

Accomplishing NAGPRA: Perspectives on the Intent, Impact, and Future of the Native American Graves Protection and Repatriation Act.* Sangita Chari and Jaime M. N. Lavallee, eds. Corvallis: Oregon State University Press, 2013. 293 pp.

Reviewed by Kathleen S. Fine-Dare

The collected articles in this rich, and in many ways essential, work are the outcome of a symposium held on November 16, 2010, to observe the 20th anniversary of the passage of the Native American Graves Protection and Repatriation Act (NAGPRA). "NAGPRA at 20," which took place on the campus of George Washington University, was designed not only to evaluate and reflect upon the mixed results of the past two decades of this statute's existence, but also to consider what might be in store for the future of a key piece of Indian law, the main purpose of which is still not completely agreed upon by practitioners, professionals, or the public.

The eleven book chapters are written by a variety of professionals and scholars drawn from Native American nations, Native Hawaiian organizations, museums, federal and state agencies, and a private compliance company. The conclusion reached in the brief introduction, later reinforced by Jan Bernstein's sensitive final chapter that focuses on the communicative and healing potential of the law, is that is that regardless of the many differences among NAGPRA practitioners, they "make up a distinct community that shares many of the same challenges and frustrations" (14). While the chapters can be read in any order as most include useful definitions and background information, they are divided into three unmarked sections of the book.

The first two chapters specifically address the history of and rationale for the law. Neither chapter is a pedestrian summary; both could be profitably used to get students up to speed in courses focused on NAGPRA. The opening chapter written by legal scholar Jack Trope provides a clear, masterful summary of how the law came to be in terms not only of the early days of what he calls "a larger historical tragedy" (44) of the failure of the United States people and government to recognize the humanity of Native American peoples, but also with regard to key elements of legislative history: provisions, process, and responsibilities. He also makes the interesting, if debatable, claim that without NAGPRA the international community might not have focused as explicitly as it has on the rights of indigenous peoples to the repatriation of human remains and culturally significant objects.

In the next chapter C. Timothy McKeown takes the reader artfully through the maze of decisions, organizational schemes, and assignment of duties over the years to deal with various implementation arenas, including notices, grants, and civil penalties for infractions. Near the end, the prose rises from mind-spinning detail to make the elegant point that NAGPRA "reconciles four major areas of federal law" in ways that "run counter to much of preservation law," and thus might be better managed elsewhere than primarily within the National Park Service (78-79).

* This editorially reviewed contribution was accepted for publication in *Museum Anthropology Review* on February 12, 2015. The work is licensed under the Creative Commons Attribution 4.0 International License. To view a copy of this license, visit <http://creativecommons.org/licenses/by/4.0/>.

Because the editors state in the introduction that a main goal of the book is to showcase NAGPRA “in action” as carried out at grassroots as well as institutional levels, the book moves from legal background and process to address a set of important questions. These include, how has implementation gone over the past twenty years? Have museums submitted inventories of culturally affiliated human remains and objects that have resulted in repatriations and reburials? How do we know when there is no requirement in the law to report transferal? What is the procedure for categorizing and transferring possession of human remains and objects defined as “culturally unidentifiable,” particularly as the final rule on this very large subcategory of materials was not published until May of 2010?

These questions and others are addressed in persuasive detail in the following six chapters, which focus on NAGPRA’s impact on federally recognized tribal museums and cultural preservation offices (chapter three: Hemenway); organizations working with Native Hawaiians (chapter four: Greer); academic museums (chapter five: Capone); federal agencies (chapter six: McKeown, Palus, Riordan, and Waldbauer); non-federally recognized tribes (chapter seven: Neller, Peters, and Obermeyer); and state agencies (chapter eight: Ambler and Goff). The case studies presented in these chapters confront issues as diverse and yet connected as identity, healing, and sacred duty; missed opportunities and unintended consequences in museum contexts; the contributions made by federal agencies to various compliance efforts; and emergent and ongoing frustrations over interpreting the 2010 rule over culturally unidentified remains (CUI).

The final section of the book turns philosophically, ethically, spiritually, and legally to an issue that has been perhaps the most divisive, emotional, and potentially unresolvable: balance. In short, those who implement and think about the broader consequences of repatriation legislation ask whether the key goal of the law is to redress centuries of violations of Native American, Native Hawaiian, and Native Alaskans’ human and civil rights violations, or rather if its sole purpose is to “balance” the rights of living and dead indigenous persons and their communities with those of scientists and even the lay public.

Shannon Keller O’Loughlin addresses these questions in a very honest and straightforward way in chapter nine by returning readers to the rationale for and challenges presented to the planning and execution of the NAGPRA at 20 Symposium. As mentioned above, Jan Bernstein underscores the ways the law has elicited a host of “untold stories” and emotional reactions (p. 266) as communities undergo the work of mourning, claiming, and repatriating.

In my view the most intellectually compelling of all these very successful chapters is Clayton W. Dumont, Jr.’s (Klamath) chapter ten piece regarding how, above all, “NAGPRA is about power” and the “colonial quagmire...of cross-cultural knowledge politics.” Despite NAGPRA’s flaws, Dumont believes its “integrity” must be defended, which is “as Indian law designed to protect Native ways of knowing and being” (239). To understand what led to NAGPRA and why it continues to play such an important role requires being very mindful of the history of conquest, dispossession, cultural intrigues, and the centuries-old and ongoing development of scientific rationales for all that lies beneath the surface of everyday compliance acts. Dumont’s chapter effectively demonstrates the necessity of approaching repatriation law from a critical

philosophical perspective that is pegged historically to a host of “cultural intrigues” aimed at maintaining the status quo.

In Dumont’s view, moving forward in the age of NAGPRA requires not seeking a misguided “balance” between interests that have been stacked against Native people for centuries, cloaked in what has amounted to a falsely grounded “cult of value-neutral ‘objectivity’” (245), but rather developing a commitment to the self- and culturally-reflexive acts of “hard honesty” it takes to collaborate on equal ground, listening intently to everyone’s experiences. Chapters such as the one written by Ambler and Goff demonstrate in great detail the rewards of taking this approach, as do most other contributions to this successful book, which would make an excellent college level or workshop training text. It is to be hoped that there will be more works like this to come that enlighten us about a law that is not going to go away in a country that still struggles to heal from the wounds of its history.

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<http://dx.doi.org/10.14434/mar.v9i1-2.13750>