value. It is important, however, to recognize that these views are not neces-

sarily shared by Indigenous peoples. Items of cultural or religious value created by Indigenous peoples were not intended to be placed in museum collections. The removal of cultural materials to museum archives severs the living connection and contact a people has with its works and past. This is especially true of cultures with an oral rather than written tradition. Museums and cultural scientists must strive to maintain the vigor of the culture that created the objects they seek to study.

All too frequently archeologists and anthropologists consider the dead to

be objects of curiosity and study; "a storehouse of biological information" as anthropologist Johan Reinhard says, referring to the frozen body of an Inca girl that he exhumed in Peru (see accompanying story). For Indigenous peoples, however, the dead are not scientific objects, they are their ancestors, perhaps even their family. Ancestors were interred with careful attention to respect and ritual that will see them to their proper destiny after death. These efforts are disturbed by archeologists, grave robbers, scientists and other collectors who continue to violate burial sites and the remains therein.

Restitution and Legal Recognition

Standards for the protection of and respect for the cultural property of Indigenous peoples are greater today than ever before. Major museums and even some governments are cooperating with Indigenous nations to voluntarily repatriate objects to their cultures of origin. The United Nations and the United States are beginning to legally recognize the claims of Indigenous peoples to their cultural property. Unfortunately, individual governments and police forces are doing little if anything to cooperate with the United

Not Dead Yet: An Incan Mummy Find Rekindles the Fire Over Science and Ethics

Two men enter an Inca ceremonial burial site. They spot some feathers; the headdress of a small statue. The men scramble down a ledge. There they find a carefully prepared grave. Taking out their axes they begin hacking away. Soon they uncover the body of a young woman. A little more ax work and they completely exhume the body. One man stuffs it in a sack and the other removes the remaining funerary artifacts. They depart into the darkening sky. Returning later with more accomplices, the two men scour the area for any remaining items, including two more corpses. Another sacred burial site has been picked clean and the bodies removed from their graves.

The two men, American archeologist Johan Reinhard and his Peruvian partner Miguel Zarate, found the grave-site last September atop Nevado Ampato in the Andean Cordillera of modern-day Peru. The bodies were originally buried on top of the remote 20,700-foot mountain as part of a religious ceremony and remained there, frozen, for an estimated 500 years until Reinhard and Zarate arrived. Since then, the body of the young Inca woman was brought to a laboratory at Catholic University in Arequipa, stuck into an ice box and stripped of her clothing including a beautiful wool Alpaca dress. Scientists then conducted a battery of tests, took body tissue and fluid for tests, and then shipped her off to Washington D.C. to be put on display as an item of curiosity at the offices of the National Geographic Society.

National Geographic's display of the Inca woman's body and the archeologists' treatment of the burial site in general has drawn international criticism. "The dis-

play of mummies or any human remains stands in contradiction to the ethics regarding the handling of the dead," said Dr. Konrad Spindler, a prehistory specialist at the University of Innsbruck and leader of the research team studying the 5300-year-old "Iceman" frozen corpse found in an Alpine glacier in Europe in 1991. Although Spindler was invited to join the research team studying the Incan woman, he eventually left the project because of his displeasure over the treatment of the corpse. Yachay Wasi, a non-profit organization dedicated to sharing and supporting indigenous culture of Peru, is sponsoring a petition in protest of National Geographic's handling of the situation. Indigenous people in the United States and Canada are joining Yachay Wasi in protest.

Although circumstances surrounding the decision to bring the Inca body to Washington remain unclear, National Geographic has made an admirable effort to consult the Indigenous people who are descendants of the Tawatinsuyu, or Incan empire. According to National Geographic spokeswoman Barbara Moffet, the second team of archeologists sent to excavate the Ampato burial site first paid a visit to the nearby village of Cabanaconde. No formal agreement was obtained by National Geographic, but Moffet claims that the villagers, who are believed to be the most closely related descendants of the Inca, were not only consulted, but eight villagers also volunteered to take part in the expedition. National Geographic has also made small a donation of photos and money to the village for the establishment of a museum in Cabanaconde. When the body of the Inca woman was brought to the National

Nations. In addition, the US legislation is not applicable nor respected outside US borders.

Should an Indigenous nation wish to repatriate items removed from their community, they face a difficult but increasingly possible task. First the seriousness and costs of the effort must be considered. Any individual or institution that has gone through great expense and effort to acquire and maintain valuable cultural items will not be eager to give them up. Securing the goodwill and cooperation of the party currently in possession of the items in question is crucial to any repatriation

effort and can eliminate the need for legal battles. The legitimacy and coordination of the repatriation effort are also influential. Any documentation or testimony that can assist in proving the claimant's position will be very helpful. Also the party making a claim for any items should consider what measures will be taken to insure the protection of the items once regained; no one is likely to part with rare artifacts if they suspect that they will be sold, stolen, or mishandled in any way.

Many resources exist to aid Indigenous peoples' repatriation campaigns. Non-governmental organiza-

tions, charitable groups, and other Indigenous entities may be sympathetic to repatriation efforts. These groups may provide contacts, publicity, council, or other forms of assistance. Some communities have been successfully pursuing repatriation for many years and have developed mechanisms within their political system to respond to concerns involving culturally sensitive materials. Journalists may be able to provide publicity and help bring public opinion behind the repatriation efforts. Some governments (most notably the United States) and the United Nations may also be of assistance.

Geographic headquarters for display, former residents of Cabanaconde now living in Washington D.C. were in attendance. There was no charge to see the Inca exhibit.

Despite National Geographic's overtures to the living descendants in Cabanaconde, this case has raised criticism of the ethics of archeology. Does the curiosity of scientists justify the disturbance of graves? On what authority do universities or other institutions take possession of the human remains of another society? Among many national societies, such as the United States and Peru, and especially among academics, such as Reinhard, there is a double standard for the treatment of the dead. The legal and moral codes normally relating to the handling of human remains and graves are ignored for Indigenous people. Although we are aware of no formal protests raised by Indigenous peoples in Peru, many Native Americans feel the dead should not be disturbed, studied or displayed at all. Native American groups in North America have been fighting for protection of their ancestral burial sites and reburial of remains held by archeologists. Walter Echo-Hawk, who was a lawyer for the Native American Rights Fund when Congress was considering NAGPRA, says "If you desecrate a white grave, you wind up sitting in prison, but desecrate an Indian grave and you get a Ph.D.," and a fat check from National Geographic it seems. The Washington D.C. based non-profit organization supplied a grant of \$100,000, mainly to fund the second expedition.

Had Reinhard and Zarate done what they did in the United States they would likely have been indicted for grave-robbing under the provisions of The Native American Graves Protection and Repatriation Act (NAGPRA), Public Law 101-601(see section 104 STAT.3051 C). Fortunately for the anthropologist NAGPRA only applies within U.S. borders. Nevertheless,

the National Geographic Society is aware of NAGPRA and the spirit in which it was drafted and chose to ignore it by not only funding the second expedition, but also bringing the frozen body to Washington D.C. to be put on public display.

The display of the Inca woman also violated the spirit of the United Nations. The U.N. Commission on Human Rights drafted a resolution entitled The Protection of the Heritage of Indigenous People which states that "Under no circumstances should objects or any other elements of an indigenous peoples' heritage be publicly displayed, except in a manner deemed appropriate by the peoples concerned" (Article 23), "Human remains and associated funeral objects must be returned to their descendants and territories in a culturally appropriate manner, as determined by the indigenous peoples concerned" (Article 21), and "Researchers and scholarly institutions should ...obtain formal agreements with the traditional owners for the shared custody, use and interpretation of their heritage" (Article 33).

The Draft Declaration on the Rights of Indigenous Peoples, pending approval by the U.N. General Assembly, also specifies the protection of burial sites. (Articles 12 and 13, see attached article) It should not require a United Nations declaration to instill basic consideration for the spirituality of a people, whether they be the ancient Inca or living descendants. "With this discovery, the spirit of Mount Ampato is challenging scientists" says Eliane Lacroix-Hopson of Yachay Wasi; that despite legal limitations, "all involved should know they are morally responsible in front of the Creator, Indigenous Peoples and their friends."

Hopefully during all the testing, prodding, studying and analysis the scientists may actually learn something from the Incas; that they show respect for the dead.

The United Nations

The United Nations is taking an increased interest in cultural heritage and in the protection of Indigenous rights. UNESCO (United Nations Educational, Scientific and Cultural Organization) has taken up the issue of the protection and restitution of cultural property. For this purpose UNESCO established the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation (henceforth, just the Committee) which currently numbers twenty-two member states of UNESCO. It will hold its ninth session in Paris from September 16-19. The eighth session was attended by sixty-nine nations, international customs and legal bodies, the International Criminal Police Organization (INTERPOL), and the International Council of Museums. Several important ideas were laid down including the rights of a people to expect legal protection of cultural property and secure aid in its return. The International Council of Museums has voluntarily agreed not to admit items into museum collections that are not proven to be legitimately acquired and to inform authorities if approached with illicit material. So far the Committee has not discussed any cases concerning Indigenous peoples.

The United Nations Economic and Social Council's Commission on Human Rights adopted a declaration at its eleventh session providing for the protection of the rights of Indigenous peoples including, "the right to the restitution of cultural, intellectual, religious and spiritual property taken without their free and informed consent or in violation of their laws, traditions and customs." (Article 12). More recently, in June of 1995 the Economic and Social Council drafted the report entitled Protection of the Heritage of Indigenous People. Although the report lacks any real legal power, it helps to lend legitimacy to individual claims.

NAGPRA: US Takes Legislative Action for Repatriation

In November 1990 the US Congress enacted Public Law 101-601, the Native American Graves Protection and Repatriation Act, also known as NAGPRA. This law provides a legal infrastructure to aid in the protection and restitution of funerary remains, and associated items of cultural patrimony. NAGPRA outlaws the traffic in such items, mandating a maximum of five years in prison and/or a fine for "Whoever knowingly sells, purchases, uses for profit, or transports for sale or profit, the human remains of a Native American" or "Native American cultural items"[1170 (a)(b)]. NAGPRA also requires museums and other institutions receiving federal funding to supply inventories of their items and return the items upon the request of a tribal authority. Thirty-four states have passed additional laws to fill gaps in the NAGPRA legislation.

Although NAGPRA only applies to federally funded institutions within the United States, it has set a precedent with many museum authorities on an international level. Museum institutions in the US have also repatriated items to Indigenous communities in South America outside NAGPRA's jurisdiction. One notable case was the return of several *Tzantzas* (head trophies) from the Smithsonian Institute to the Shuar peoples in the Ecuadorian Amazon. Austrian president, Thoma Klestil, returned the mantle of Montezuma to Mexico. The beautiful mantle of feathers and gold had been out of Mexico for over 400 years.

The Return of the *Ahayu:da*

An early and important repatriation effort in North America was the struggle of the Zuni Pueblo in New Mexico to return the sacred *Ahayu:da* figures to their traditional resting places in tribal shrines. Figures representing the twin war gods, *Uyuyemi* and *Maia'sewi* are placed in shrines to harness their potentially destructive powers. The

Zuni believe that when Spanish and US agents stole the communally owned figures from their designated resting places, it caused the spiritual imbalance that the world is suffering in this century. The return of the figures to their shrines is necessary to restore harmony and protect the Zuni community.

Anthropologist T.J. Ferguson, a member of the *Ahayu:da* repatriation effort, warns, "It is extremely important that both tribes and museums recognize that the amount of time and money required to assemble information and reach an agreement can be substantial." This was the case for the Zuni people, for whom the saga of the *Ahayu:da* lasted nearly a century. The first objects were removed to the Smithsonian in 1897. In April of 1978, Zuni leaders began repatriation efforts by meeting for the first time with repre-

The return of the figures to their shrines is necessary to restore harmony and protect the Zuni community.

sentatives from the Denver Art Museum. By 1992 the Zuni secured the return of 69 *Ahayu:da* from 37 different sources, representing all known US copies.

Most of the efforts of the Zuni to repatriate the *Ahayu:da* were accomplished without any legal backing from NAGPRA, which was not passed until November of 1990. The struggle of the Zuni to mount their repatriation campaign was intense, but in the end they prevailed. Their success is due mainly to dedication and cooperation. The museums were not, at that time, required by law to cooperate with the Zuni requests, nor did the Zuni representatives seek a legal confrontation. Instead, the Zuni approached the matter by presenting a solid case to museum officials and embarking on a series of friendly negotiations. Cooperation and respect kept the negotiations from becoming adversarial. Although the museums stood to

lose valuable portions of their collections, they respected the sincerity and legitimacy of the Zuni appeals.

One of the concerns the Smithsonian raised before agreeing to return cultural artifacts was the security of the figures. The Zuni developed elaborate measures, including surveillance of the shrines, to protect the *Ahayu:da* from repeated theft. "Indian tribes requesting repatriation of human remains and artifacts should be ready, as the Zunis were, to address questions from museums about the security of artifacts after repatriation," says Ferguson.

Repatriation appeals can even begin a friendly cooperation between museums and Indigenous peoples. The Zuni provided valuable information to the museums regarding the nature and significance of items in the museum collection and the museum provided a secure record of cultural artifacts and history that they shared with the Zuni Pueblo. Zuni artists and ceramics students benefited from studying pottery in the Smithsonian collection. Zuni religious leaders also guided the museums' curators in appropriate handling procedures for those sacred objects that remain in museum collections.

"The power and continuity of Zuni culture and religion have been reinforced by the return of the *Ahayu:da* to their shrine on the Zuni Indian Reservation, and that is good," says curator of ethnology and Zuni anthropologist, Edmund Ladd.

The Sacred Weavings of Coroma

For the Aymara people of Coroma in the southern Altiplano of Bolivia, the sacred garments of Coroma are communal artifacts that illustrate genealogies and are believed to embody the souls of their ancestors. Some garments are 400 to 500 years old.

In early 1988, Professor John Murra, a well-known ethnohistorian from Cornell University, received a postcard announcing an ethnic art exhibition in San Francisco that featured the sacred weavings of Coroma.

He recognized the weavings as those that had been stolen or bought illegally from the Aymara community in the late 1970s and 80s. He contacted the Bolivian embassy and social scientist Cristina Bubba Zamora who was inventorying the Coroma weavings at the time through HISBOL (a Bolivian grassroots development organization).

Concerned community elders emphasized the importance of the weavings and considered the discovery of the art dealer's collection as a sign of their ancestor's spirits wishing to return home. "When a sacred garment is taken from the community, a Coromeño believes that the spirits of the ancestors have been kidnaped," explains Susan Lobo, one of the advocates of the Coroma repatriation efforts.

The Bolivian embassy and two representatives from Coroma contacted United States authorities and in February of 1988 US Customs officials confiscated about 1000 objects (mostly weavings) from the dealer. Delegates from Coroma then went to California to identify the collection confiscated by US Customs. "Our ancestors must be so sad and lonely," commented one of the delegates viewing the weavings.

Native Americans in the US and academics joined Cristina Bubba Zamora in rallying support for the people of Coroma. A San Francisco law firm also aided the coalition. With the backing of the UNESCO convention, signed by both the US and Bolivia, the return of forty-nine of the weavings was secured. In September 1992, Bolivian President Zamora received the weavings from the US government on behalf of the people of Coroma.

The extreme difficulty and expense in tracing, identifying and proving that the weavings were purchased illegally was a major obstacle in this case. Many items could not be determined to be illicitly obtained and had to be returned to the dealer. The return of the weavings attracted renewed interest and respect for the ancestral religion among many younger Coromeños who had previously shown less interest in traditional culture.

The success of the Zuni and Aymara in recovering sacred artifacts from museums and unscrupulous collectors is an important step in the prevention of the extinction of Indigenous peoples' living culture. Currently, the UN Draft Declaration on the Rights of Indigenous Peoples is slowly taking shape. Now is the time for Indigenous peoples' to participate in this document and work on the issue of repatriation rights. Perhaps most importantly, everyone can help by being vigilant for the appearance of sacred items in the ethnic art market.

Thanks to the following individuals who volunteered their time and expertise to the research of this article: Lyndel V. Prott, UNESCO (Paris); Marie Samuel, Yachay Wasi, Inc.; Pollyanna Nordstrand, American Indian Ritual Object Repatriation Foundation.

References

- Feest, Christian F. 1995 "REPATRIATION": A European View on the Question of Restitution of Native American Artifacts. *European Review of Native American Studies*. 9:2 pp33-42.
- Fowler, Brenda. Sunday, June 16, 1996. Should Just Anyone Be Allowed to Stare? *The New York Times*.
- Lacroix-Hopson, Eliane. The Inca Challenge. Winter 1995/96. *Yachay Wasip 'Simin' (Vol.II No.3)*
- Lobo, Susan. Summer 1991. The Fabric of Life, Repatriating the Sacred Coroma Textiles. *Cultural Survival*. Vol. 15.
- Merrill, William L.; Ladd, Edmund J.; Ferguson, T.J. 1993. The Return of the *Ahayu:da*: Lessons for Repatriation from Zuni Pueblo and the Smithsonian Institute. *Current Anthropology Chicago* v.34 no 5, pp.523-567.
- Metz, Holly. April 1993. Remains to be seen: Relic repatriation fuels Native American activists. *Student Lawyer*. Vol. 21 No. 8.
- Moffet, Barbara. National Geographic. Public Affairs Spokeswoman. (Phone Interview July 16, 1996).
- Reinhard, Johan. June 1996. Peru's Ice Maidens. *National Geographic*. pp62-81.