

Politics

# Academic Freedom and Native American Reburials

31/03/2021 · 7 comments · 7 minute read · Elizabeth Weiss and James Springer

**T**hirty years ago, a federal law called [NAGPRA](#) (Native American Graves Protection and Repatriation Act) was passed. NAGPRA's purpose is to assist federally recognized Native American tribes with repatriation and reburials. According to NAGPRA, the committee that decides on repatriation and reburial must consist of seven individuals: three of whom must be nominated by Native Americans, including traditional Native American religious leaders. At least two committee members must actually be traditional Indian religious leaders. Oral histories are given as much weight in repatriation decisions as scientific evidence, such as DNA and craniometrics. NAGPRA also requires anthropologists to consult with Native American tribes, some of whose members are creationists. Research on artifacts and human remains is allowed only if the committee deems it to be of critical value to the US.

■

NAGPRA is the pinnacle of what we call *repatriation ideology*: a political movement that allows contemporary American Indians to control research. Repatriation ideology works against science and academic freedom, since the Native American religious leaders involved may require researchers to change their hypotheses, modify their methods or hide their results. As we detail in our 2020 book [Repatriation and Erasing the Past](#), repatriation ideology supports religious perspectives, while, from a postmodern perspective, it is about giving a voice to the oppressed and righting past wrongs, even at the cost of truth. James Clifford, for example, [argues](#) that infringing

researchers' freedoms is justified because of America's colonial past.

Collaborating anthropologists may be motivated by guilt over their perceived connections to that past or anxieties over the mistreatment of Native American heritage. Victoria Warren-Mears, director of the Northwest Tribal Epidemiology Center, for example, [argues](#) that academics "have traditionally been members of colonial cultures," while the Society for American Archaeology's Bioarchaeology Interest Group has [urged](#) anthropologists to cultivate "relationships with Indigenous groups" to counteract "a legacy of colonialist and racist research."

Such academics [often neglect to mention](#) the religious factor—thus misunderstanding the reason for NAGPRA and repatriation that is most important to the people whose voices they claim should be heard: people like NAGPRA committee member Armand Minthorn, who [asserts](#), "Our religion tells us so. Our oral history tells us so. All of those tell us that we were created here. We did not cross any land bridge like the scientists tell us. Our religion tells us we were created here. Period."

This is difficult to reconcile with academic freedom, which is especially important when controversial topics are at hand. The scholarly search for truth is based on an empirical perspective, which rejects subjectivity and epiphenomena like miraculous tales or literal Biblical accounts of creation.

Academic freedom is about control of one's research questions, methods and publications, while repatriation ideology is about wresting control over that research in order to control the narrative. For example, Larry Zimmerman, a key figure in the field, [has argued](#) that Native Americans should control research questions, methods and interpretations, while in her [guidelines](#) for collaborating Native American tribes, Victoria Warren-Mears [states](#) that "tribal members and representative bodies are within their rights in seeking to control all aspects of research and information management processes which impact them." The term *decolonized archaeology* is often used. [According to](#) Ruth Van Dyke, this means that "Native American descendant communities control their own histories, materials, bodies and intellectual property." In field schools run collaboratively with academics and Native Americans, such as the ones [described by](#) Sara Gonzalez and Briece Edwards, tribes often retain ownership of the materials and decide when and to whom to grant access.

Van Dyke [outlines](#) the different phases of collaboration that researchers undergo, as if they were the stages of grief: resistance; reluctance; embrace; and, finally, advocacy. These phases are depicted as goals. However, each phase requires researchers to give up academic freedoms.

Researchers may need to build trust: Michelle Lelièvre and her colleagues [have described](#) engaging in daily

religious ceremonies “to build trust and connection between the members of our research team.” More importantly, however, they must convince the Native Americans that the research will lead to real benefits for the tribe: paid positions, donations, evidence for land claims. For instance, Peter Nelson, [describes](#) designing a botanical archaeological project that will “help create a case for including Indigenous land management practices in future restoration projects and ongoing maintenance within the park.” After all, as Van Dyke [points out](#), “archaeological sites are literally sites of struggle over the right to be heard, and rights to political and economic resources.”

Prior to starting research, Native American consultants often require researchers to select what they see as appropriate hypotheses. For example, Gonzalez and Edwards [note](#) that, in their work, tribal preservation offices have to “approve of all research.” This hinders truth-seeking, since the only questions that can be asked are those that do not offend the Native Americans.

Scholars may also avoid controversial questions in order to gain access to collections. Many articles advise anthropologists to formulate only questions that help the tribe. Alison Wylie, for example, [recommends](#) addressing questions that help in land claims. If oral history exists in support of a question, it is likely to be rejected as contradicting the wisdom of the elders. As Lelièvre and colleagues [point out](#), research questions are “guided by the concerns of community members” and help descendent communities “develop protocols that respect local prohibitions against disturbing human remains and sacred sites, and acknowledge the sacrifices of nonhuman subjects that may be disturbed in the process of this work.” The nonhuman subjects in this context are lands and waters that are tied to creation myths.

As Thomas Ferguson [has shown](#), questions that may offend and controversial topics, such as religion, power, gender and the treatment of the dead are generally off limits. Tsim Schneider and Katherine Hayes even [justify this](#), arguing against the “colonial ideology of the ‘universal good’ of knowledge.”

Researchers are also subject to rules on how to collect data. Native American consultants may require smaller samples or less excavation or place certain areas off limits because they are considered spiritually dangerous. The restrictions sometimes even extend to researchers’ off-hours behaviour. Collaborative field schools have prohibited students from going into the tribe’s casinos to use the Wi-Fi, because there is alcohol in the buildings. Gonzalez and Edwards [write](#) that the Confederated Tribes of Grand Ronde Community of Oregon’s Historic Preservation Office “held a formal discussion with tribal members and students in order to further clarify the spiritual and physical importance of sobriety for people” and—perhaps most egregiously—conducted random drug testing on all non-Native students, staff and researchers. Some Native American elders have banned females from certain sacred sites. Hopi Indians in the San Pedro Valley of Arizona, for example, have explained that certain sites are not

appropriate for women to even visit, Van Dyke [reports](#). Jennifer Putman [recalls](#) that, during her research, some remains, such as those of warriors, were not to be touched by females.

Collaboration efforts also shape the results of studies. Native American activists and pro-repatriation anthropologists often argue that to interpret data, we should consider the Native American perspective, which may include spiritual explanations. Nelson [writes](#) that the Federated Indians of Graton Rancheria would not permit “narratives and representations of Native American people that do more harm than good or are only self-serving” and reserved the right to “review and comment on all products of the research.”

Finally, Native American collaborators may prevent researchers from publishing their findings. There has been [a call](#) for journals to require authors to demonstrate that they have permission from tribal politicians and religious leaders and some journals, including [Bioarchaeology International](#), have agreed to do so.

These ideas have all gained force since NAGPRA. For instance, Devon Mihesuah [has argued](#) that researchers should be required to allow Native Americans to determine whether research should be published and where. Tsim Schneider and Katherine Hayes [have argued](#) that academic publication is incompatible with Native American desires to safeguard esoteric knowledge by keeping it secret.

All this has led to self-censorship, which can take mild forms, such as apologizing for supposedly offensive terms, like *cranium* and *burial* or more fundamental ones like avoiding the study of controversial topics or oppressed peoples. For example, Sharon DeWitte, [has revealed](#) that she chose to study disease in European medieval skeletons to avoid dealing with exploited and marginalized groups—ignoring the fact that the medieval poor were both exploited and marginalized. Is this the kind of tame, timid anthropology that we want to leave behind?

Academic freedom has been handed over; truth seeking has been replaced by asking questions that will not offend Native American activists. Looking for knowledge in pursuit of the common good has been replaced by looking only at perspectives that benefit one specific group of people. Publication and sharing have been replaced by censorship. This is not the result of a colonial past, but of a postmodernist, politically correct present. By relinquishing control to those who are perceived as victimised or oppressed, stories become tainted by propaganda.

Although NAGPRA specifically and repatriation ideology in general may seem to affect only a small slice of academia, it shows how academic freedoms can be chipped away by a combination of postmodern academics, religious creationists, federal laws and self-censorship. The postmodernist belief that membership in an oppressed group makes a person’s opinion more valid and the concomitant failure to value objectivity and academic freedom

are spreading. But academic freedom and the search for truth without interference from race, religion or politics must be protected if we want to advance our understanding of the world.

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**Elizabeth Weiss**

Elizabeth Weiss is a professor of anthropology at San José State University. She is the author, with attorney James W. Springer, of a new book *Repatriation and Erasing the Past* (University of Florida Press, 2020), which takes a critical look at laws that mandate the return of human remains from museums and laboratories to ancestral burial grounds.

**James Springer**

James W. Springer is a retired attorney and anthropologist based in Peoria, Illinois. He is the co-author, with Elizabeth Weiss, of the book *Repatriation and Erasing the Past* (University of Florida Press, 2020), which takes a critical look at laws that mandate the return of human remains from museums and laboratories to ancestral burial grounds.

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**T.Peter Park**

01/04/2021 at 3:51 pm

According to Elizabeth Weiss and James Springer, the restrictions placed on archaeological researchers “sometimes even extend to researchers’ off-hours behaviour.” Thus, “Collaborative field schools have prohibited students from going into the tribe’s casinos to use the Wi-Fi, because there is alcohol in the buildings,” while Gonzalez and Edwards write that “the Confederated Tribes of Grand Ronde Community of Oregon’s Historic Preservation Office “held a formal discussion with tribal members and students in order to further clarify the spiritual and physical importance of sobriety for people” and—perhaps most egregiously—conducted random drug testing on all non-Native students, staff and researchers.” I always understood that certain Native American tribes used peyote in their religious ceremonies, and that tobacco itself was ceremonially used largely for its psychoactive properties. Or do Native Americans mainly object to the secular, recreational use of psychoactive substances?

The article also reminds me a lot of a 1952 science-fiction story I once read, “Teatray in the Sky” by Evelyn E. Smith. In Ms. Smith’s story, Earth in the future belongs to a Galactic Federation whose laws mandate compulsory universal respect for the mores, values, and taboos of all Galactic cultures, which means that no Eathman, Sirian, Arcturian, Alpha Centaurian, Tau Cetian, etc., may ever do anything in public that might be offensive to members of any other race in the Galaxy—everybody is required to observe and respect everybody else’s standards of propriety. The only Earthlings exempt from this rule are the members of a few small reclusive Brotherhoods living in isolated reservations, where they are free to follow only their own customs and ignore everybody else’s. Like the Old Order

Amish of our own time, young members of the Brotherhoods are encouraged to leave the reservation for a while to see if they might prefer living in the outside world. The hero of Evelyn Smith's story is a young man from a Brotherhood near Los Angeles who visits far-future New York, which has become a multi-racial multi-species Galactic melting pot. After spending a day in New York being continually pestered every minute to please follow this or that Galactic culture's taboos (Always wear a hat because the X's have a taboo on going about bareheaded in public! Don't wear yellow gloves because yellow is the color of death on Y!, etc., etc.), he decides to go back to the reservation. marry his girl-friend there, and live the rest of his life with his Brotherhood!

Reply

**T. Peter Park**

31/03/2021 at 11:19 pm

Article co-author and San José State University anthropologist Elizabeth Weiss' penchant for independent, out-of-the-box, orthodoxy-defying thinking is also illustrated by the fact that in 2011 she married the British ufologist Nick Pope, a former director of the UK Ministry of Defence's UFO research program, during an international UFO conference in Scottsdale, Arizona in February 2011. Of course, as a scholar open to the possibility of extraterrestrial civilizations, she would necessarily be rather skeptical of the religious fundamentalism of some of the repatriationist Native American scholars mentioned in her article. A belief in possible extraterrestrial civilizations is perhaps one of the crowning mental adventures of the Enlightenment world-view so often denounced by our "woke" postmodernists and CSJ zealots—despite the almost paranoid hostility of the CSICOP~"Skeptical Inquirer"~Prometheus Press type "skeptdebunkers" to any discussion of possible current extraterrestrial visitation!

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Reply

**Josh**

31/03/2021 at 5:33 pm

As I'm reading this, I can't help but wish I had professors like you in my undergraduate Anthropology program. My program was cultural Anthropology, and extremely oriented towards critical social justice like the repatriation individuals you mention. When I got out, I realized the world was way more complicated than the binary oppressor/oppressed worldview I had adopted when it came to culture. Thanks for the article.

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Reply

**T. Peter Park**

31/03/2021 at 7:39 pm

Yes, “the binary oppressor/oppressed worldview” of the “critical social justice” ideology, as just noted by “Josh” in his comment on the article! That it’s so BINARY is, I’ve long felt, one of the biggest problems with the whole “woke”/”postmodernist”/”critical social justice” mentality—it’s just so dogmatically dualistic, black-or-white, yes-or-no, us-or-them, self-or-other, with no allowance for nuances, for in-between shades of gray, or for “yes, but...” qualifications of otherwise absolutist positions. It’s a classic illustration of what General Semanticist Alfred Korzybski criticized as the “two-valued thinking” of “Aristotelian logic” in his “Science and Sanity,” and of the “thinking in pairs,” forcibly relying on extremes as equally un-nourishing if superficially opposite as “chalk” and “soot,” that Jacques Barzun warned against in “Classic, Romantic, Modern.” As linguist Benjamin Lee Whorf argued long ago in his “Language, Thought, and Reality,” this two-valued black/white either/or binary thinking is encouraged by the structure of Indo-European languages (what he called “SAE,” or “Standard Average European” languages), and is thus a peculiar provincial feature of European thinking, not necessarily shared by non-European cultures—including the original languages and cultures of Native American peoples! As other writers (e.g., the Estonian poet, philosopher, and social critic Jaan Kaplinski, a long-time student of Buddhism and Taoism) have similarly observed, this Western style of antagonistic black.white us/them yes/no thinking may be opposed by the harmonious non-antagonistic mutual interplay and merging of “yin” and “yang” so prominent in Chinese thought. In an American historical context, as suggested by Norman Podhoretz in 1979, the all too often literally black and white racial binary of “Whites”



versus “People of Color” (including Blacks, Asians, and Native Americans) proclaimed from the housetops by today’s “woke” CSJ ideologues reflects a “Southerly” (as Podhoretz called it) dualization or binarization of an originally pluralistic—and far more realistic—vision of American society as composed of MANY ethnic groups all seeking a “place in the sun” and a mutual accommodation, e.g., WASP’s. Irish, Italians, Jews, Poles, Germans, Scandinavians, Greeks, Blacks, Hispanics, etc., etc. Finally, as noted by Canadian political scientist Norman Cohn following historian Norman Cohn, political dualism is basically just a secularization of the ancient Persian prophet Zoroaster’s originally religious apocalyptic dualism visualizing history as a conflict of the forces of Light and Darkness, Order and Chaos, led by Ormuzd and Ahhriman, as transmitted through post-exilic Judaism to early Christianity, Manichaeism, Islam, early-modern religious millenarianisms, and finally to modern political Utopianism and totalitarianism (including both Communism and Nazism/Fascism).

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Reply

**T. Peter Park**

31/03/2021 at 10:16 pm

In my earlier comment on the article, I absent-mindedly typed a reference to “Canadian political scientist Norman Cohn following historian Norman Cohn.” I meant to write “Canadian political scientist Thomas Flanagan following historian Norman Cohn.” My duplication of Norman Cohn’s name was a careless typo.

Reply

**Grace**

31/03/2021 at 5:14 pm

This could be the future of many areas of study if we can’t find an effective way to advocate for the search for scientific truth over “poetic truth” (Shelby Steele’s term).

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Reply

**T. Peter Park**

31/03/2021 at 11:53 pm

To Grace, on the possible “future of many areas of study”—I can picture Christian fundamentalists and ultra-orthodox Jews demanding that all ancient Near Eastern archaeology and history should henceforth be written and taught in our universities and academic publications in according to a strictly literal interpretation of the Old Testament, treating Adam & Eve in the Garden of Eden, Noah’s Flood, the Tower of Babel, Moses parting the Red Sea, and Joshua making the Sun stand still over Jericho as actual literal historical facts. Japanese history, too, should henceforth consider the Emperors as literal direct genealogical descendants of the Sun-God (which the Judaeo-Christian fundamentalist historians could then cite as actual proof, freely and even proudly admitted by the Japanese themselves, that the Japanese Imperial family are “Nephilim,’ offspring of the fallen-angel “sons of God” and “giants in the earth in those days” who lusted after “the daughters of men, who were so fair.”

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