

# FINDING MIDDLE GROUND: CASE STUDIES IN NEGOTIATED REPATRIATION

by

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## Abstract

Repatriation, the return of cultural property and human remains, has emerged as a nexus for change and development in the policy and practice of both Indigenous and non-Indigenous heritage institutions. It gained prominence through the Native American Graves Protection and Repatriation Act (NAGPRA) passed in 1990. Consequently, negotiated repatriations receive less focus. To understand the dynamics driving institutional transformations, such as Native sovereignty, and virtue ethics, I examine repatriation and long-term loans outside of NAGPRA's purview, demonstrating exceptional circumstances.

My comparisons of negotiated repatriation processes and results at Arizona State Museum and Calgary's Glenbow Museum illustrate significant variation in approaches and consultations. Early on, neither museum consistently encouraged Indigenous participation. Currently, each follows policies characterized by hybrid values, sharing goals extending beyond their legal mandate. This reveals commitments to find middle ground using good faith negotiations and extra-NAGPRA partnerships, despite the different emphases each museum placed on legislation and collaboration.

**Keywords:** Archaeology; Indigenous Peoples; Intercultural Negotiation; North American Repatriation; Museums; Virtue Ethics

# Dedication

*To my new family*

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# Chapter 1: Negotiated Repatriation

If there is one commonality shared by all Aboriginal Nations in North and South America, it is our need to rekindle our spiritual ceremonial flames to the extent that all creation can feel the warmth of the eternal sun within each of our hearts. This will remake a wholesome universe.

Bastien and Bastien (1992:4-5)

## 1.1 Historical Context and Problem

Repatriation, the return of cultural patrimony, grave goods, and human remains, has a long history as a nucleus of interaction for Indigenous, museum, and archaeological communities. It has emerged as a nexus for change and development in the policy and practice of both Indigenous and non-Indigenous heritage institutions (Killion 2007a).

Definitions and experiences of repatriation vary from permanent physical and legal relinquishments (deaccessioning) (Arizona State Museum [ASM] 2005a), to long-term loans and collections co-management (Royal Saskatchewan Museum [RSM] 2006:A1-1).

Indigenous people may regard repatriation as a homecoming for community members, as atonement for past wrongdoings, or as a means for restoring vitally important traditions (Bell et al. 2008; K.M.B.1; L.W.T.1).<sup>1</sup> Archaeologists and other researchers may see repatriation as a legitimate and timely part of efforts to revitalize Indigenous sovereignty (R.J.1), as an erosion of academic freedom (Meighan 1993), or as a loss to universal education (Ravens and Eagles Productions 2003).

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<sup>1</sup> “K.M.B.1,” “L.W.T.1” and similar references refer to coded consultations conducted for this thesis. Refer to the methodology discussion in chapter three for details.

Repatriation is an emotional and divisive topic due to historical and cultural factors affecting ancestral communities, as well as the “curatorial culture” – defined here as “traditional” museum practices of preservation, conservation, curation, and fiduciary responsibility to the public – embedded in the museum community (van Mensch 2002:145). Western customary modes of curation tended to alienate Indigenous communities from the museum environment and archaeology in general. Such was the status of relations when repatriation efforts began (A.R.1; G.C.1; N.B.1).

In North America, repatriation came to the fore in 1990 through the United States Native American Graves Protection and Repatriation Act (P.L. 101-601) (NAGPRA). The Act requires the repatriation of human remains and categories of objects under specific circumstances (United States Department of the Interior National Park Service [NPS] 1990). Currently it is the departure point for most discussions of repatriation in North America and elsewhere. However, heritage legislation has proven to be inadequate for addressing the full range of concerns between Indigenous and curatorial communities. For example, the 1978 American Indian Religious Freedom Act (P.L. 95-341) fails to provide protection for sacred sites (Welch et al. 2009), and Alberta’s First Nations Sacred Ceremonial Objects Repatriation Act (R.S.A. 2000, c. F-14) does not address the repatriation of human remains, funerary objects, or out of province requests (Province of Alberta 2008).

Given the diversity of Indigenous and curatorial cultures and their expectations, legislation cannot alleviate all concerns over clouded title or other complicating legal factors (Brown 2003). The accommodation required amongst these groups to achieve mutually satisfactory repatriation-related agreements indicates value in examining negotiated processes (Goldstein and Kintigh 1990). Throughout this thesis I use the political terms Indigenous and Native interchangeably, and Native American and First Nations where applicable. These

terms do not necessarily reflect cultural identity because each community has a distinctive identity. Wherever possible I specify individual community names. I also quote or paraphrase the words and perspectives of experts who enabled this project – Indigenous representatives, elders, ceremonialists, museum professionals, and archaeologists – to amplify their distinctive voices and further contextualize the data collected.

## 1.2 Negotiated Repatriation

Individuals from diverse backgrounds perceive the world through contextual historical, cultural, and linguistic frameworks. Cultural customs and life experiences contribute to individual and group concepts of significance and justice, predisposing people to different methods of resolving political and ethical issues such as repatriation (Gannon 2001; Kahane 2004; LeBaron 2004; Teague 2007; Ting-Toomey 2005).

Negotiated repatriations are “those requests, claims, etc... that cannot usually, effectively, or adequately be dealt with through established legal or customary means, such as through normal loan, deaccession, or repatriation procedures” (Ames et. al. 1988:47-48).

Legislation can be an asset in situations defined by socio-political imbalances. However, it is not the end game because codified law often sets levels of good conduct at the lowest enforceable threshold (Vitelli and Colwell-Chanthaphonh 2006:3). Joe Watkins (2003:137) asked, “should archaeologists be satisfied to meet the minimum requirements for consultation set forth through legislation, or should we be reaching to do more?”

Negotiated repatriation involves more than legal compliance (Nicholas 2008; Teague 2007). It lays a foundation for relationships that extend beyond statutory language and foment pragmatic and ongoing negotiations (Suagee 1995:23). In the best circumstances *communities* – Indigenous, research and curatorial – share definitions of, and plans for

pursuing truth, understanding and consensus, leading to partnership or collaboration.

Echoes of this sentiment reverberate through the discipline (Watkins 2003).

Prior to this thesis less attention was given to repatriations negotiated outside of NAGPRA or those that tested the boundaries of the statute's purview. Yet, because statutes and regulations did not necessarily define the interactions that produced such repatriations, they are the transactions that tell us the most about the values, preferences and interests of the parties involved, as well as the institutional change occurring without legal mandates.

My thesis is that negotiated repatriation provides contexts for relationship building between archaeologists, museums, and descendent communities that supersede NAGPRA's terms of reference, and create or contribute to practice, policy, and the emergence of an ethical middle ground. I argue that negotiated repatriations affect historical, contemporary, and future practice in public heritage institutions. Moreover, they animate relationships between academic and Indigenous communities by presenting opportunities to integrate a range of values into repatriation policy and practice, avoiding court-mandated resolutions.

To assess this thesis I examined the means, modes, and tempos of repatriations at Arizona State Museum (ASM), and Glenbow Museum. Defined here, "means" refer to methods employed to facilitate repatriation (i.e., legislation, extra-legal), "modes" convey the spirit or tone of the negotiations process, ranging between cooperative and adversarial. "Tempos" illustrate the speed of the transactions, ranging between fast and slow.

ASM and Glenbow represent museums in Canada and the U.S. that have sought to improve relationships with Indigenous communities (G.C.1; R.J.1; R.T.1). A comparison of repatriation-related practice and policy at these museums provides a means for assessing the abstract and practical middle ground that negotiations manifest.

### 1.3 Data Presentation

Chapter 1 explains my conceptual and analytical framework for investigating negotiated repatriation. I use Richard White's notion of middle ground, which refers to social "space" created where divergent Indigenous and non-Indigenous group interests converge, producing new cultural forms and relationships (1991:ix). Within this framework, I expand and employ interrelated concepts of virtue ethics and pragmatism (Section 1.4.2). I follow with a discussion of three main research themes that structure my inquiry into the means, modes, and tempos of negotiated repatriation (Section 1.5).

In Chapter 2, I discuss negotiated repatriation's links to central concepts found in contemporary repatriation discourse: sovereignty and identity (Cornell et. al. 2003; Suagee 1995), cultural and intellectual property ownership (Brown 2003), sacredness (Brown 2003:20; Clavir 2002; Wolfe and Mibach 1983), collections values (Ames 1992; Brown 2003:17; McLeod O'Reilly 1984), and partnership (Dowdall and Parrish 2003; Ferguson and Colwell-Chanthaphonh 2006). I use the term collections value in a general sense. I do not consider human remains objects.

Chapter 3 explains my methods of inquiry into negotiated repatriation: archival, external literature, and consultations. It also explores the challenges I encountered during thesis writing. Chapters 4 and 5 chronicle the development of repatriation-related practice and policy at ASM and Glenbow. Within these two narratives I highlight individual transactions that spurred organizational developments, and place emphasis on the museum's response to Native community interests. Chapter 6 concludes with a discussion of my case study results and the relationship to middle ground formation.

## 1.4 Conceptual and Analytical Framework: Middle Ground

Richard White's "*The Middle Ground: Indians, Empires, and Republics in the Great Lakes Region, 1650-1815*," investigates dynamic changes negotiated between Indigenous peoples and colonists at contact in the Eastern North American *pays d'en haut*. He observes the need for an approach to history distinct from the stories of conquest and assimilation, and those of resistance. By examining the middle ground, his approach addresses broader historical processes that shape unique relationships and cultural developments as different groups navigate shared geographical space and overlapping interests (1991:ix).

White's context is the French and Algonquian trade alliance, and illustrates the necessity of mutual invention within their spheres of interaction (White 1991:ix). Necessity influences the accommodation of others and characterizes forms of middle ground. There are stages of development between groups from initial contact to allied force that are based on different modes and frequency of interaction (White 1991).

Over time, groups that are reliant on each other attempt to reach certain objectives through negotiation while trying to maintain their perception of a sensible world order through their goals and values (White 1991:51-52). This suggests possibilities for miscommunication and forms of manipulation, in which one group's quest to safeguard their values bends or adapts to accommodate another's interests. In this context, what is right or acceptable reflects cultural worldview (White 1991:50-53).

Many scholars acknowledge White's influence by embracing his notion of middle ground. These include Steven Silliman (2005), Ruth Phillips (2005), Larry Zimmerman (1997), and Nicholas Laluk (2006). My case study research investigates Indigenous and curatorial cultures as they attempt to negotiate common understanding concerning the

treatment of cultural property through repatriation-related processes (White 1991). Both museum professionals and Indigenous communities typically want to see tangible cultural property curated in accordance with respectful and principled guidelines. Each group has responsibilities to its members and stakeholders, which adds complexity to negotiations. Therefore, negotiated repatriations represent milestone achievements in intercultural communication. By examining the developments I intend to reveal that, “accumulated actions and reactions...cause shifts in public opinion and changes in institutions, laws, and professional practice” (Phillips 2005:104).

#### **1.4.1 Contexts for Finding Middle Ground through Negotiated Repatriation**

While I accept White’s identification of middle ground within his review of history, he does not explicitly problematize the conditions in which it forms. Yet, the concept of middle ground provides contexts and a framework for understanding and assessing the nature and trends of change occurring in one of the most important sets of dynamics encroaching on museum, archaeological, and First Nations studies theory and practice.

I apply eight uniformities gleaned from his work that provide a critical link between my case study data and emerging theory for understanding middle ground formation between curatorial and Indigenous cultures (Raab and Goodyear 1984). These interrelated and flexible elements of middle ground enable analyses of unique repatriations without losing sight of important dimensions of the relationships required by repatriation or comparable transactions, notably communication, trust, and justice. I apply them when assessing the means, modes, and tempos, of repatriations.

#### 1.4.1.1 Uniformities of middle ground

1. Aspects of middle ground formation are involuntary because the dynamics of interaction emanate from a colonial history. Personal choice is marginalized because of imposed parameters, especially legislation, organizational structures, and mandates (White 1991).
2. Group interaction presents challenges to community goals, forcing them to determine which aspirations and values are negotiable. Groups alternate contextually between dominant and subordinate positions, yet neither can disregard the others' interests (White 1991).
3. Creativity in reaching goals can circumvent existing legal, political, or cultural barriers. It helps achieve objectives without direct violation of restrictions, and is central in shaping the middle ground (White 1991).
4. Accommodation of another group's interests can facilitate a community's attempt to achieve mutual and/or disparate goals. It may lead to varying forms of inter-group alliance, which are generally motivated by group needs but can benefit both parties (White 1991). Accommodation signifies growing reciprocal understanding.
5. Iterative engagement restructures relationships. The foundations groups build with each other adjust each time they interact (formally or informally). With each subsequent meeting, communities are negotiating from a place of increased reciprocal knowledge (White 1991).
6. Legitimization, a potential product of iterative engagement, is a more formalized mode of accommodation (e.g., policy, legislation). The dynamics

of colonialism place the burden of legitimization on groups as a means to meet their objectives. It may involve coercion between parties (White 1991).

7. Hybrid cultural forms emerge from inter-cultural struggles to determine appropriate practice over time (White 1991). Reinvention characterizes middle ground, as cultural traditions are “actively negotiated” and continuously changing (Silliman 2005:284).
8. Although unaddressed by White, I hypothesize that the presence or absence of virtue ethics and pragmatism in negotiation can change the tone and mode of middle ground formation (e.g., contentious or peaceful). Middle ground considers the impact of individual actions, which change group dynamics and cause meaningful shifts in the structure, content, and trajectory of the middle ground – in the means, modes, and tempos of change occurring as a product of cultural encounter (White 1991).

#### **1.4.2 Virtue Ethics**

All or most of the actors in negotiated repatriations are seeking to do the right thing, and I contend that intention itself contributes to the development of middle ground. Yet, individuals and groups in the midst of cultural encounters and change are often unable to rely exclusively upon established or customary values and preferences. They must determine “right” actions and goals in response to situations lacking clear precedent. As imperfect beings, humans search for an ethical middle ground but it is fraught with uncertainty. Below I describe key components of virtue ethics, and the values and challenges of its application as an analytical tool in this discussion.

Virtue ethics is a type of moral theory based on Aristotle's philosophy of happiness, or "good life," *eudaimonia*. It is defined by or in reference to function, and the virtuous modes that deliver a good life (Koller 2007). To achieve this one must be virtuous as defined by the following criteria: (1) act appropriately; (2) do so habitually; (3) enjoy acting virtuously; (4) understand that it is virtuous; (5) understand why it is virtuous (LaFollette 2007:213).

Introduced to archaeologists by Colwell-Chanthaphonh and Ferguson (2004), virtue ethics builds on the individual as the source of reasoning and motivation behind actions. Decision-making is a product of an individual's moral wisdom and character (Annas 2006; Driver 2007). Moral wisdom develops through cumulative experience linking it with middle ground's iterative characterization. Virtuous practice often begins through the emulation of another's virtuous behaviour. As actions become habitual they take on normative status (LaFollette 2007; White 1991).

Doing what is right for everyone characterizes virtue ethics but "the right thing" is based upon many variables including cultural worldview and context (Koller 2007; Littlejohn 2006). In repatriation's terms, it implies negotiation in determining the correct course of action while being mindful of virtues that contribute to functional repatriation-related practice and policy that is responsive to community interests (see LaFollette 2007).

As a stand-alone tool for analysis, virtue ethics does not guide action in specific circumstances. It can also be difficult to discern individual motives and habits without the ability to track long-term behaviour. Examining negotiated repatriation using virtue ethics places the onus on the individual, who is significant, however it neglects external influences of personal and social issues that influence behaviour. Thus, virtue ethics may be grounded with a dose of pragmatism (LaFollette 2007).

Pragmatism as a philosophical movement originated at the turn of the twentieth century, through an intellectual corpus led by John Dewey and William James. It is characterized by practical decision-making based on experience, and emphasizes the importance of practice, which is also a crucial element to examining virtue ethics (LaFollette 2007:216; Margolis 2006:1; Putnam 2006:278). Slogans such as “experience is doing[,] as well as cognizing” (Putnam 2006:278), encapsulate the spirit of this movement in which the value of theorizing emerges through practice (LaFollette 2007:216). Pragmatic reasoning promotes flexibility in finding middle ground on heritage issues. Negotiators concentrate on an “end-view” rather than an end goal. The term end-view replaces a fixed goal, allowing for multiple beneficial resolutions (Putnam 2006:282).

Pragmatism, like virtue ethics, acknowledges an emotional connection to values, and the distress that can occur when they conflict. Practice involves the virtue of foresight and goal orientation, which often reflect group or personal values. Pragmatists believe that people can have objective value judgements and are not limited by a putative ‘value free’ vocabulary. Those ideals animate discourse on pragmatism and virtue ethics. They intersect in the middle ground, where “moral concerns only make sense if we experience a common world and have some control over our actions” (Putnam 2006:279). Starting with this insight, pragmatists assert that a common world is negotiated in middle ground.

## 1.5 Main Research Themes

Three pivotal themes structure my inquiry into negotiated repatriation and the search for middle ground.

### 1.5.1 Theme one: Indigenous communities, museums, and archaeological policies and practices experience change through negotiated repatriation, which foreshadows the emergence of an ethical middle ground.

Iterative engagement between Indigenous and curatorial cultures in the context of contested property has transformed museums, archaeology, and Indigenous community protocols (Killion 2007a; Zimmerman 1992). My case studies examine repatriation and reburial-related changes in community and organizational practice and policy, and efforts on the part of all groups to legitimize their positions (White 1991). I will demonstrate subsequent and related changes influencing the broader scope of collections management, from research and collections access to conservation. Case studies will scrutinize how negotiating parties reach consensus and meet stewardship goals by accommodating the concerns and values of both Indigenous and curatorial “cultures.”

### 1.5.2 Theme two: Negotiated repatriation effects change in ethical and intellectual currents within and among Indigenous communities, archaeology, and museums.

The dynamics of negotiated repatriation reflect changes in ethical and intellectual trends. This theme addresses the broader issue of changing attitudes within Indigenous and curatorial cultures. In the past, Native communities were seldom engaged in a way that allowed them to understand or support the goals of archaeologists and museums. Conversely, archaeologists did not comprehend or appreciate the depth and breadth of Indigenous knowledge, cultural values, and spiritual priorities within Indigenous communities (R.T.1). Object oriented scholars were not as concerned with contemporary

descendants of the cultures they studied (Zimmerman 1992; McLeod O'Reilly's discussion comments on the "Raison d'être" of the museum 1984:16). Often, neither archaeologists nor Indigenous peoples recognized complementarity in their respective knowledge and values (Quick 1985).

Indigenous and curatorial cultures are changing through external and internal influences. In response to decades of debate, archaeologists and museum personnel are changing a range of policies including research, interpretation and exhibition (D.B.1; G.C.1). Though data are lost due to repatriation, many archaeologists and museum personnel are choosing to concentrate on the benefits to future research and partnerships (J.M.C.1; L.T.1). Indigenous communities are also acknowledging the benefits of archaeology and museums, while asserting authority over their tangible and intangible property in formats such as research protocols (Colville Business Council Resolution 1981; Ktunaxa Nation 1998).

### **1.5.3 Theme three: Indigenous community relationships with museums and archaeology demonstrate the negotiation of group identities, object values, and prospective partnerships.**

The retention of tangible and intangible property relates to Native, museum, and archaeological identity (Hubert and Fforde 2002; Kramer 2004). Indigenous communities express their group identities through ceremony, which often involves material objects as tangible expressions of spirituality, law, or both (i.e., medicine bundles, *wampum* belts) (Conaty and Janes 1997; Fenton 1989). Conversely, research trajectories and classes of curated objects define museum identity (Chapter 2)(Ames 1987; Colwell-Chanthaphonh and Ferguson 2004). Case studies will examine if the negotiation of object values and identity are variables that influence potential collaboration between curatorial and Indigenous communities.

## **1.6 Contribution of Thesis**

My thesis contributes to the study of negotiated repatriation in North America and to knowledge regarding practice, outreach, and policy at the interfaces of Indigenous and curatorial cultures. I will discuss what has helped and hindered successful engagement and partnership building amongst diverse communities through the personal experiences of experts in North America.

I argue that although there is no single “right” way for archaeologists and museum professionals to consult with or otherwise engage Indigenous and descendent communities, there are conditions that favour and facilitate productive dialogue (Fisher and Ury 1991). By embracing ethical guidelines and cooperative engagement, curatorial communities signal to Indigenous communities their good faith interests in addressing inequities and dismantling barriers to collaboration (Colwell-Chanthaphonh and Ferguson 2004; Merrill et. al.1993; The Panel Report 1990).

## Chapter 2: Historical and Conceptual Context

Repatriation and reburial as an international trend originated in the 1960s when Indigenous communities in Canada and the U.S. began making formal requests to museums and other repositories for the return of cultural property. This phenomenon was part of changes in organizational ethics, practice, policy, and relationships as peoples from Asia, Africa, and Latin America advocated for the repatriation of objects procured during colonial occupations. Resolutions adopted by the United Nations General Assembly and UNESCO, such as the “Intergovernmental Committee for Promoting the Return of Cultural Property to Its Country of Origin or Its Restitution in Case of Illicit Appropriation,” helped formalize initial guidelines on repatriation (Robinson 1980:55-56). These statements catalysed global awareness of Indigenous heritage concerns and resulted in some early North American repatriations (Bell 2009; Bray 1995; Robinson 1980:55).

To understand negotiated repatriation this chapter discusses literary themes that influence the process. I examine dynamic tensions inherent in topics such as sovereignty and identity, ownership, sacredness, collections values, and partnership. These concepts illustrate different positions taken by Indigenous and curatorial communities in repatriation negotiations. Tables 2.1 and 2.2 highlight milestones in North American repatriations, reburials, and government policies. Indigenous communities’ assertions of control over their heritage show the time depth of struggles, and enable comparisons between perceptions of what comprises middle ground in North America.

**Table 2.1 Precursors to Repatriation in North America, 1763-1960.<sup>1</sup>**

<b>Date</b>	<b>Event</b>	<b>Milestone</b>
1763	<b>The Royal Proclamation</b>	The British Crown recognizes aboriginal rights and title (Indian and Northern Affairs Canada 2007). “...Confederation should have meant giving them equality as citizens while protecting their communal rights to be different” (Ignatieff 2000:58).
1865	<b>Indian Graves Ordinance [Repealed and replaced 1867; repealed 1886]</b>	British Columbia attempts to thwart looting of Native human remains and grave goods. Looting is approached as a crime against the British Crown not Indigenous peoples (Klassen 2008; Spurling 1986; Yellowhorn 1999). The ordinance indicates developing interests in Native antiquities and materials for research, and the erosion of Indigenous sovereignty over their cultural property.
1883	<b>Apache Repatriation Request</b>	White Mountain Apaches demand the return of looted materials from U.S. Army soldiers at Fort Apache (Welch 2000:76).
1899	<b>Onondaga Repatriation Request</b>	Onondaga pursues legal action against collector John Thatcher for his collection of <i>Wampum</i> belts. A 90-year repatriation struggle ensues (Hill 1995).
1906	<b>Federal Antiquities Act</b>	Similar to the Indian Graves Ordinance, this Act is intended to prevent looting of archaeological materials. Native cultural property belongs to the Federal Government (Hill 1995). It represents the progressive erosion of Native sovereignty through the appropriation of ownership of cultural property.
1951	<b>Indian Act Sec. 91 and 92 [R.S. 1876; amended 1951]</b>	The Crown maintains control over trade with Native people by prohibiting government agents from transactions involving cultural property (Yellowhorn 1999).
1952	<b>Potlatch Prohibition Rescinded</b>	The Native Brotherhood, a precursor to the Assembly of First Nations (Valaskakis 2005), successfully lobbies the Canadian Government to rescind the potlatch prohibition (Hill 1995); foreshadowing political advocacy on behalf of Indigenous interests throughout North America.
1960	<b>Archaeological and Historic Sites Protection Act (AHSPA) [amended 1972]</b>	Responding to public concern for archaeological resource preservation, this Act protected sites on crown land and designated private land. It required a permit for archaeological excavation in British Columbia. The AHSPA’s Archaeological Sites Advisory Board, agreed to the Union of British Columbia Indian Chief’s request to make permission from Indigenous communities a permit requirement, a stipulation removed with the Heritage Conservation Act (Klassen 2008).
1960	<b>U.S. Reservoir Salvage Act</b>	This Act allowed the development of salvage archaeology, facilitating the growth of Native collections in museums (Hill 1995). The 1960s-1970s also saw activity in Canadian salvage archaeology, archaeological resource management, and growth in museum-based research and collections (Spurling 1986).

<sup>1</sup> Grey shading indicates Canadian events.

## 2.1 Repatriation

Repatriation means recognizing people's stake in their heritage, which in practice can mean such things as negotiated return of objects and related cultural materials, and/or sharing authority and responsibility for care and interpretation of collections in the museum.

UBC Museum of Anthropology Repatriation  
Guidelines ([UBC MOA] 2000:1)

Repatriation occupies a prominent place on the spectrum of issues negotiated between Indigenous and curatorial cultures (D.D.1; Thompson 1991). The term entered the museum literature before 1980 (Childs 1980; Robinson 1980), but “repatriation” became the operative spirit and word in NAGPRA legislation. It crystallized in definitions and dynamics after 1990. Prior to that time, most Canadians thought of constitutional matters if they thought of repatriation at all (Eldon Yellowhorn, pers. comm. 2010).

To many, NAGPRA is a legislative breakthrough (Able Jr. 1991; J.B.1; J.J.1; R.T.1; S.A.1). Throughout my research, reference to repatriation in conversations with heritage professionals in the U.S. led to discussions of NAGPRA because of its current relevance to Indigenous and curatorial community practice and policy in general. Some experts I spoke with began their careers after the legislation, therefore NAGPRA was already a primary frame of reference for their professional lives (B.G.1; P.L.1).

Repatriation's early emergence in curatorial literature, and the existence of federal law in the U.S. should not detract from the importance of negotiated aspects of repatriation. Moreover, Canada's lack of federal repatriation legislation does not indicate the absence of similar heritage concerns. Although it may seem fixed, the definition of “repatriation” is as negotiable on an international, “extra-NAGPRA” level as the act of repatriation itself,

varying between individuals, organizations, legislative designations, and countries (Nanaimo District Museum 2007).

For some, repatriation has become synonymous with the term deaccession (G.C.1), which signifies a holding organization's relinquishment of title to cultural property. Some museum professionals regard only returned accessioned objects as "repatriated." For example, at ASM agreements in the early 1980s recognised tribal prerogatives for the disposition of excavated materials, yet the museum held them for a time under federal agency permit (Ravesloot 1990). Because ASM never held legal title, and the collection was unintended to become part of the museums permanent holdings, not all staff considered the materials "repatriated" (A.F.1). For others, repatriation is the "return of human remains or objects, to a group or individual, having a cultural affiliation or biological relationship with the individuals represented by the remains or objects" (L.T.2).

Repatriation does not have to be physical, confirming the importance of pragmatic negotiation. "Repatriation is about the access we in the museum field give the Indian community to these objects for its use in contemporary community building" (Garfield 1991:56). Its form is negotiable because access ranges from physical to digital. For example, the 2000 "Four Directions Project," a collaborative venture led by the National Museum of the American Indian (NMAI) to create virtual museums, is a form of digital repatriation (Resta et. al. 2002). Digital and figurative repatriation can fulfil some requests. First Nations such as Squamish Nation, among others, have participated in knowledge repatriation in order to revitalize customary practice (J.G.1; Kramer 2004; Phillips 2005). In other situations museums transfer legal title to the Indigenous community, but the cultural property physically remains in the organization's repository (Winter and Henry 1997).

Terms for repatriation also vary. In the U.S., “repatriation” is often conflated with reburial (Quick 1985; Society for American Archaeology [SAA] 1988). Other synonyms such as “restitution” (RSM 2006), “reclamation” (Blair 1979a), and “return” might allude to the intent but are narrowly construed. As I will demonstrate, “return” does not always represent transfer of legal ownership from museum to tribe. Throughout the 1990s Glenbow Museum (Chapter 5) returned many sacred medicine bundles. The bundles were returned as long-term loans, yet legal title remained with the museum. Repatriation discussions were occurring during this period, but for reasons explained later, repatriation was not an option. Dictionary definitions seldom capture the nuances that emerge when negotiations begin and ethical optima must be weighed against pragmatics.

**Table 2.2 History of Repatriation in North America, 1970-2008.**

<b>Date</b>	<b>Event</b>	<b>Milestone</b>
1970	<b>American Indian Student Association</b>	To publicise double standards between Native and non-Native grave disturbance for scientific research, the organization submits a proposal to the National Science Foundation to excavate a pioneer cemetery (Hill 1995).
	<b>Hopi Repatriation</b>	The Heard Museum repatriates a Kiva mask (Blair 1979b:18).
1973	<b>University of Michigan Repatriation</b>	The Museum of Anthropology returns ancient Native American remains, the oldest dates to 2,000 years old (Hill 1995).
1974-1979	<b>Repatriation of the Kwakwaka'wakw Potlatch Collection</b>	In 1974 the Canadian Museum of Civilization board of trustees agreed to conditionally repatriate the collection if museums were built in the receiving communities. The Kwakiutl Museum at Cape Mudge and the U'mista Cultural Centre in Alert Bay were constructed. The 1979 repatriation was the first large repatriation in Canada (Cranmer-Webster 1988; Hill 1995).
1975	<b>Iroquois Confederacy Repatriation</b>	The Buffalo and Erie County Historical Society removes Iroquois human remains from exhibit and repatriates them to Tonawanda reservation (Hill 1977).
		University of Buffalo repatriates human remains after testing, as per New York State legislation (Hill 1977).  The Confederacy becomes the permanent holder of several thousand Wampum beads, through a renewable yearly loan from the Buffalo and Erie County Historical Society. The event influences the Nation's perspectives on museums (Hill 1977:45).
1976	<b>Lewis Central School Site Excavation, Reburial, and Policy Change</b>	An agreement between archaeologists and the Omaha allows scientific testing and respectful reburial of excavated human remains. Ensuing discussions result in changes to the Iowa state burial code; establishing a state cemetery for ancient human remains which no archaeologist challenges (Anderson et. al. 1978; Zimmerman 1986).
1976	<b>Repatriation to the Haida Nation</b>	The Royal British Columbia Museum's (RBCM) first repatriation of monumental poles begins a series of repatriations and a partnership between the museum and community (Skidegate Repatriation and Cultural Committee [SRCC] 2009).

1977	<b>Union of Ontario Indians Political Action</b>	The Union places Archaeologist Walter Kenyon under citizen's arrest for excavating a burial. They charge him with failure to comply with the Cemeteries Act (Hill 1995:77). Negotiations lead to guidelines for the treatment of human remains. The human remains are reburied, and objects split between the Royal Ontario Museum and Woodland Cultural Centre (Grimes 1986; Hill 1995).
1977	<b>California Native American Heritage Commission</b> <b>Zuni Pueblo Repatriation Efforts</b>	Introduced to supervise state archaeological excavations, and determine the decedents who subsequently decide the dispersion of excavated materials (Meighan 1993). Representatives begin their influential nation-wide efforts to repatriate stolen <i>Abayu:da</i> figures (Merrill et. al. 1993).
1984	<b>Modoc Repatriation</b>	National Museum of Natural History policy enables the repatriation of named individuals to decedents and repatriates five sets of human remains. Repatriation initiatives resulted in the National Museum of the American Indian Act (National Museum of Natural History [NMNH] 2009a; W.B.1).
1985	<b>National Museum of Natural History Inventory Summary</b>	The NMNH sends U.S. tribes a summary of museum collections by state. Resulting in a repatriation request by the Blackfeet (NMNH 2009b).
1987	<b>Zuni Repatriation</b>	After nine years the Smithsonian Institute repatriates two <i>Abayu:da</i> . This case exemplifies negotiated repatriation and influences Indigenous and museum communities (Merrill et. al 1993).
1988	<b>Stanford University</b> <b>Smithsonian Institution</b>	The University voluntarily supports reburial, followed by the University of Minnesota, South Dakota, and Nebraska. Remains ranging from 400-3,000 years old, collected over a 40-year period are repatriated to California tribes (Meighan 1993). Blackfoot human remains and funerary objects are repatriated to the Blackfeet of Montana (Meighan 1993).
1988	<b>Wampum Belts Repatriated</b>	After reevaluating accession and repatriation policies the National Museum of the American Indian repatriates the belts on the premise of ethics (Hill 1995; Fenton 1989; Tooker 1998).
1989	<b>National Museum of the American Indian Act</b>	The NMAI Act, 20 U.S.C. §80q (P.L. 101-185), amended 1996 (P.L. 104-278), is repatriation legislation followed by the Smithsonian Institute which is exempt from NAGPRA (Senate and House of Representatives 1989).
1990	<b>Regina vs. Sparrow</b>	This ruling influences policy development at the Royal Saskatchewan Museum, and was the first in a series of rulings recognising that “aboriginal rights exist independently of recognition by the crown” legislative diminishment of rights “must be clear and plain with valid intent” (RSM 2006:4-5).

1990	<b>Native American Graves Protection and Repatriation Act</b>	Landmark repatriation legislation requiring museums and holding agencies receiving federal funds to provide collections inventory summaries to potential descendent communities. It enables culturally affiliated communities to repatriate sacred ceremonial objects, cultural patrimony, associated and unassociated funerary objects.
1992	<b>The Task Force Report</b>	Collaboration between the Canadian Museums Association (CMA) and the Assembly of First Nations results in guidelines for repatriation-related museum policy and practice (Assembly of First Nations-Canadian Museums Association [AFN-CMA] 1992).
1994	<b>Saanich Repatriation</b>	The Simon Fraser University Museum of Archaeology and Ethnology purchases a seated human figure stone bowl from a private collector to repatriate to the Saanich Nation (Winter and Henry 1997).
1996	<b>Royal Commission on Aboriginal Peoples</b>	This report encourages the federal, provincial, and territorial governments to designate aboriginal people as owners of their cultural property and associated cultural and heritage sites (RSM 2006:6).
1997	<b>Delgamuuk Decision</b>	Oral history reaches parity with written history in the supreme court's landmark decision for the Gitksan and Wet'suwet'en. The court recognizes that the Indian Act of 1867 did not extinguish aboriginal title (Government of Canada 2000).
2005	<b>Squamish Nation Repatriation Haida Nation Repatriation</b>	The CMCC repatriates human remains in the Nation's first repatriation (J.G.1). Simon Fraser University department of Archaeology repatriates the last known outstanding human remains in North America (E.Y.1).
2006	<b>Haisla Repatriation</b>	The G'psgolox Pole returned home to Kitimaat, BC from the Museum of Ethnography in Stockholm, Sweden after a 77-year absence. The pole was removed by an Indian Agent in 1929, and sold to the museum. Negotiations conducted over 15 years resulted in an agreement between the Haisla and the Museum to exchange the original pole for a replica, and to store the original in a climate controlled environment. "It has become a catalyst for cultural revival and renewal" (Jacobson 2006; National Film Board of Canada 2003).
2008	<b>Western Apache – Amerind Repatriation</b>	The White Mountain Apache receive a collection of Gaan on behalf of the Western Apache after a protracted struggle with the privately run Amerind Foundation (John R. Welch, pers. comm. 2010). The museum designates the collection as stolen property and complies with NAGPRA. The Amerind has undergone changes in policy and practice in response to Indigenous repatriation requests (J.W.1).
2008	<b>Tseycum Repatriation</b>	55 ancestors are repatriated to Saanich, Vancouver Island, BC, from the AMNH. The remains taken by archaeologist Harlan Ingersoll were sold worldwide, and provided a catalyst for collaboration between the band and the repatriating museums (Muse 2008:18).

### 2.1.1 Sovereignty and Identity

These are sacred things, which define the culture. They are taking ownership of their culture, and proving to the non-native world that they are strong, and can look after these items, and that the ceremonies are still going, and the knowledge is still there.... There is [a] sense of regaining or maintaining nationality, identity, and strength in who they are.

Gerald Conaty (G.C.1)

In this section, I discuss the connection between sovereignty and identity as these concepts pertain to repatriation and the creation of middle ground. Sovereignty is a nation's ability to assert effective control about the state of affairs within its borders. It links directly to self-determination and self-governance (making and enforcing rules) (Cornell et. al. 2003:1-3). Repatriation is an expression of tribal sovereignty (A.R.1). Within negotiations, the overarching issue is control (Thompson 1991). "Once the political nature of museum interaction is overtly recognized, negotiations and partnerships are better able to proceed equitably and openly" (Conaty 2004:3-4). Repatriation is a way to mitigate the impact of "physical and spiritual colonialism," and regain something that resembles self-determination (Hubert and Fforde 2002:3).

The principle of Native sovereignty is fundamental to the quest by North American Indigenous peoples' for self-determination (Childs 1980; S.A.1). To Native communities, signing treaties with foreign nations acknowledged the existence of aboriginal sovereignty (Childs 1980; Valaskakis 2005). Law making, institution building, and the regulation of property are important affirmations of self-determination (Childs 1980; Suagee 1995). Through the 1980s and 1990s Native peoples contributed to developing legislation, guidelines, and other initiatives affecting their cultural property (Thompson 1991; Zimmerman 1986).

Land claims negotiated with federal and provincial government agencies address repatriation. Publically funded museums such as the Canadian Museum of Civilization and the Royal British Columbia Museum are involved in treaty talks (Bell 2009; Bell and Patterson 1999). The Nisga'a Final Agreement (Canada et. al. 1998) negotiated the repatriation of specific collections. The government of Canada and the Council for Yukon Indians Umbrella Final Agreement influenced the territorial government's heritage policy (E.Y.1; INAC 1993). The availability of means and methods to negotiate successfully remain unevenly distributed among communities (Bell 2009). However, these examples illustrate that negotiated repatriations over the last 20 years are approached with increasing respect for Indigenous sovereignty, which changes the dynamics of relationships in middle ground.

Repatriation efforts are not unique to the post-NAGPRA era. Cases existed prior to the twentieth century before popular conceptions of the movement, demonstrating its enduring connection to cultural property and identity (Hill 1995; Welch 2000). Curator Deborah Doxtator explains the association between museums, sovereignty and identity.

You have to own the responsibility of who you are and what you belong to... You have to own who you are because if you don't take the responsibility, somebody else will, and, when that happens, you end up having to live within the confines of what other people think your life should be [cf. Kramer 2004:162].

Doxtator alludes to longstanding conflicts between curatorial and Indigenous cultures (Bray 2007; Bray and Killion 1994; Thomas 2007). Historically, as a reflection of social and political trends, museum exhibits dehumanized Native people through displays of human remains, decontextualized objects, disrespectful storage, and collections access restrictions. Exhibition techniques based on museum and archaeological misconceptions of Native people eroded their sense of identity by reducing them to research objects, as part of

North America's natural history (Blair 1979a; Ferguson 1996; Ferguson and Colwell-Chanthaphonh 2006). Native communities want to regain control of representations of their history and, in so doing, their living cultures and their destinies (Hill 1977).

Talk of repatriation and reburial became more common during 1970s in North America (Table 2.2). The excavation of the Lewis Central School site in 1975 is an early example of accommodation, legitimization, and good-faith negotiations. Ancient human remains were uncovered during development for the site. The contractor notified the Potawatomi County sheriff, who contacted several experts for advice on how to proceed. Ultimately, the state archaeologist, D.C. Anderson, got involved (Anderson et. al. 1978).

The ancient provenance of the remains affected their legal status. Native American burials were unprotected under Iowa cemetery laws before the 1970s. To avoid assumptions about the status of the human remains, the Department of Health recommended disinterment and study; in contrast, the local Omaha tribe insisted on reinterment without study. While some authorities involved were inclined to heed this request, anthropologists wanted to classify the human remains claiming the ethnicity was unclear (Anderson et. al 1978:186-187). Iowa legislators recognized the need for dialogue among these groups (Anderson et. al. 1978:183-185).

Anderson consulted with Running Moccasins, a local Yankton-Sioux activist, for advice on how to proceed. She agreed with a proposal to complete a local osteological study, which she oversaw, and began liaising with the Omaha and other Native leaders. In doing so Running Moccasins favoured Anderson's archaeological approach over the local undertaker's process of removing the remains using a bulldozer. Subsequently, she and

Anderson applied for state funding to complete the excavation. Reinterment occurred in a local cemetery (Anderson et. al. 1978:187).

In 1977, the Wheelwright Museum in Santa Fe, New Mexico returned medicine bundles to the Ned A. Hatathli Cultural Centre Museum at Navajo Community College (Table 2.2). The cultural centre reclaimed the bundles in compliance with the Wheelwright's conditions, and developed a hybrid loans policy allowing bundle transfers to qualified ceremonialists (Frisbie 1987:341-344). The policy of the Navajo Medicine Men's Association influenced the Piikani Long Time Trail Society's protocol (P.R.1). The same year the California Native American Heritage Commission gained significant authority over supervisions of archaeological excavations (Meighan 1993) (Table 2.2).

A convergence in aspirations for cultural sovereignty and political struggles in Canada and the U.S. highlighted the 1970s (Valaskakis 2005). By 1973 repatriation debates occurred in university classrooms in Canada (B.W.1), demonstrating a nascent professional awareness integrated into educational curricula. Excavations in Haida Gwaii led to the creation of a museum to curate local collections at the village site of Qay'Inagaay in 1976 (Skidegate Band Council 2005-2007; B.W.1). The same year an Ontario Union of Indians protest at the Royal Ontario Museum lead to policy development on human remains (Grimes 1986). Between 1974-1987, the Kwakwaka'wakw negotiated a conditional repatriation of potlatch materials from two Canadian museums. Their struggle demonstrated an evolution in organizational practice as museums began to accept repatriation requests (Table 2.2). The sequence of events in these cases provide initial glimpses of the formation of middle ground described by Richard White, as well as the subsequent development of legislation.

Early on, cautious North American museums cited concerns about the fate of collections after repatriation (Winter and Henry 1997; Zimmerman 1992), and fear of precedent setting (Blair 1979a:128) as everyone tried to grasp each other's positions (Quick 1985). Repatriation provided impetus for establishing Indigenous community museums (B.W.1). Public museums helped them to repatriate and receive loans while exposing a conflict between Indigenous sovereignty and the organization's perceived authority (Cranmer-Webster 1988).

Tribal museums are an indicator of evolving middle ground where Indigenous communities use Western customary practice to appeal to imposed expectations and community goals (i.e., preservation, cultural education, tourist dollars). Neither Canadian nor U.S. federal governments funded Indigenous museums until the 1970s (Ames 1987). By 1980 there were over 125 Native owned North American museums (Hanson 1980).

Indigenous people have suffered a loss of hope and many feel that control over their material culture aids the reclamation process (Horse Capture 1991:50). Yet, in the U.S., NAGPRA excludes non-federally recognized tribes, illustrating the conflict between self and group identity, and legal identity (Goldberg 1997; Watkins 2004). Cal NAGPRA, enacted in California (AB 978, 2001), was an attempt to mitigate this inconsistency by providing rights to excluded tribes and placing the burden of proof on museums (Weiss 2006).

Indigenous people still associate their identity with the cultural property that comprises museum and archaeological collections (Hubert and Fforde 2002; Kramer 2004). However, museum identity also resides in these collections. Issues of identity and representation remain contentious. They are manifested in perspectives on the Universalist museum approach, which maintains that cultural property belongs to all humanity. It

legitimizes appropriated collections with claims of fostering intercultural tolerance through the representation of a global identity (Curtis 2006; O’Neill 2004).

The Universalist perspective inspired the 2002 “Declaration on Importance and Value of Universal Museums” (International Council of Museums 2004). It questioned contemporary accountability for past ethical and curatorial practices, claiming decades of care make collections part of a holding nation’s heritage and identity. It portrays repatriation as a threat to national heritage. Both the Berlin Museum and the British Museum adhere to Universalist museum theories (O’Neill 2004; Schuster 2004). Many Indigenous people and heritage professionals see in this stance an attempt to disguise resistance to repatriation with questionable claims concerning legal rights to ownership, ethical obligations to national integrity, and self-promoting notions of heroism in rescuing cultural treasures (Abungu 2004; Schuster 2004). Blackfoot bundle keeper Korine Many Bears, explained her thoughts on the Universalist perspective:

For years, years—and think of what happened yesterday with the apology [Prime Minister Harper apologized for residential schools July 11, 2008]. It took so many years to get the government to say they are sorry. We are under this control for almost 150 years, or more since the discovery of Canada. We were never a part of the Canadian landscape in any shape or form, and suddenly people on the outside are saying, ‘It’s our collective property.’ No, I don’t think so. Someone’s heritage is not a collective open-ended thing. It belongs to the tribe. We were never part of the Canadian fabric, only until dignitaries like the queen come over...and then we become the collective property. It is a private thing, it is meaningful to us, it is meaningful to the tribe as a whole, it is meaningful to a culture. For someone to come in and say, ‘We want to display it because it is part of our collective heritage’...I don’t think so [K.M.B.1].<sup>2</sup>

As curatorial theories and methods change, museums are developing new strategies to appeal to their audiences by creating more welcoming environments and addressing their

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<sup>2</sup> Our conversation took place June 12, 2008, shortly after the Canadian Federal Government apologized to Indigenous Canadians for their treatment in residential schools (Canadian Broadcasting Corporation 2008).

accountability to Native communities. Whether through hybrid practice or other modes, negotiated changes are ethical and practical because they can improve the integrity of collections interpretation, archaeological research (Killion 2007a:5; Nicks 1992), and the public identity of organizations (J.W.1; Phillips 2005). An example of this is the Amerind Foundation, a private museum in Dragoon, Arizona, which transformed in the early 2000s, becoming more inclusive of Indigenous perspectives and following NAGPRA (Amerind Foundation Board of Directors 2008; J.W.1).

### **2.1.2 Ownership**

Repatriation cases reflect the ongoing negotiation of concepts, terms, and rights of ownership. This concept underpins discussions in the challenge between groups looking for common purpose. Meaning imbued to possessions is the origin of ownership in Indigenous and Western legal systems, but the representatives of the different systems may not agree on formulae for acceptable practice or conflict resolution (White 1991). This quandary arises during negotiations in which one legal system has authority. Such imbalances cannot deliver moral authority or ethical legitimacy because to accept the status quo is to legitimize it in an effort to control contested property (White 1991:90; Zimmerman 1992:44).

When addressing repatriation requests most organizations determine the course of action through cultural property classifications. Objects fall into categories depending on the secular attributes, and their sacredness. While these classifications can at times be separate, they often overlap. One contentious definition concerns objects of cultural patrimony (Trope and Echohawk 1992:66). It is differentiated from individually owned materials as it represents “an object having ongoing historical, traditional, or cultural importance central to [a] Native American Group, or culture itself, rather than property owned by an individual

Native” (NAGPRA 25 U.S.C. 3001 § 2[3D]) (see also AFN-CMA 1992). This distinction makes cultural patrimony inalienable, the circumstances in which materials were acquired bears upon legal and ethical rights of ownership.

Differentiating between cultural patrimony and individual property exposes differences that inject fluidity into definitions of ownership and necessitate negotiation. For example some museums have long classified Blackfoot sacred medicine bundles as individually owned, whereas, the parties requesting their repatriation saw them as communal property (Bell et. al. 2008; Conaty 2004). Dependence on anthropological and ethnographic literature, representing a bias of scholarly perceptions of a culture, can elicit contradictions between tribal and Western definitions of ownership (N.B.1). This underscores the artificial nature of definitions because Indigenous classificatory systems are equally susceptible to amendment (McLeod-O’Reilly 1984:19).

Negotiation between Western law and Indigenous customary law began in the late 1960s, when Indigenous people began educating archaeologists and museum professionals about their perspectives (Ferguson et. al. 1996; Hill 1977). Curatorial responses ranged from rejection to understanding (Ames 1988; McBride 1971; Zimmerman 1992). Between these polar extremes, some understood Native concerns, yet also perceived professional obligations, which resulted in their hesitancy to depart from curatorial protocol (Bowman 1989; Zimmerman 1992, 1997).

Museologist David Penney illustrated the complexities of institutional development and the implications of deviating from the status quo. This common refrain in the curatorial culture of the 1970s and 1980s animated the internal dialogue of the museum profession,

which considered revisiting its mission of educating the public at a time of rapid institutional change in North America.

When institutions open themselves to representing the voices of Indian people, they are making a commitment to rewriting the histories that have contributed to their oppression. The mythic narratives that glorify the expansion of the United States and Canadian civilization into the landscape of North America stand at the center of nationalistic ideals and it will not be easy to dispense with them. Alternative narratives that critique those who have and have not had access to power and address the subordination, historically and at present, of those who have not-- ... women, Hispanics, and Native Americans, to name a just a few-- remain uncomfortable to much of our museum audience. This fact does not excuse our obligation, morally and ethically, to tell them, but we should not be surprised when the formidable powers of control are aroused in response [Wilson et. al 1992:11].

As the 1980s ended, negotiated definitions of legitimate ownership by museums replaced the monologue of self-assurance causing a shift in middle ground (Fenton 1989). Although complications emanated from conflicting values between descendent communities and “the society of the museum” (Burcaw 1983:8), conversations continued about cultural property acquired legally in Western terms, yet inappropriately in Indigenous terms. This discrepancy exposed a division that sometimes exists between ethics and legislation, when a museum’s right to ownership goes unchallenged because it is supported by documentation of sale or donation by a member of an Indigenous community (Bell 2009; Burcaw 1983).

Through archaeological legislation lawmakers legalize excavations and curation of artifacts despite concern expressed by descendent communities. Provincial, state and federal museums, and agencies designated in permits and in organizational mandates, legally hold most collections in public trust (Spurling 1986; Welch 2007; Zimmerman 1992). This status quo works to crystallize a particular protocol and responds slowly to the ethical debates taking place in the broader discipline. Title of ownership supported by Western law does not always indicate ethical retention of materials, as Chapters 4 and 5 demonstrate (American

Association of Museums [AAM] 1988). The problem lies in transplanting the ethical debate into public discourse (Zimmerman 1992). Negotiations of ownership in Western legal terms are complicated if one examines the social environment and jurisprudence at the time of museum acquisition (Blair 1979a; Burcaw 1983; Feest 1995).

The 1988 “American Association of Museums Policy Regarding the Repatriation of Native American Ceremonial Objects and Human Remains” (AAM 1988:4) encouraged negotiated repatriation for objects in specific categories. It recognized changing societal ethics regarding collections access and re-emergence of these values in institutional, organizational, and legislative development. The policy symbolized institutional recognition of Native interests, and the struggle to find middle ground within a museum mission (AAM 1988). Similar recognition of repatriation-related issues occurred in Canada in 1988. The controversial museum exhibit, “*The Spirit Sings: Artistic Traditions of Canada’s First Peoples*,” at Glenbow Museum became a catalyst for negotiated organizational change. The subsequent Assembly of First Nations-Canadian Museums Association Task Force Report discussed in Chapter 5, provided museum policy guidelines that altered Canadian museums practice (AFN-CMA 1992; Phillips 2005:87).

Heritage policy varies across Canada compared to the U.S., where federal legislation has boosted uniformity. In Canada, concern persists over restrictive repatriation legislation (Bell 2009:16-17). Legislative acts and ethical guidelines influence the parameters of ownership negotiation. Examples of these include the British Columbia Museum Act (S.B.C. 2003 c.12 s.3), which governs the Royal British Columbia Museum (Province of British Columbia 2004), and the federal Museums Act (S.C. 1990 c.3 ss.3, 5, 6, 8), which governs the Canadian Museum of Civilization. The Acts designate the museums as corporations and agents of the government (Government of Canada 2008).

Professionals are compelled to consult with Indigenous communities. In 1999, the CMA advised museums to negotiate with descendent communities for the repatriation of human remains as well as culturally sensitive and associated burial objects (CMA 2006:10). In 2005, the British Columbia Museums Association released best practice guidelines to assist in building community partnerships (Neary 2005). Likewise, the British Columbia Association of Professional Archaeologists endorse guidelines for conducting excavations that emphasise respect for community directives on collections management (BCAPA 2009). Many repatriation policies now reflect professional ethical awareness (CMCC 2001; UBC MOA 2000; Royal Ontario Museum 2002 [amended 2008]; Simon Fraser University 2005 [revised]). Unfortunately, guidelines “only carry the weight of moral suasion” (Hanna 2003:131) leaving practices vulnerable to shifting individual and organizational priorities.

Changes in consultation practices and hybrid solutions signify the slow restructuring of relationships between curatorial and Indigenous cultures. Respect for different legal systems and definitions of ownership are a good starting point. Indigenous community efforts to reclaim collections by invoking customary law have gained a degree of acceptance over time as evident in policy and legislation (e.g., UBC MOA 2000; Province of British Columbia 2009; AFN-CMA 1992:18). The lesson that drawn from these developments is that negotiated repatriation does not exclude legislation, nor will legislation automatically favour the ownership status of the holding organization.

### **2.1.3 Definitions of Sacred Objects**

Sacred objects – objects necessary for religious observance – are culturally unique. Neither dictionary definitions of sacred nor strict legislation allow for the diversity manifested in Indigenous spiritual beliefs (Shapiro 1998). Activism in the late 1960s incited

new definitions of sacred that transcended tribal borders to achieve iconic status on a “pan-Indian” level, and appeared to challenge archaeology and museums (Zimmerman 1992:39). The struggle Native and curatorial cultures face negotiating common understanding of the concept continues.

Sacredness is an abstraction that eludes efforts to capture its essence. For example, it has been said that Hopi consider human remains sacred (Brown 2003), while the Governor of the Zuni explained in 1989 that:

According to the Zuni belief system, when a person dies the spirit leaves the body after four days and never returns to the skeletal remains. Death is a clan and family matter and a very sad event. To remind one of death in the family and return bones desecrated by exhumation would be extremely insensitive from the cultural perspective of the Zuni. Questions would arise as to which clan would accept the remains, feed them, wash them, ready them for reburial, plant prayer plumbs, and conduct the fast...Although human remains [are] not considered sacred to Zuni, they should nonetheless be treated with respect [Ladd 2001:113].

Institutions attempting to understand and incorporate Indigenous views on sacredness into their practice and policy deal with internal debates regarding institutional definitions of sacred (G.C.1).

I think you can't get into repatriation and do it as a museum, as objects. You have to understand the whole concept of sacred and what that means, in order to discuss it with people. Otherwise, it is me talking to the wall and you talking to the chair. There is no common ground. I have never had a Native person who is knowledgeable try to tell me something is sacred that isn't and I have never had a knowledgeable Native person ask for something that they didn't know about [G.C.1].

Hesitancy in deviating from standardized definitions remains. Fluid definitions disturb many scientists' classificatory systems, which is ironic given that archaeological (and museological) research is largely concerned with cultural change. “It challenges our understanding, world view, and our assumed powers to define” (Hanna 1997:79). Fear of

flexibility in classifications should not derail negotiations. Flexibility as a virtue facilitates a peaceful middle ground because its parameters are often ambiguous and each one must emanate from mutual agreement.

Through negotiated repatriation, and individual dedication, many museum professionals and archaeologists are becoming open to concepts and implications of sacredness to work more effectively with communities. Under professional classificatory systems sacred objects are often included as cultural patrimony (Royal Ontario Museum 2001; AFN-CMA 1992). The two are closely associated in the AFN-CMA Task Force Report recommendations addressing definitions of sacred for museums objects.

The treatment, use, presentation and disposition of sacred and ceremonial objects and any other objects of cultural patrimony should be decided on moral and ethical grounds with the full involvement of appropriate First Nations as equal partners. In the event of disputes between individuals, between an individual and the community or between communities, the onus should be on the First Peoples to resolve the dispute according to customary practice [AFN-CMA 1992:18].

However, some Indigenous people consider it self-evident that people “don’t understand the personal relationship [to sacred materials] we have coming from our hearts and our spirits and our souls...” (A.R.1). Mainstream museum professionals and archaeologists can appreciate the importance of objects to a community by recognizing the parallels that families feel toward the estate of a deceased relative (Eldon Yellowhorn, pers. comm. 2010). The first steps toward middle ground begin with attempts to clarify definitions, as seen with action taken by the American Indian Student Association in the 1970s (Table 2.1), and other Indigenous representatives, likening their practice and cultural materials to Christian religious objects (Page 1983:60; Zimmerman 1992).

#### 2.1.4 Collections Value

Undercurrents of the negotiation and clarification of collections values are implicit in repatriation discourse. Organizations, Indigenous communities, and academics imbue collections with values. Factors affecting valuations include research, education, sacredness, and identity. These differences require caution against assuming all people or groups place similar value on specific issues or objects (Teague 2007). Reciprocal education through meaningful dialogue, explanations of relevancy in other terms, and expansion of vocabulary can benefit negotiations (Garfield 1991; Hanna 2003; Kramer 2004).

As early as 1971, Delbert J. McBride (1971) of the State Capitol Museum in Olympia, Washington, noted changing exhibition trends. The static Native object displayed as “curio,” inspiring misguided stereotypes, was gone. In its place came community outreach, consultation, and new interactive programs. Concepts that are now in vogue profess that objects represent living traditions and cultural continuity and should be respected as Indigenous intellectual property (Bradbury 1977; Fenton 1972; McBride 1971). Exhibits such as “I wear the Morning Star,” which focussed on the Ghost Dance Religion, and was cosponsored by the Minneapolis Regional Native American Centre (Bradbury 1977:47) demonstrated the first tentative steps toward understanding collections in Native terms. Expressions of patience, politeness, and trust were invaluable to this project. Reciprocal education mitigated cross-cultural assumptions and misunderstandings.

Object preservation remains a contentious issue between curatorial and Indigenous cultures. What are the appropriate curatorial methods and who are the qualified custodians of cultural property (Mihsuah 2000)? Bridging this gulf in perspectives forced museum officials to question preservation mandates, given community assertions about objects’ life cycles, and fulfilment of their intended purpose (Frisbie 1987; Merrill et. al. 1993). While

dialogues between groups often begin with good intentions, misunderstandings inevitably invade proceedings when both sides apply distinct meanings to similar vocabulary (Hanna 2003; Winter and Henry 1997:214). Some curators see changes in conservation and preservation practice as a “new layer of history” (Phillips 2005:104), others regard cultural concepts of obligation toward collections as expressions of identity (Kramer 2004).

Dispersion of repatriated materials according to Indigenous protocol is often contrary to conservative museum training, as is ritual destruction of objects or the decomposition that completes their life cycle. A museum’s desire to keep archaeological and ethnographic materials from re-entering the art or antiquities market through theft or sale further complicates the situation (Merrill et. al. 1993).

Striving for consensus between museums and Indigenous communities has led to varied repatriation resolutions. For example, the Iroquois do not mind museums retaining plastic replications of some objects for educational programs (Hill 1977). At the Smithsonian, tribes have received 3-D replicas to continue community education after objects are reburied (T.J. Ferguson, pers. comm. 2010). Museums have also suggested providing replicas for communities and keeping original objects to maintain their preservation obligations. The appropriateness of these options varies between Indigenous communities and individuals (K.M.B.1; P.R.2). For the Zuni and Blackfoot, replications of certain materials carry potential for adverse spiritual consequences so they avoid this option, or treat replicas with similar spiritual reverence (Ferguson et. al. 1996; G.C.1).

Repatriation contributes to the development of cultural safeguards in the form of restricted access to collections and information for scientific investigation and education. Access restrictions to archaeological or ethnographic materials have concerned professionals

based in Indigenous cultural research. While most researchers accept and work within extant research guidelines (J.M.C.1), the limitation to academic freedom strikes deeply at the heart of others (Meighan 1993; Weiss 2006).

For decades, repatriation's impact on bioarchaeology has been debated (J.M.1; Meighan 1993; Weiss 2001, 2006). A growing constituency agrees that the statute of limitations for testing human remains in museums is over (Hubert and Fforde 2002; J.M.1). Areas of contention are often based on misunderstandings created by the presentation of science and spirituality as unique forms of thought (Quick 1985). The well-known example of Kennewick man raised questions about collections values, ownership, identity, and federal legislation (Bruning 2006; Watkins 2004). The controversy is perhaps the most high profile example of negative conflict resolution (Thomas 2007:74). In a comment posted on the World Archaeological Congress web log June 4, 2008 [ArchTheoMeth] "Colorado's decision on culturally unidentified remains," Eirik Thorsgard the Cultural Protection Coordinator for the Confederated Tribes of the Grand Ronde Community of Oregon, explained:

Umatilla, which took the lead in regards to Kennewick Man does allow testing...under certain conditions...But the archaeologist in charge took the aggressive stance of not collaborating with Tribes and started an avenue of research that requires it under State and Federal law. The reality is that this situation started from a lack of respect for indigenous communities and most likely will never be resolved in an adequate manner because archaeologists are not trained, nor have the desire to interact with Tribes on an equal footing [Thorsgard 2008].

Though good news stories are often under publicised, positive examples of communities and archaeologists negotiating agreements for the care of human remains exist. As illustrated by the above passage, not all tribes oppose negotiating respectful analyses. Good faith cooperation ruled in the case of Kwaday Dan Ts'inchí's remains found in Tatshenshini-Elsek Park in northern British Columbia in 1999. The Champagne and

Aishihik First Nations consulted with elders, archaeologists, and parks officials on the discovery. Both Indigenous communities agreed to recover the remains, and do so with assistance from archaeologists and a forensic anthropologist. Later, in keeping with Indigenous and scientific interests, they agreed to a research protocol where human remains and some artifacts could be taken to the Royal British Columbia Museum. A joint management committee was formed to ensure that the terms of the agreement are maintained through the research phase (Province of British Columbia Ministry of Tourism and Culture 2008).

Collaborations and negotiations such as those that occurred for Kwaday Dan Ts'inci are encouraged by the Vermillion Accord, which the World Archaeological Congress passed in 1989. The Accord promotes the negotiated disposition of human remains, acknowledging Indigenous, and scientific perspectives (World Archaeological Congress 1989). The case of Kwaday Dan Ts'inci illustrates the merger of respect for Indigenous protocols and scientific inquiry. Both sets of values ultimately enhanced our collective knowledge (Hubert and Fforde 2002). The relevance of research to a community and their ability to benefit from the results remain primary issues. Trust and respect are integral virtues in the collaboration process shaping middle ground. Scientific testing can assist communities, and in the process expand research values and applications (Mihesuah 2000; Nicholas et. al. 2008).

### **2.1.5 What is Partnership?**

Partnerships are defined according to the needs and interests of the parties involved. Initiatives have emerged through long-term relationships and challenges to customary archaeological and museological methods and theory (Phillip 2005). Indigenous advisory

groups established in museums were harbingers of this change (Bradbury 1977; Hill 1977; McBride 1971), illustrating the diversity in how tribes choose to negotiate repatriation and partnerships (J.J.1.). Communities no longer accept their disconnection to products of their culture, causing ethical tides to flow (Hollowell and Nicholas 2007). As Richard White insisted, middle ground forms when circumstances prevent groups from discounting each other's interests while pursuing their own (White 1991). Partnerships can productively address tribal and institutional goals, and the resulting good can mend strained relations and boost prospects for subsequent ventures.

Negotiated repatriation can be a point of departure for talks of partnership (Conaty 2004; Hill 1977). Public pressure keeps the critical lens on cultural institutions because bad publicity is seldom helpful. In the U.S., collaboration built on the virtues of respect and integrity encouraged physical anthropologist Phillip Walker to develop a subterranean ossuary at the University of California, Santa Barbara, with the approval of the Chumash Nation. The ossuary provides security, research access, and accommodates spiritual needs by giving descendents control over remains within their traditional territory (Larsen and Walker 2004). The multivocal San Pedro Ethnohistory Project explored the development of relationships between archaeologists and Native communities. Their deployment of virtue ethics demonstrates the benefits of good-faith partnership and the integration of scientific inquiry with Indigenous knowledge (Ferguson and Colwell-Chanthaphonh 2006; Colwell-Chanthaphonh and Ferguson 2004).

## **2.2 Summary**

Repatriation is complex, involving the negotiation of ownership, sovereignty and identity, sacredness, collections value, and partnership. The depth of meaning and the

affective associations involved in the negotiations process can be viewed as a symbolic renegotiation of history between Indigenous communities, museums, and archaeologists. Good faith negotiations can demonstrate disciplinary and governmental shifts in the acknowledgment of Indigenous cultural authority and potentially build positive, productive, relationships on a once contested terrain.

Repatriation is a construct of cultural contact on middle ground. Both curatorial and Native cultures struggle with engrained practice to reach common understanding, and develop new protocol (Larsen and Walker 2004:116). This does not mean abandoning closely held values. It can mean pragmatically adjusting conventions to reach necessary goals and at this crossroads we see the development and modification of policy and practice.

In North America the struggle for repatriation has been difficult, and reflects evolving societal values (Phillips 2005; Zimmerman 1997). While addressing the many overlapping issues of repatriation is impossible, Indigenous and curatorial cultures are working to expand their concepts of middle ground, without relying, or blindly adhering to legislation. Most groups see it as incumbent upon themselves to work together to solve heritage preservation issues in a social space where interests are not mutually exclusive.

## **Chapter 3: Research Partnerships and Methods**

### **3.1 Data Gathering and Qualitative Analysis**

To consider repatriation within a broader context of intercultural collaboration and reconciliation my thesis assesses changing trends, and integrates community voices into the text. In this chapter, I first describe my areas of study at ASM in Tucson, Arizona and Glenbow Museum in Calgary, Alberta. I then discuss my data sources: conversations, archives, and publications that revealed a range of perspectives on repatriation negotiations. To inquire into my research themes, I employed a set of methods permitting flexible data gathering to address the uniqueness of each museum, Indigenous community, and individual consulted. Holistically orientated qualitative data collection and analysis improves comparisons of the means, modes, and tempos of negotiated repatriation (Mik'maw College 1999; Struthers 2001).

### **3.2 Area of Study**

My data sources changed during the study. I initially planned to document pre-NAGPRA repatriations in the United States. Unfortunately, published and archival data sources were less abundant and accessible than anticipated. As I sought to fill information gaps, personal networks and online resources, such as tribal and museum websites, facilitated communication with a wide range of cultural and organizational representatives. Most organizations declined further participation beyond words of encouragement, advice, and other potential lines of inquiry. Organizational mandates to respect privileged

communications, the lack of available staff, and the lack of repatriation cases prior to NAGPRA were some of the reasons provided.

Challenged in my efforts to compare pre-NAGPRA processes in the United States, I expanded my study area to embrace museums throughout North America. I contacted approximately 120 individuals and organizations, among them public and privately funded museums, ranging in size from the American Museum of Natural History, to the Simon Fraser Museum of Archaeology and Ethnology. I also sought assistance from representatives of Indigenous communities, including the Yurok Tribe of California and the Squamish Nation of British Columbia. ASM and Glenbow Museum surfaced as the two best candidates for detailed study.

The Glenbow Museum's accomplishments in organizational and legislative development illustrate a willingness to work with and for Indigenous communities. Their cooperative modes of community engagement over time resulted in collaborative repatriation initiatives. The time depth of ASM's work with Indigenous communities is especially valuable. ASM is the oldest and largest anthropology museum in the Southwest United States (University of Arizona Board of Regents n.d.). ASM contrasts with Glenbow Museum in age, geographical location, and community demography, suggesting themes or points of comparison between the two organizations. By focusing my research on these organizations, I was able to contextualize heritage concerns and track the means, modes, and tempos of repatriation activities.

### **3.3 Data Collection**

In going beyond my review of published literature on repatriation to provide background for the study, I used a flexible and opportunistic approach to data gathering. I

conducted on-site interviews in Arizona in 2007 and in Alberta in 2008. I then followed up with analyses of documents collected and telephone interviews. The breadth and depth of the information available from archival material, publications, and conversations determined my data collection and analysis tactics. I chose individual repatriation cases that effected change within each museum and archaeology more generally, based on referrals from museum staff.

Organizations and individuals worked with me to identify museum and community consultants who were: (1) directly involved in the cases examined or (2) recommended by community members or institutional personnel as cultural specialists (i.e., duly designated representatives) or (3) involved in decision making at a heritage institution.

### **3.3.1 External Literature and Archival Review**

An examination of external literature was integral to grasp repatriation related issues (Chapter 2), and aided in formulating and streamlining my research questions. Published and unpublished North American archaeological, museums, and heritage texts enabled me to situate data from ASM and Glenbow Museum in organizational, disciplinary, regional, national, and international contexts. Readings in heritage law, negotiations theory, moral theory, and intellectual property literature also contributed to my overview of repatriation-related heritage concerns.

Correspondence and case study documentations in public and administrative archival documents were essential to my inquiry. Narratives among museum personnel and Indigenous representatives revealed interpersonal and political interests influencing negotiated repatriation and subsequent organizational change. This information also mitigated a general lack of reliability in information on the precise timing of decisions and

interactions created by long histories between each museum and Native communities. As another point of comparison between the two museums, at ASM, through the discretion of museum personnel and cultural representatives, I accessed public and administrative case files. Glenbow limited me to published material, public archival documents and conversations (Section 3.3.2).

I did not have the opportunity to speak to participants in all of the repatriations due to time constraints, availability, and the large number of individuals involved. Therefore, in the interest of privacy, I removed the names of corresponding parties cited in the footnotes of administrative documents. Identifying a community position or office without naming specific individuals sufficed to describe specific contexts and convey key attributes of the negotiations. I also took cues from conversations with consultants who often omitted proper names. Personal discretion was essential in revealing names and cultural information in case narratives. For example, an ASM consultant emphasised the sensitivity of the Ceremonial Mask repatriation. Therefore, I omitted the names of community members in my discussion of the circumstances in Chapter 4.

### **3.3.2 Conversations**

Consultations with knowledgeable individuals were essential to understand repatriation-related change within the organizations and communities involved in my study. I spoke with members of Pascua Yaqui, Tohono O’odham, Salt River Pima Maricopa Indian Community, Piikani, Kainai, and Squamish Nations, as well as past and present employees of Glenbow Museum, and ASM. In addition, I conversed with employees of Simon Fraser University Department of Archaeology, Simon Fraser University First Nations Studies, Simon Fraser University Museum of Archaeology and Ethnology, the Smithsonian’s

National Museum of Natural History, and the Amerind Foundation. Appendix A lists all participants in this study.

I conducted consultations as semi-structured interviews, which fostered conversation. This method encouraged exchanges of ideas through flexible discussion (Hesse-Biber and Leavy 2006:128). Archival documentation often limits individual representation. Conversations allowed for increased inference and creation of social theory. Active listening is required in qualitative interviews and is conducive to accessing and amplifying historically suppressed voices because it allows consultants to freely express their perspectives (Hancock and Algozzine 2006; Hesse-Biber and Leavy 2006:128; Struthers 2001). This comports with the observation that politely listening to elders while they are sharing their knowledge is the best practice for ensuring positive dialogue (Bell et. al. 2008). My efforts to follow this protocol placed some constraints on my inquiry, yet also revealed what information was important to consultants.

Conversation elucidated individual attitudes and themes enabling and hampering successful negotiations. Several criteria influenced the structure of consultations: (1) Specific case study knowledge; (2) position within an organization and length of tenure; (3) area of research. I began conversations with general questions, such as asking interviewees' to recall the emergence of repatriation in their community or organization. I then proceeded with predominantly open-ended questions in accordance with individual areas of expertise.

When participants had knowledge of specific repatriation cases I asked guiding questions grouped into categories of case background, proceedings, and implications. Within each broad category my questions varied in response to details provided by the consultant

and following lines of inquiry important to them, and specifically necessary to construct a chronology of events. Questions concentrated on the concepts discussed in Chapter 2.

Semi-structured dialogue enhanced the interview process. It served to clarify misunderstandings or disparities between consultants (Hancock and Algozzine 2006:43). For example, in terms of Blackfoot cultural protocol, there is an important distinction between “replication” and “replacement” in relation to medicine bundles (P.R.2). I initially perceived the two as synonymous. Further conversations corrected my error.

Oral histories of individuals in Indigenous and curatorial cultures helped gauge the means, modes, and tempos of repatriations and relationships among groups. They revealed important elements of heritage protection, and community self-determination, such as the use of museum repositories for repatriated materials. This shows a level of trust, pragmatism, and legitimization of practice between cultures (Chapter 4).

Venues also affect consultations. A face-to-face conversation at a participant’s location of choice increases comfort level and places them in a greater position of authority (Hesse-Biber and Leavy 2006). Interviews occurred in museums, tribal council offices, restaurants, homes, and through teleconference.

Follow up communications clarified comments, posed further questions, and assured consultants’ understandings of how their inputs contributed to project purposes and goals. This process revealed the need to include or highlight certain details at the request of community and academic consultants. For example, I intended to omit most individuals’ names and ancillary accomplishments, but consultations determined the need to include these to honour the efforts of individual Blackfoot community members for their work reviving customary ceremonial practices. Conversely, I discretely removed other information.

In both contexts, I did this without hesitation as a service to the individuals and organizations, and as a means of respectfully furthering self-representation wherever possible and desired. Part of the consultation process was recognizing not only what was important in relation to my thesis questions, but also what consultants wanted me to include or exclude as mean for documenting processes, decisions, or other developments of particular interest from their perspective.

In accord with my Simon Fraser University Research Ethics Board protocol and permissions from each consultant, I recorded the majority of conversations. A transcription was provided to each participant to review and make appropriate clarifications, additions or deletions of information before printing. This ensured the integrity of the information published. Within quoted text in this thesis, square brackets, used sparingly, indicate adjustments made for clarification or tense.

In order to organize the data and better understand this body of work and the processes in gathering it, I coded the consultant's contributions. Using their initials, I indicated their first consultation with a "1" as suffix. If I added clarifications and further information to the transcript this is indicated with "2," after their initials, etc... In other situations more extensive correspondence through email occurred, this is indicated with "personal communication" and the date thereof.

I used coding and memoing to elicit themes and factors in each case. Prior to commencing the personal consultations I had established some categories. However, additional coding and memoing was incorporated as a result of the data gathering stage, which enabled, a beneficial "dialogue" between myself and the data (Karp c.f. Hesse-Biber and Leavy 2006:367).

### **3.4 Ethnographic Format**

My study involves social, political, and legislative contexts. Within each context and culture, there are many ways of knowing and interpreting. This thesis is written for both academics and non-academics. In accord with my emphasis on human elements in repatriation, an ethnographic format is appropriate. By “ethnographic format,” I mean, “attempting to understand [and express] how individuals in different cultures...make sense of their lived reality” (Hesse-Biber and Leavy 2006:230). To illustrate and evoke the often disparate, perspectives in Indigenous and curatorial cultures I use quotations from conversations extensively within the narrative context of each case. Contact throughout the writing and analysis process with contributors ensured accurate representation of multiple experiences and perspectives regarding repatriation. An ethnographic format seeks to illustrate individual stories, experiences, and worldviews, especially those that have too often been silenced (Lassiter 2000; Hesse-Biber and Leavy 2006). “Text becomes a place for negotiating...different worlds of meaning on many different levels” (Lassiter 2000:606). In the context of my thesis, this means providing a multi-vocal forum illustrating the diverse negotiation of concepts associated with the repatriation process.

### **3.5 Limitations of Study**

As is true in any research involving human beings and data interpretation, there are biases in this study. The availability, breadth, and depth of archival and institutional files vary from case to case and through time. ASM provided detailed chronologies of each case. Glenbow public archive files were richer in their transcriptions and descriptions of interactions with local community representatives, but less focused on the specifics of long-term loan cases. There were references to individual cases; however, without access to

administrative files, consulting staff members to elucidate further details on returns became necessary. While ceremonialists, elders, and museum personnel were forthcoming regarding many important and sensitive aspects of different cases, there were situations (as mentioned earlier) when respect dictated the premature end of a line of inquiry.

Interpersonal factors also introduced biases. I recognize that I occupied a position of authority as I interpreted and recorded consultants' words and thoughts. This is reflected in what I have included. While I have endeavoured to present data as a dialogue representing perspectives from community members and museum professionals, my differing relationships with contributors and my cultural and academic background, introduces bias (Lassiter 2000; Hesse-Biber and Leavy 2006). I have attempted to recognize them as the critical first step in mitigating their impact on the results of the study.

## Chapter 4: The Arizona State Museum

### 4.1 Arizona State Museum and Indigenous Communities

Early in ASM history, Indigenous communities negotiated aspects of their cultural knowledge and lands with museum anthropologists and archaeologists. Long-term engagement between ASM and local communities runs parallel to the museum's efforts to balance its organizational mission with accountability to its different publics. Former ASM director Raymond Thompson said "the spirit of the times" is often reflected in policy and practice (R.T.1). This is true at ASM, as it has been a hub in forming the middle ground discussed here.

Thompson's philosophy is that good relations between Native peoples, archaeologists, and museums in Arizona and New Mexico, are owed to the extensive history of anthropology in the Southwest. "Over a long period of time like that, people learn how to talk and listen to one another. They learn how to compromise and when to get tough...Over a long time...people develop a certain amount of trust and respect for each other and that is key" (R.T.1).

In this chapter I use ASM as a case study to understand how repatriation-related middle ground forms according to characteristics I discussed in Chapter 1, namely accommodation, collaboration, dominant and subordinate positions, iterative engagement, legitimizing goals, hybrid cultural forms, and virtue ethics. This narrative is segmented into early (1893-1949), middle (1950-1979), and later years (1980-2009). To make connections between the milestones and demonstrate the human element of negotiations, I summarize several repatriation cases that initiated organizational change, and inspired negotiations over

concepts of ownership, sacredness, sovereignty and identity, object value, and partnership discussed in Chapter 2. This chapter is lengthy to illustrate the roots and dynamics that lead to organizational policies. ASM Annual reports and archived policies are cited in footnotes. All footnoted information is from ASM administrative files unless otherwise stated.

## **4.2 Arizona State Museum 1893-1949**

Table 4.1 shows the early growth of ASM from 1893-1949: The museum's efforts to protect Arizona's archaeological record, define ASM research trajectory, and response to Indigenous community concerns. These milestones set the stage for my examination of middle ground, and tribal and colonial histories influencing present day relationships between Native communities and ASM.

Established in 1893 as a Territorial museum, ASM's founding mission was the preservation of antiquities, flora, fauna, and minerals of the Territory. Museums were usually classified under science, art, industry, and history. Legally ASM had to address three categories. Staff chose to concentrate on history, science, and arts.<sup>1</sup>

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<sup>1</sup> ASM Annual Report, document, 1938-1939:1-2, Box 11, ASM Archives, Tucson.

**Table 4.1 ASM Repatriation-Related Milestones, 1893-1949**

<b>Date</b>	<b>Milestones</b>
1915	Byron Cummings becomes ASM director and begins archaeological research and involvement in heritage protection legislation.
1927	As University of Arizona president, Cummings assists in passing the Arizona Antiquities Act, the first state archaeology law in the Western U.S. (Bostwick 2004).
1931	Cummings receives the first of many federal Antiquities Act permits to excavate at Kinishba Ruins, an Ancestral Pueblo site on White Mountain Apache lands (Welch 2007).
1934	Cummings helps negotiate the return of a burial to the Yavapai before ASM takes possession of associated burial goods found in a cave at Sycamore Canyon (New York Times 1934).
1938-1939	Emil Haury ASM director (1938-1964) confirms the museum's research trajectory of precontact Arizona and its Indigenous cultures. <sup>2</sup>
1939+	Archaeological and anthropological work conducted on Arizona reservations includes annual field schools at Point of Pines, Grasshopper Pueblo (D.D.1; Thompson 2005), and the White Mountain Apache Tribe (Mills et. al. 2008).
1941-1942	The Ventana Cave project results from an unexpected change in ASM plans. Haury intends to work at another site, but redirects his program to Ventana Cave in response to community opposition. <sup>3</sup>

ASM is part of the University of Arizona, the foundation for much of Tucson's growth and Anglo cultural formation in the early and middle 1900s. Upon the arrival of Byron Cummings in 1915, Arizona was a fledgling state and Tucson was home to only 15,000 residents. Cummings made the University of Arizona "a nationally recognized center for archaeological studies and research," attracting aspiring anthropologists, many of whom pursued their careers at the University and ASM (Thompson 2005:330-331).

<sup>2</sup> *Ibid*

<sup>3</sup> ASM Annual Report, document, 1940-1941, Box 11, ASM Archives, Tucson.

Cummings' organizational guidance included an emerging emphasis on regional archaeological and ethnographic research and collection. His role in the passage of the Arizona Antiquities Act, and the state's entry into what we now call *Cultural Resource Management* was visionary (Thompson 2005).

Multi-season research and collections development on Indigenous land began in 1931 (Welch 2007). Thereafter ASM occupied a larger presence in the lives and lands of Arizona's Native communities through archaeological and ethnological research on Apache, Navajo, Tohono O'odham, and Yaqui reservations (D.D.1; Thompson 2005).<sup>4</sup> Native peoples were primarily paid labourers and informants during these early years.<sup>5</sup>

Excavations at Kinishba, an ancestral Hopi and Zuni site on White Mountain Apache Tribe lands, revealed important details on the mode and tone of early middle ground development between ASM archaeologists and Indigenous communities. In a 1934 request to the Commissioner of Indian Affairs for an increase in Apache labour, Cummings described the mutual educational benefits of student-Apache interaction. "They learn to work together, understand each other better, and realize more forcefully that both white men and Indians have to learn to cooperate if they expect to develop the resources of Arizona and wholesome living conditions and opportunities for both."<sup>6</sup> This type of middle ground was shaped by Cummings' belief in Native assimilation with the dominant non-Native society. It is an early example of a museum considering the interests of multiple publics,

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<sup>4</sup> *Ibid*

<sup>5</sup> ASM Annual Report, document, 1915-1922, Box 11, ASM Archives, Tucson; ASM Annual Report, document, 1938-1939:1-3, Box 11, ASM Archives, Tucson; ASM Annual Report, document, 1939-1940, Box 11, ASM Archives, Tucson.

<sup>6</sup> B. S. Cummings to Commissioner of Indian Affairs J. Collier, letter, 17 November 1934, Fort Apache Agency, Central Classified Files 824.1, National Archives and Records, Administrative Pacific Register, Laguna Niguel.

while also assuming Native people had similar interests. Cummings intended the excavations and conservation of Kinishba to benefit Apaches and the public.<sup>7</sup>

By 1935 federal permits for the Kinishba project were approved pursuant to stipulations by the Commissioner for Indian Affairs. The Department of the Interior (DOI) was released from any consequences of the project occurring on the reservation. This gave ASM considerable authority in practice, yet left them accountable to the Apache, thus “[n]o grave or burial ground abandoned less than 200 years ago [could] be investigated without permission of the governing council of the Indians involved.”<sup>8</sup> This restriction, in addition to Cummings’ own endeavour to improve public relations, indicated the inevitability of consultation.<sup>9</sup> It also suggested that Apache assertions of ownership over their cultural property would have influenced ASM’s developments in ethics, practice, and policy.

By the late 1930s examples emerge of agreements between ASM and tribes to proactively negotiate repatriation. This stipulation was sometimes required under federal excavation permits on tribal land. Such arrangements occurred with Tohono O’odham for the Ventana Cave excavation decades before NAGPRA (Table 4.1) (L.T.2).

### **4.3 Arizona State Museum 1950-1979s**

Haury hired Raymond Thompson in 1960 in the midst of a substantial shift in the development of public museums, which began in the 1950s and continued through the 1970s. Thompson’s tenure as director (1964-1998) saw vast political changes in perspectives on the social responsibility of anthropology and museums (Thompson 2005). Table 4.2

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<sup>7</sup> *Ibid*; B. S. Cummings to Superintendent W. Donner, letter, 25 February 1935, A-543, ASM Archives, Tucson.

<sup>8</sup> DOI Asst. Secretary O. Chapman to B. S. Cummings, letter, 18 June 1935, White Mountain Apache Tribal Historic Preservation Office, Fort Apache.

<sup>9</sup> B. S. Cummings to DOI Secretary H. L. Ickes, letter, 1 November 1935, A-543, ASM Archives, Tucson.

chronicles changing curatorial ethics, collections policies, legislation, and shifts in ASM’s relationships with local Indigenous communities foreshadowing the rapid changes of the 1980s.

**Table 4.2 ASM Repatriation-Related Milestones, 1950-1979**

Date	Milestones
1955-1956	The Indian Arts and Crafts Board on the <i>Papago</i> (Tohono O’odham) reservation contributes to an ASM exhibit. <sup>10</sup>
1960	Haury sanctions revisions to the Arizona Antiquities Act. Archaeological work on Arizona state land requires a permit from ASM (Thompson 2005).
1962+	ASM hires Bernard Fontana as an Ethnological researcher in response to concerns that living Native culture is endangered. <sup>11</sup>
1964-1965	Subsequent to an exhibit on the Tohono O’odham peoples, ASM invites community members to the museum on a day arranged for them. Invitations sent to O’odham reservations are met with favourable response. <sup>12</sup>
1970’s	Mummies from Ventana Cave and Basketmaker sites are removed from exhibit, likely in response to concerns from Tohono O’odham representatives (M.J.1). Assistant Curator of Collections, Nancy Foster solicits local Native artists to demonstrate their crafts at ASM. <sup>13</sup>

ASM files document the growing schism between traditional and contemporary museums. Trends in museum theory and practice indicated a nascent middle ground tentatively re-evaluating collections accessibility, and creating welcoming environments.

<sup>10</sup> ASM Annual Report, document, 1955-1956, Box 11, ASM Archives, Tucson.

<sup>11</sup> ASM Annual Report, document, 1962-1963, Box 11, ASM Archives, Tucson.

<sup>12</sup> ASM Annual Report, document, 1964-1965, Box 11, ASM Archives, Tucson.

<sup>13</sup> ASM Annual Report, document, 1970-1971, Box 11, ASM Archives, Tucson.

Differences in ASM staff opinion emerged regarding the ratio of importance between internal research and public focus.<sup>14</sup>

Many of the more recently established museums make no pretence of collecting and preserving specimens, preferring instead an all out public education program primarily based upon loan materials, lectures, and visual aides. In fact, it probably would be no exaggeration to estimate that about 90% of the museums founded in the past 20 years have been organized essentially as audio-visual and do-it, or handle it yourself educational institutions...Nonetheless, this trend in no way invalidates the long standing position and usefulness of the older, tradition oriented, museums.<sup>15</sup>

The transformation of museums from internal to external foci indicated steps toward museum “democratization,” a building block of repatriation (Ames 1992:20). While the direct involvement of Indigenous peoples in exhibition at ASM remained infrequent, milestones (Table 4.2) included participation in emerging national trends of collaboration, repatriation (Bradbury 1977; Hill 1977; McBride 1971), and removal of human remains from exhibition (Colwell-Chanthaphonh 2009).<sup>16</sup> Yet, ASM’s main focus remained on customary museum goals of collection, preservation, education, scientific publication, and controlled storage.<sup>17</sup> ASM’s hiring of Fontana as its Ethnographer reflects this (Table 4.2), and suggests staff perspectives on whether Native people saw themselves connected to museum collections. This suggestion is buttressed by the 1978 policy on collections use, which upheld curatorial authority over collections access with no mention of potential tribal prerogatives.<sup>18</sup>

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<sup>14</sup> ASM Annual Report, draft document attributed to R. Thompson, 1970-1971:1-3, Box 11, ASM Archives, Tucson.

<sup>15</sup> ASM Annual Report, draft document attributed to R. Thompson, 1970-1971:1, Box 11, ASM Archives, Tucson.

<sup>16</sup> ASM Annual Report, draft document attributed to R. Thompson, 1970-1971:3, Box 11, ASM Archives, Tucson.

<sup>17</sup> ASM Annual Report, draft document attributed to R. Thompson, 1970-1971:1, Box 11, ASM Archives, Tucson.

<sup>18</sup> ASM Collections Use Policy Statement, collections policy, 1978-1, 2, Old Procedures File, ASM Archives, Tucson.

## 4.4 Arizona State Museum 1980-1990

In contrast to earlier periods at ASM, repatriation-related practices and policies developed quickly, as Native concerns over their cultural heritage intensified (Chapter 2). By 1982, ASM collections ethics were maturing, which influenced staff perspectives on tribal property and museum liability. For example, policy on “Personal Collecting” prohibited staff collection, or ASM’s accession of sacred objects, or those acquired under illegal circumstances.<sup>19</sup> This conflict of interest policy protected ASM’s reputation and created a safeguard for tribal property by limiting ASM links to the antiquities trade. Repatriations within this decade illustrated attempts between curatorial and Indigenous cultures to negotiate an emergent middle ground characterized by increased assertions of sovereignty.

### 4.4.1 Las Colinas

The ASM Highway Salvage Program was contracted to excavate Las Colinas due to construction at the I-10 and I-17 highway interface. This Hohokam site excavation, conducted on state land, occurred between August 1982-February 1984. This case is an early example of negotiated repatriation among the Gila River Indian Community, Salt River Pima Maricopa Indian Community, ASM, and the Arizona Department of Transportation (ADOT). It assisted in developing ASM practice and facilitated new middle ground (A.V.1).

A repatriation agreement was negotiated prior to the project (M.J.2). Curator of the ASM Archaeological Repository Arthur Vokes recalled that “the tribes [were] fairly clear that they were going to ask for the mortuary materials (A.V.1).” Yet, in the early 1980s the roles and parameters of repatriation negotiations lacked clarification. Tribes, museums, archaeologists, and government officials felt their way through discussions (A.V.1). For

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<sup>19</sup> ASM Personal Collecting, collections policy, 1982-1:57, Old Procedures File, ASM Archives, Tucson.

example, object classificatory systems (i.e., associated and unassociated grave goods)—now formalized through NAGPRA—were not part of the curatorial or tribal lexicons. Groups negotiated the categories without the guidelines of current legislation (A.V.1; M.J.1; M.J.2).

A final agreement was incorporated in ASM's permit with ADOT (A.V.1; M.J.1; M.J.2) using a draft of Arizona state law which permitted repatriation in cases of unquestioned affiliation. In 1990 proof of affiliation was removed from the law (L.T., pers. comm. 2010) and replaced with requirements of cultural or religious affinity. Successful claimants “may include any tribe that has submitted a written claim of affinity or a Group that has cultural affinity in light of all relevant evidence” (ASM 2004b:3).

The excavation and analysis process determined the repatriation timeline. As soon as it was feasible, parties negotiated the date of the collections transfer (M.J., pers. comm. 2010). When talks began in 1989, an ASM staff member objected because Las Colinas is on state land.<sup>20</sup> Thus, the case is an example of scholarly resistance to repatriation on the cusp of NAGPRA. The opposition indicated that for some repatriation remained an issue of legal ownership rather than ethics and that conceding cultural affiliation set a negative precedent. ASM repatriated the human remains and associated funerary objects in May 1992 (M.J.2).

#### **4.4.2 Zuni *Abayu:da* and ASM Collections Policy Expansion**

While the Las Colinas project was under way, ASM was approaching its first ethnological repatriation. On May 11, 1983, Steve Rogers, the ASM registrar discovered an *Abayu:da* figure, and associated materials in the museum collections card catalogue.<sup>21</sup> It had

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<sup>20</sup> ASM Curator to Director, interdepartmental correspondence, 21 November 1989, Ventana Cave, Las Colinas File, ASM, Tucson.

<sup>21</sup> ASM Registrar to Curator of Collections, memorandum, 11 May 1983, Zuni Repatriation DP-90-2, Accession 1570, ASM, Tucson.

been removed from the Zuni reservation and accepted by ASM December 30, 1965.<sup>22</sup>

Rogers alerted the collections staff, and questioned the legitimacy of the *Abayu:da*'s curation. He recommended repatriating the collection or contacting Zuni to give them the option of determining the next steps. Rogers also suggested the development of a deaccession policy.<sup>23</sup>

Curators did not revisit the case until 1989. In the meantime ASM collections management policies progressed according to the legal and ethical discussions initiated by cases such as the *Abayu:da*. ASM approved policy on the "Acquisitions of Unlawfully Collected Archaeological Materials," on February 1, 1984. It required individuals donating materials in this category to relinquish ownership. ASM accessioned these objects with the intention of repatriating them upon request to the owner, including federal agencies and tribes, as well as private landowners.<sup>24</sup>

ASM policy on the "Acquisition of Native American Sacred Objects," also passed in 1984, recognizing their religious beliefs as a legitimate basis for repatriation requests. The policy stated that ASM would not accept sacred objects necessary for religious practice but would act as a liaison to facilitate the return of materials to descendent communities.<sup>25</sup> ASM created the policy to aid repatriating objects at the museum and help members of the public who wanted to return sacred materials but needed assistance (L.T., pers. comm. 2010). This policy continues to be valuable because federal legislation does not address the repatriation of privately collected objects (A.S.1; J.M.1). Some Arizona tribes have pragmatically agreed to give collectors immunity in order to regain custody of human remains (L.T.1). ASM's

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<sup>22</sup> ASM Gift Receipt, contract, 30 December 1965, Zuni Repatriation DP-90-2, Accession 1570, ASM, Tucson.

<sup>23</sup> ASM Registrar to Curator of Collections, memorandum, 11 May 1983, Zuni Repatriation DP-90-2, Accession 1570, ASM, Tucson.

<sup>24</sup> ASM Manual: Part C, Acquisition of Unlawfully Collected Archaeological Materials 3.3.1, collections policy, 1 February 1984, Old Procedures File, ASM Archives, Tucson.

<sup>25</sup> ASM Manual: Part C, Acquisition of Native American Sacred Objects 3.2.1, collections policy, 1 February 1984, Old Procedures File, ASM Archives, Tucson.

Repatriation Coordinator now serves as mediator in these cases by providing collectors with tribal contact information (J.M.1). I will refer back to this policy in section 4.5.3.3.

ASM finalized a deaccession policy in 1985 that it invoked under certain circumstances “to provide for the appropriate care of material having ritual use or sacred nature.”<sup>26</sup> The absence of a definition of sacred in the 1984 and 1985 policies indicated ASM’s willingness to negotiate concepts of sacredness, ownership, and conservation. These policies acknowledged that some objects do not belong in museums, and demonstrated collections ethics beyond Western legal terms of ownership to provide several means to repatriate the *Abayu:da* figure. Coeval with its external dialogue, traditional curatorial authority came under question internally at ASM.

By the late 1980s Curator of Ethnology Diane Dittmore knew of Zuni’s *Abayu:da* repatriation campaign and anticipated a collections inventory request from them. In 1989 she proactively recommended that ASM contact Zuni. Correspondence with Curator of Collections Jan Bell revealed Dittmore’s ethical and professional motivations as she stressed “good faith efforts,” and “the spirit of cooperation with Indian tribes that the Museum [was] trying hard to foster.”<sup>27</sup> Bell also saw the *Abayu:da* as Zuni property. At this time ASM firmly differentiated between possession and ownership (J.B.1), as reflected in the ethical and legal stances of the 1984 collections policies.

Repatriations provide reflecting surface on which to scrutinize collections practices as a whole. During the interdepartmental discussions for the *Abayu:da*, Dittmore questioned ASM’s retention of similarly acquired sacred objects. The practice of repatriation was in its

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<sup>26</sup> ASM Deaccessioning 3.8, collections policy, 6 May 1985:1, Old Procedures File, ASM Archives, Tucson.

<sup>27</sup> Curator of Ethnology to Curator of Collections, interdepartmental correspondence, 2 October 1989, Zuni Repatriation DP-90-2, Accession 1570, ASM, Tucson.

infancy and staff hesitated to consider other collections.<sup>28</sup> Unlike similar, potentially complicated transactions, the details of the *Ahayu:da* case were straightforward. Its comprehensive documentation and clear cultural affiliation facilitated the task of repatriation. Bell determined that the value of the *Ahayu:da* to ASM did not supersede the need for it to return to Zuni.<sup>29</sup> Further influencing ASM was Zuni's organized leadership (D.D.1).

ASM administration and the University of Arizona authorized the repatriation.<sup>30</sup> On May 3, 1990 Thompson wrote to the Governor of Zuni Pueblo to offer them the *Ahayu:da* collection. He requested that Zuni inform ASM about any arrangements that were necessary for the return. NAGPRA consultations now require museums and federal agencies to discuss the "place and manner" of repatriation with receiving parties (43 C.F.R §10.10 4d). The *Ahayu:da* was repatriated June 5, 1990.

#### **4.4.3 The San Xavier Bridge Project**

The San Xavier Bridge project boosted the quantity of repatriation-related dialogue occurring at ASM in the 1980s, and increased staff awareness of associated issues (A.V.1). The mode of discussion from this case contributed to constructive middle ground without eliminating the conflict inherent in negotiating diverse values (Ravesloot 1990; White 1991).

The San Xavier Mission Bridge site on Tohono O'odham land is a spiritually sensitive, precontact burial ground. In October 1983 the bridge was washed out and ADOT proposed rebuilding it. In April 1984, before construction could begin, they asked the ASM Cultural Resource Management Division to develop a proposal for archaeological data

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<sup>28</sup> *Ibid*

<sup>29</sup> Curator of Collections to Admin. Staff, interdepartmental correspondence, 14 November 1989, Zuni Repatriation DP-90-2, Accession 1570, ASM, Tucson.

<sup>30</sup> Curator of Collections to Director, interdepartmental correspondence, 29 March 1990, Zuni Repatriation DP-90-2, Accession 1570, ASM, Tucson; J. Bell, interdepartmental correspondence, 27 April 1990, Zuni Repatriation DP-90-2, Accession 1570, ASM, Tucson.

recovery. The Tohono O'odham community was uneasy about the cultural impact of the excavations (Ravesloot 1990:36).

To understand the complexity of interests in this project I have listed a small a portion of the individuals and groups involved: The San Xavier District Council Chairman John B. Narcho, the vice-chairman, the Tohono O'odham Tribal Council, a Tohono O'odham medicine-woman, the Bureau of Indian Affairs (BIA), ADOT, Arizona State Historic Preservation Office (SHPO), and ASM staff including Acting Director R. Gwinn Vivian, Research Division Faculty archaeologist Lynne S. Teague, Bell, and Archaeological Collections Curator Mike Jacobs.

ASM staff discussed procedures with the Tohono O'odham from the initial research design stage and throughout the excavation as part of permit salvage work on tribal land (Ravesloot 1990). Consensus on excavation protocol, research processes, and analysis dominated discussions (Appendix B, Table B.1). All parties had different concerns and obligations. The Tohono O'odham wanted the bridge rebuilt to assist their community; yet they did not want the excavated materials analysed. ASM had permit requirements, and as archaeologists they had research interests (L.T.2). Without both sides accommodating each other neither party's interests could be met (Ravesloot 1990).

ASM had not yet developed a repatriation policy (M.J.1; M.J.2). Negotiations for the excavation developed processes that turned out to be important milestones integrating cultural and legal protocols. The project was the first ASM excavation that accommodated tribal restrictions on data recovery, analysis, and negotiated minimum documentation standards (J.J.1; M.J.1). ASM also employed a medicine woman to determine the treatment of human remains. As a paid consultant her participation signified parity with academic

consultants (A.F.1). The Tohono O’odham community also determined the final resting place for excavated human remains (Ravesloot 1990:37).

Incorporating tribal requirements into the analysis of human remains was challenging (L.T.1). To increase lines of communication with Tohono O’odham, ASM documented their archaeological methods.<sup>31</sup> Archaeologists also explored alternatives for collections management (Ravesloot 1990), such as avoiding destructive analysis and restricting the publication of photographs (L.T.2). Jacobs recalls this project as the first instance of limiting photographic use to ASM by not allowing researchers to obtain images unavailable for publication (M.J.1; M.J.2).

By 1985, ongoing challenges to museum protocol led to the creation of a hybrid policy designed to clarify ASM’s procedures concerning the “Excavation and Analysis of Human Remains on Indian Land” (Appendix B, Section B.1). It blended spiritual and scientific interests by formalizing restrictions on analysis, the involvement of medicine persons, and mutual agreement for the disposition of human remains (Ravesloot 1990:50). The policy indicated new middle ground between tribes, archaeologists, and museum professionals at ASM, and more specifically ASM and Tohono O’odham.

Despite achievements in reconciling elements of different cultural protocols, the repatriation of the San Xavier collection illuminated gaps in policy and placed ASM at the mercy of public scrutiny. Prior to repatriation discussions with Tohono O’odham, ASM staff were unexpectedly visited by a group of tribal members on August 4, 1986. They requested that staff provide them with a Tohono O’odham collections inventory. ASM did not meet their request, yet it initiated staff discussion on their obligations to the tribe. At an official

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<sup>31</sup>ASM Excavation and Processing of Human Burial Remains on Indian Land, collections policy, n.d., CRMD Series 109, RG2 SG2, Box 1, F9, ASM Archives, Tucson.

meeting with Tohono O’odham representatives a week later, the medicine woman requested repatriation of all human remains and associated grave goods from several excavations in the San Xavier District. These included materials excavated in 1979 at San Xavier Bridge, and artifacts unearthed during 1965-1966 field seasons at Punta de Agua (Ravesloot 1990:44). For simplicity, I will continue to refer to this case and the collections as San Xavier.

To facilitate the repatriation, Vivian contacted the BIA and ADOT to confirm ownership of pre-1985 San Xavier collections. The BIA had no record of allottees (Appendix C) transferring ownership of excavated materials from their land to the tribe. ASM waited for the BIA and Tohono O’odham to resolve the situation (Ravesloot 1990:45).

The repatriation of post-1985 collections occurred on September 11, 1986 (Ravesloot 1990:45). The project spurred new and refined ASM repatriation-related policies. During the collections transfer Jacobs used checklists with counts for all objects. However, more tribal members attended the repatriation than expected, and confusion occurred in the transfer area between the holding table and the packing area, leaving some materials unaccounted for. “ASM’s professional ethics were called into play,” but the situation was a learning experience. Museum staff developed transfer documents signed by all parties for each catalogued object or container of materials. Tribal representatives sign the documents before taking the materials from the “staging room” for packing (M.J.2; M.J.1).

By 1986 repatriation figured prominently in policy discussions at ASM. The San Xavier project, among other cases, compelled museum personnel including Bell and Jacobs to start drafting procedures on repatriation-related issues. To simplify the discussion the

term “repatriation” was used for materials owned by ASM and federal agencies.<sup>32</sup> Policy proposals addressed requests for un-owned archaeological collections, and other neglected areas such as:

- (1) Requests for return of collections based on ownership [at this point, the museum was using their deaccession policy];
- (2) Requests based on affinity between the requestors and the creators of the material, and generally involving material owned by a third party such as a federal agency or the state;
- (3) Requests for material owned by the museum;
- (4) Ensure that materials being returned to Indian tribes, or which are susceptible to being returned are adequately documented;
- (5) Development of more stringent documentation standards applicable to all collections from Indian land.<sup>33</sup>

ASM’s trajectory to provide an accessible, welcoming environment for local Southwest communities emerged from the discussions. To improve community relationships, and clarify individual roles and responsibilities, staff suggested steps toward holistic hybrid organizational practice.

- (1) We should approach specific tribes and the BIA to encourage creation of tribal repositories with adequate facilities and trained staff;
- (2) The Museum could be instrumental in making curatorial or archaeological training available;
- (3) The Museum should carry out more public programs available to Native Americans, through contract or cooperative proposals;
- (4) We should involve Native American consultants more consistently in our own activities, particularly public programs. Native American values should be considered as well as anthropological values.<sup>34</sup>

On May 7, 1987 tribal representatives requested that ASM repatriate remaining San Xavier allotment collections the following week. When this did not occur, a group of Tohono O’odham tribal members came to the museum on May 14, 1987. Drawing media attention, the event was portrayed as a “sit in” (L.T.2; Swenson 1987). In Teague’s recollection, ASM was not opposed to returning the collections to the tribe, however under

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<sup>32</sup> ASM Collections Repatriation Issues, interdepartmental memo, 19 November 1986:1, Tohono O’odham, 86-87 ASM San Xavier Repatriation and Martinez Hill File, ASM, Tucson.

<sup>33</sup> *Ibid*

<sup>34</sup> *Ibid*

permit they required permission from the BIA (L.T.1; L.T.2). Consequently, BIA lawyers and the Tohono O’odham Nation negotiated an “Indemnity Agreement” (Appendix B, Table B.1), and the collections were repatriated (Ravesloot 1990:46).

The fallout from the Tohono O’odham protest prompted the University of Arizona’s Attorney’s office to guide ASM on repatriation policy. Suggestions included: (1) A collections review of Tohono O’odham materials to determine eligibility for repatriation; (2) Establishing necessary legal steps for repatriation of eligible materials; (3) Contacting the tribe with an inventory of eligible materials, and clarification of the steps required of all parties for repatriation. The suggestions foreshadowed NAGPRA mandates, and protected University liability while trying to comply with Tohono O’odham wishes.<sup>35</sup>

ASM moved swiftly to implement staff recommendations that “the museum actively participate in statewide efforts to arrive at a consensus on how to approach repatriation issues and to communicate with Native Americans about them.”<sup>36</sup> By 1987, the Southwest Native Nations American Advisory Board (the Board) was active, which meant ASM responding to repatriation legislation occurring in other states. Arizona has 21 federally recognized tribes located partially or wholly within state borders. ASM needed to address tribal concerns for cultural heritage sites and objects located outside of tribal and federal jurisdiction. “A lot of the tribes, if not all of the tribes put up some kind of financial resources to lobby for [repatriation]” (H.L.1).

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<sup>35</sup> University of Arizona’s Attorneys Office to ASM, letter, 18 May 1987, Tohono O’odham, 86-87 ASM San Xavier Repatriation and Martinez Hill File, ASM, Tucson.

<sup>36</sup> ASM Collections Repatriation Issues, interdepartmental correspondence, 19 November 1986:2, Tohono O’odham, 86-87 ASM San Xavier Repatriation and Martinez Hill File, ASM, Tucson.

## 4.5 Arizona State Museum 1990 – 2009

Repatriation is important because the ancestors don't have a place to roam free in boxes. They need to be at home in peace.

Joseph T. Joaquin (J.T.1)

### 4.5.1 Repatriation Legislation and ASM Policy Expansion

Thompson supported amendments to the Arizona Antiquities Act enabling repatriation (Appendix C) (Thompson 2005:355; R.T.1). He lobbied with local Arizona tribes at the Arizona State legislature. Thompson described the long-term relationships between ASM and Arizona tribes, explaining that changes to the Act could succeed through negotiation (R.T.1). Hindsight reveals his actions demonstrated a positive legislative and ethical milestone born from reciprocal need and growing trust among communities. Thompson's support for repatriation was pragmatic. Overlapping interests in collections management amongst curatorial and Indigenous cultures in the late 1980s and early 1990s signalled a redefinition of relationships. The tone and mode of the developing middle ground between ASM and tribes could be contentious or accommodating it depended on careful and thoughtful interaction.

The state repatriation law Arizona Revised Statute (A.R.S) §41-844 passed in June 1990, followed shortly by §41-865, which provided protection for burials and associated funerary objects on private state land (Bender 1992). These statutes emphasised “cooperative discussion” as a way to resolve repatriation cases (Bender 1992:395). Negotiated burial agreements “between...landowner[s], archaeological contractor[s], and groups or tribes claiming affinity to Remains [under the statutes]” were a crucial aspect of this cooperative ethic (Griset et. al. 2004:75). “Prepared by ASM, the agreement[s] govern the treatment and disposition of human remains, associated objects, sacred ceremonial objects, and objects of

national and tribal patrimony encountered by [a] contractor during the course of field work and for all Remains discovered on the land thereafter” (Griset et. al. 2004:75).

Burial agreements reflected tribal protocols and could contain restrictions on areas such as analysis and storage. For example, ASM does not allow whole vessels containing human remains to be analysed (J.M.1). Procedures vary between offsite and onsite examinations, with some tribes such as Tohono O’odham preferring onsite examination (J.J.1). The crucial aspect of burial agreements—which are also part of NAGPRA—is that they remain negotiable (S.A.1) (C.F.R. 43 § 10.5 9(f) [60 F.R. 62158, Dec. 4, 1995, as amended at 62 F.R. 41293, Aug. 1, 1997]).

Repatriations increased in frequency at ASM after NAGPRA passed (D.D.1), forcing communities to navigate their way through uncharted legislative waters. Tribes and museums struggled to comply with imposed regulations and few guidelines to indicate how the process should work. The 1991-1992 Ventana Cave repatriation to the Tohono O’odham was ASM’s first NAGPRA transaction. Despite the law’s passage, ASM staff used A.R.S. §41-844 as a guideline because the BIA “ha[d] no procedure for handling claims under 101–601, other than that they would require a tribal council resolution.”<sup>37</sup>

ASM also developed its own repatriation policy that stated museum protocol must comply with U.S. legislation and fiduciary trust responsibilities. Repatriation was handled on a case-by-case basis. For collections owned by other entities (i.e., federal government) ASM was, and remains, limited to making repatriation recommendations (ASM 2001).<sup>38</sup>

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<sup>37</sup> Repatriation Coordinator to ASM Personnel, interdepartmental memorandum, 29 August 1991, Ventana Cave, Ventana Cave File, ASM, Tucson.

<sup>38</sup> ASM Repatriation 3.C.3.1, collections policy, n.d.:8, on file with author.

The language of the policy provided a glimpse into the intellectual currents at the time. Section 3.C.3.1(A) stated “The [ASM] is charged with the care and preservation in perpetuity of the material record of the cultures of Arizona and the Greater Southwest for the benefit of present and future generations.”<sup>39</sup> Section 3.C.3.1(F) referred to ASM as “guardians of cultural property of value to the scientific community, to ethnic communities, and to the public in general.”<sup>40</sup> Later versions of the policy made few modifications other than in terminology, and omitted these sentences (ASM 2001). Removing words such as “perpetuity” and “guardians” suggested that ASM no longer perceived staff as permanent gatekeepers of culture property, rather as potentially temporary custodians.

In the following years further formalization of museum repatriation policy was included in Appendix VI of the ASM collections policy handbook “Repatriation Guidelines for ASM Collections” (ASM 2004 [revised 2005]), and Policy 517.00 “Repatriation of Materials Under NAGPRA and Arizona State Law (ASM 2005a). Combined, these documents described ASM’s framework for repatriation, and placed emphasis on consultation with Indigenous communities. The museum Repatriation Committee also became an important stage in approval processes. The Committee assesses the applicability of repatriation laws to claims submitted to ASM and advises the ASM Executive Committee (ASM 2004a, 2005a).

#### **4.5.2 Consultation and Collaboration**

Following the 1986 recommendation to involve local tribes in exhibition the Board began advising on ASM’s “Paths of Life (POL)” exhibit (A.S.1). The project began in 1987 (D.D.1), and upon its completion in 1991, “alternative tribal histories [were] juxtaposing

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<sup>39</sup> *Ibid*

<sup>40</sup> *Ibid*

classical ethnographies in an attempt to achieve a new understanding of the complex cultural relationships in the Southwest” (Vivian and Norcini 1991:53). This collaborative project repatriated knowledge to participating communities (Vivian and Norcini 1991:53), and legitimized Native perspectives in a public forum.

Present day consultations for exhibition are not legally required, yet they are considered good practice at ASM (D.D.1). “At one point if a curator had a question about a culture they would call an anthropologist, now they are much more likely to call a designated cultural representative” (D.D.1). Cultural heritage work at ASM involves trust. Repeat consultations bring staff and tribes to a level of understanding of the expectations of both groups, and protocol boundaries.

As POL marked a change in exhibition methods, ASM also began their TM-Tech program. In the spirit articulated by Bell, Jacobs, and others, ASM offered curatorial technical assistance to Indigenous communities repatriating collections. Their service was to help upgrade “storage conditions, registration procedures, security measures, or other improvements in existing tribal museums” (Vivian and Norcini 1991:53). The program was intended to facilitate repatriation and had three main goals:

- (1) Continue providing general technical assistance to existing and developing tribal museums, cultural centers, and similar facilities;
- (2) assist tribal groups without such facilities in specific cultural preservation projects;
- (3) encourage the establishment of similar programs in other states [Vivian and Norcini 1991:53].

#### **4.5.2.1 The Norton Allen Agreement**

An example of collaboration between ASM and Tohono O’odham began in 1992 with negotiations for the Norton Allen Agreement (the Agreement). This extra-NAGPRA arrangement was born out of trust among parties with decades of interaction. Negotiations

involved Allen, the Tohono O’odham Nation Attorney General, the chairman of the Cultural Preservation Committee (the Committee) Joseph T. Joaquin, representatives from the Gila Bend District, and ASM personnel Teague, Hartman Lomawaima, and University of Arizona attorney Nancy Laney.

In approximately 1938, local avocational archaeologist Norton Allen embarked on 40 years of excavation in and around Gila Bend, Arizona. Primarily a salvage archaeologist, most of Allen’s excavations occurred on land slated for agricultural development (Ferg and Schwartzlose 2008). He excavated with the permission of landowners, documented his projects, conserved collections, and reburied most human remains close to their original provenance (A.F.1; Teague et. al 1997).

Allen’s close association with ASM influenced his decision to donate the collection to the museum (L.T.1; Teague et. al 1997). However, because it included sacred, associated, and unassociated funerary objects he was concerned that repatriation laws would divide the collection amongst descendent groups if the materials entered into the public sphere (Teague et. al 1997). “Instead of fighting over [the collection they joined] forces to develop, and possibly change ways of preserving this very important resource” (R.T.1).

The Agreement evolved over several years, incorporating the concerns of the constituents involved (Teague et. al 1997) (Appendix B, Table B.2). The Hohokam collection was important to Arizona history, therefore accessibility within the state was a primary issue. The cultural and scientific value provided the foci for exploring dispersion and ownership options (L.T.1; Teague et. al 1997). The collection also had potential to foster hybrid ASM-

Tohono O'odham collections management practice through reciprocal knowledge exchanges on conservation and object interpretation (Teague et. al 1997).<sup>41</sup>

Allen and ASM favoured Tohono O'odham's possession of the collection, but they were concerned about security, as they did not have a storage facility nor concrete plans to build one. As a result, Allen did not support tribal ownership, but ASM mitigated the problem by proposing the museum act as a repository until the community built a cultural centre (J.J.1; Teague et. al 1997:317). The parties finally agreed that Allen would donate the collection to ASM after the creation of an intergovernmental agreement between the Museum and Tohono O'odham (Teague et. al 1997:318).

The Tohono O'odham's Tribal Legislative Council approved a final agreement in August 1994 (Teague et. al 1997). The Intergovernmental Agreement gave ASM partial custody of the collection, and confirmed Tohono O'odham's right to primary access. As educational materials, the collection had to be housed within a standardized facility, forgoing reburial. ASM contract stipulations included staff assistance with a tribal facility, a service already established through the TM-Tech program, and Tohono O'odham's right to negotiate treatment and conservation (A.F.1; Ferg and Schwartzlose 2008). The Tohono O'odham Legislative Council passed tribal resolution 95-062 on February 10, 1995, confirming their collaboration with ASM. They acknowledged that it could be beneficial for tribal members to receive collections management training.<sup>42</sup>

In 2004, in preparation for the forthcoming Tohono O'odham cultural centre and museum Himdag Ki: Hekihu, Humu, Im B I'Ha'ap, Teague and the Tohono O'odham

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<sup>41</sup> Intergovernmental Agreement between Arizona Board of Regents and The Tohono O'odham Nation, legal document, 16 December 1994, Norton Allen Collection, Accession 91-3, ASM, Tucson.

<sup>42</sup> Resolution of the Tohono O'odham Legislative Council: Approving 1995 NAGPRA Grant Application and confirming Collaboration with Arizona State Museum, document, 10 February 1995, Norton Allen Collection, Accession 91-3, ASM, Tucson.

Nation Norton Allen Task Force (the Task Force), which was comprised of Tohono O’odham staff and tribal members, and ASM personnel, began reinterpreting Allen’s collections classificatory system. To determine which objects were eligible for exhibit they focused on those associated with human bone. A distinction was made between funerary (associated with bone) and mortuary (memorial) objects, narrowing Allen’s and ASM’s initial classifications (Teague 2004:1; Ferg and Schwartzlose 2008:98).

The Task Force’s distinction between funerary and mortuary objects departed from the Tohono O’odham Nation’s earlier classifications. Ferg and Schwartzlose postulate that “had these been the Nation’s attitudes in 1990, Norton need not have worried about reburial of a substantial portion of his collection that he considered to be from human cremations” (2008:100). They further assert that “there is no indication that it has been an important distinction made by the Tohono O’odham or been previously employed by the Four Southern tribes during repatriation discussions regarding materials from Snaketown and sites on the Tohono O’odham Reservation.” The report implies that future negotiations “with the Nation [will] need to use the direct association of unquestionably human bone as the sole criterion for identifying features as funerary and therefore subject to repatriation under state and federal laws”(Ferg and Schwartzlose 2008:100).

#### **4.5.3 Legislative Restrictions**

The Agreement provides an initial window into legislative restrictions under NAGPRA and state laws that ASM personnel and tribes contend with while trying to negotiate broader collections management goals. The Agreement, and the following cases demonstrate that after legislation is passed repatriation’s unique circumstances still require further negotiation and policy creation.

#### 4.5.3.1 Tucson Presidio

The Tucson Presidio Repatriation in 1992 necessitated that staff create new ASM policy. The case involved Tohono O’odham, Los Decendientes, and the Roman Catholic Church. On January 16, 1992, prior to excavations at the Tucson Presidio site, consultations were held with the three groups. They determined that negotiations for the treatment and disposition of human remains would occur upon discovery. Repatriation under state law is not limited to federally recognized tribes. Each group had equal rights under state law because they claimed affinity. Where multiple claims existed A.R.S. §41-844 lacked guidance on dispute resolution.<sup>43</sup> If groups are unable to reach an agreement the ASM director will make determinations on who has closer affinity to the collections and progress in accordance with their wishes. Cultural affinity is defined as:

[A] relationship which can be reasonably traced historically or prehistorically between a present day claimant group and an identifiable earlier group with which Remains were associated, based on the preponderance of the available evidence and allowing for the inevitability of change through time [ASM 2004b:3].

Each group involved had different wishes for the reburial of human remains, and repatriation coordinator Teague was hesitant to mandate a resolution. Museum staff considered various solutions. Yet, mixed ethnicity, intermarriage, religious conversion, and poor preservation of human remains within the collection complicated the process because physical anthropologists could not consistently separate the remains.<sup>44</sup> Ultimately, the groups negotiated a decision (J.M.C.1).

The case led to the creation of a burial policy and guidelines for the “Repatriation of Remains of Unmarked Historic Cemeteries.” The policy helped negotiate consensus in

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<sup>43</sup> L. Teague to Negotiation Participants, memorandum, 18 February 1992, Tucson Presidio Burials 91-37, ASM, Tucson.

<sup>44</sup> *Ibid*

repatriation discussions where complications occurred due to multiple ethnicities, and where agreements between tribal governments did not provide a framework for resolution.<sup>45</sup>

#### 4.5.3.2 Ceremonial Masks

ASM staff purchased a collection of sacred Ceremonial Masks with state funds from an Indigenous owner July 20, 1985. The sale transferred all rights and title in the collection to ASM.<sup>46</sup> Prior to the purchase personnel contacted a cultural representative in an affiliated community to gauge the implications of the purchase. The representative considered the masks individual property and the museum an adequate repository.<sup>47</sup>

In 1995 ASM hosted Indigenous community members to view the POL exhibit. At a meeting with a group in May, they discussed the circumstances surrounding the purchased ceremonial collection. ASM's ownership and exhibition of the collection were focal points.<sup>48</sup> Opinions concerning the appropriateness of the sale differed within the community (A.F.1).

Tribal representatives consulted the mask maker and determined repatriation was necessary to safeguard the community against spiritual harm. They submitted a repatriation request for the collection on December 4, 1995. From the Elder's Cultural Advisory Council's perspective the collection was inalienable. As objects formerly used in ceremony, the collection was property of a spiritual entity, and needed to be placed in a customary repository.<sup>49</sup> Archaeologist and ASM Archivist Alan Ferg addressed the quandary

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<sup>45</sup> Repatriation Coordinator to ASM Personnel, interdepartmental memorandum, 20 March 1992, Tucson Presidio Burials 91-37, ASM, Tucson.

<sup>46</sup> ASM Bill of Sale, receipt, 20 July 1985, "Ceremonial Masks" DP-96-7, Documentation of ASM Purchase of DP-96-7 File, Accession 85-40, ASM, Tucson.

<sup>47</sup> ASM Documentation of Negotiation of Sale, interdepartmental correspondence, 22 July 1985, "Ceremonial Masks" DP-96-7, Documentation of ASM Purchase of DP-96-7 File, Accession 85-40, ASM, Tucson.

<sup>48</sup> ASM Director to Tribe, letter, 6 September 1995, "Ceremonial Masks" DP-96-7, Correspondence Related to the Final Repatriation of DP-96-7A File, Accession 85-40, ASM, Tucson.

<sup>49</sup> Elder's Cultural Advisory Council to ASM Director, letter, 4 December 1995, "Ceremonial Masks," DP-96-7, Correspondence Related to the Final Repatriation of DP-96-7A File, Accession 85-40, ASM, Tucson.

concerning intellectual property and repatriation: “where do the rights of the individual stop and the rights of the community or rights or authorities of supernatural entities begin”

(A.F.1)?

Repatriation laws placed challenging parameters on the logistics of this repatriation. NAGPRA does not recognize ownership by a spiritual entity, and the active use of the masks in ceremony was complete (A.F.1). Through the technicalities of the sale, and the nature of the collection, ASM could have used NAGPRA to retain the objects (A.F.1). However, resistance to the request could have damaged their relationship with the tribe.<sup>50</sup>

In 1996 ASM notified the community of their intent to repatriate the collection. The museum complied with the community’s claim that the collection was cultural patrimony. Therefore, the museum could not legally repatriate to the family origin because they did not have the authority to alienate the masks.<sup>51</sup>

The dynamics of the repatriation were educational for ASM. Personnel spent time trying to understand the cultural and spiritual parameters of the masks. “The argument that anything once used in a ceremony was now the property of the [spiritual entity] seemed suitable to [ASM] and it was accepted”(A.F.1).<sup>52</sup> This was a precedent setting disclosure on behalf of the tribe that set the stage for dealing with other Ceremonial Mask material. Moreover, it clarified with which tribal representatives ASM are obligated to consult (A.F.1).

The case highlighted Western sensibilities vs. Native American sensibilities:

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<sup>50</sup> Repatriation Coordinator to ASM Personnel, interdepartmental memorandum, 15 December 1995, “Ceremonial Masks” DP-96-7, Correspondence Related to the Final Repatriation of Purchase of DP-96-7A File, Accession 84-40, ASM, Tucson.

<sup>51</sup> ASM Director to Elder’s Cultural Advisory Council, letter, 17 January 1996, “Ceremonial Masks” DP-96-7, Correspondence Related to the Final Repatriation of DP-96-7A, Accession 84-40, ASM, Tucson.

<sup>52</sup>*Ibid*

[It was a matter of the] museum personnel and [the tribe's] Cultural Resource Committee members sort of feeling each other out, trying to get a sense of what was important and what was not. What was relevant and what was not in the way...things were collected, how they were made, how they had been kept or preserved, treated, and which of these things had any bearing on whether or not something was appropriate for repatriation [A.F.1].

#### 4.5.3.3 *Chapayeka* Mask

Contemporaneous with the Ceremonial Masks negotiation another matter arose concerning the Pascua Yaqui Tribe and repatriation of their sacred property. Thompson and Bell contacted Pascua Yaqui in 1993 with a summary list of ASM archaeological collections in compliance with section 6 of NAGPRA. They invited Yaqui representatives to view the collections.<sup>53</sup> Concurrently, the vice chairman requested a similar meeting with ASM. After several attempts, the museum was unsuccessful in arranging a visit.<sup>54</sup>

In 1997 two groups of Pascua Yaqui elders visited ASM and saw that collections included *Chapayeka* masks and accessories used in Lenten religious ceremonies. At that time the process of repatriation was new to the Yaqui. Dittmore explained the purpose and stipulations of NAGPRA to the visitors.<sup>55</sup>

In order to pursue the repatriation of the Yaqui collections Dr. Fernando Escalante, the tribe's new vice chairman assigned Amalia Reyes to the position of NAGPRA

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<sup>53</sup> Pascua Yaqui Vice Chairwoman to ASM Director, letter, 13 November 1993, Pascua Yaqui Repatriation DP 99-4, Initial Summary Letter and Ensuing Correspondence File, ASM, Tucson.

<sup>54</sup> *Ibid*, ASM Attempts to Set a Time To Meet With Pascua Yaqui Tribe of AZ, interdepartmental correspondence, 14-16 December 1993, Pascua Yaqui Repatriation DP 99-4, Initial Summary Letter and Ensuing Correspondence File, ASM, Tucson.

<sup>55</sup> ASM Report of visit/NAGPRA informational meeting, Pascua Yaqui Tribe, interdepartmental correspondence, November 1997, Pascua Yaqui Repatriation DP 99-4, Initial Summary Letter and Ensuing Correspondence File, ASM, Tucson.

representative. Through the assistance of tribal attorney Christine Swanick, Yaqui representatives submitted a NAGPRA repatriation request to ASM in 1999 (A.R.1).<sup>56</sup>

This was not a straightforward transaction because one of the masks came from Mexico. Its applicability to NAGPRA required negotiations between Dittmore and Reyes. NAGPRA only applies to cultural property in the United States. This conflicts with the perspectives of tribes whose communities are bi-national.

Yaqui people, we don't see ourselves as being divided, because we are all one people.... For us [Arizona Yaqui]...we are part of them [Sonoran Yaqui] they come over here and they are part of us.... It is hard for us, and I think it is hard for Tohono O'odham too because there is different sets of protection regulations in Mexico and the [U.S.], and for us being bi-national tribes [A.R.1].

Within this legal and political context, ASM and Pascua Yaqui negotiated the parameters of NAGPRA. In Reyes' conversations with Dittmore, she classified the masks as cultural patrimony despite their geographical place of origin (A.R.1). ASM staff examined comparable cases from other museums for guidance (A.S.1). Dittmore requested Reyes obtain approval from the governor of the pueblo where the mask had originated (D.D.1). Unaware that ASM had the mask (A.R.1), his endorsement allowed the Yaqui tribal chairman in the U.S. to work in the interests of the Sonoran Yaqui (D.D.1).

A Federal Register notice of "Intent to Repatriate" was published March 2, 1999. The Yaqui's claim of shared identity facilitated their custodianship of the Sonoran mask (NPS 1996). On March 4, 1999 the *Autoridades Tradicionales Yaquis, Pueblo De Cordit, Loma De Guamuchil* faxed a letter of permission for the repatriation satisfying ASM's stipulations.<sup>57</sup>

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<sup>56</sup> Pascua Yaqui Tribe Vice-Chairman to ASM Director, letter, 4 February 1999, Pascua Yaqui Repatriation DP 99-4, Correspondence (2) File, ASM, Tucson.

<sup>57</sup> Pueblo de Cordit to Pascua Yaqui Chairman, fax, 4 March 1999, Pascua Yaqui Repatriation DP 99-4, Correspondence File, ASM, Tucson.

The masks were returned to relieved ceremonial leaders (A.R.1). Dittmore was honoured to be present at the masks' burning ceremony. She said, "it doesn't matter what your belief system might be, it was something really important to do" (D.D.1).

ASM accommodation of Yaqui religious beliefs carries implications for future repatriation requests, and relationships with the Yaqui community. Prior to the tour, Yaqui people did not frequent ASM for various reasons, including lack of familiarity with collections access policies. In 1997, Reyes joined the Board. "I see now that the wealth in those collections is that our young people will be able to go and view them" (A.R.1). The tribe is considering repatriating one more object, however "it is not a priority because the ASM has been really good about flow of information and respect for collections." Reyes' statement echoes ASM staff sentiments regarding the impact of relationships on repatriation requests. If tribes trust the museum as a safe repository, repatriation is not always urgent.

Reyes characterizes ASM-Pascua Yaqui middle ground: "I admire the fact that [ASM] are evolving with us, and are helping us, and are still maintaining the integrity that they need to in order to showcase our tribal people" (A.R.1). The strength of this relationship emerges in their mutual ability to address periodical concerns (A.R.1). Neither party takes the relationship for granted. Relationships need careful treatment, continuous maintenance, and foresight (A.S.1).

#### **4.5.3.4 Hopi Tribe**

As demonstrated in this case concerning the Hopi Tribe, museological work with local communities has roots in the 1984 policy "Acquisition of Native American Sacred Objects." In August 2006, Dittmore recognized that materials brought to ASM by a

collector did not belong at the museum. Staff surmised that the collector may have felt similarly. They consulted with Hopi representatives and repatriated the objects (A.S.1; A.S.2).

Alyce Sadongei, ASM's Assistant Curator for Native American Relations, said that in these "person to person" transactions "there is a sense here that if the staff doesn't have to go through NAPGRA they don't" (A.S.1). She promotes the use of legislation, however. "I think we should keep [repatriation] formal and related to the law. Formalities assist in honouring and respecting [tribes'] sovereign status" (A.S.1; A.S.2).

## **4.6 New Directions—New Middle Ground**

As this chapter demonstrates, some developments in ASM practice, policy, and tribal relations directly correlate with individual repatriation cases. Others evolve through ongoing dialogue and experience with Indigenous communities. This section examines hybrid repatriation-related practice that developed through long-term engagement and shaped middle ground.

### **4.6.1 Southwest Native Nations Advisory Board and Negotiation**

Middle ground's composition involves reinvention. Groups take on new challenges and as some are mitigated, new ones arise (White 1991). This is the case with the Board. Through repatriation, tribal perspectives of object care have become more apparent to museum staff. Object conservation was a topic of inquiry by the Board when Sadongei began her tenure at ASM in 1998. Hopi peoples first expressed concern about collections contamination and how it effects repatriation (R.T.1; A.S.1). Chemicals such as arsenic and DDT were commonly used from the 1800s-1970s to preserve collections (Seifert et. al.

2000:2659). Some museums now use spot testing and X-ray Fluorescence to test object toxicity (Odegaard et. al. 2006; Seifert et. al. 2000; W.B.1).

ASM adopted an interdisciplinary approach to tackle the danger posed by toxic materials. The museum had begun a project on pesticide detection when Sadongei and Conservator and Head of Preservation, Nancy Odegaard, received a NAGPRA grant for the educational workshop “Contaminated Cultural Materials in Museum Collections.” Held in March 2000, the workshop was designed for, and in consultation with Arizona tribes. It addressed the technical aspects and issues of contaminated objects, and included cultural, medical, and museum experts (Odegaard and Sadongei 2000; Odegaard et. al. 2005). Toxicity levels and the nature of objects dictate appropriate handling procedures before and after repatriation. This information enables tribal employees to make informed decisions. Sadongei predicts that in some circumstances communities will request the transfer of ownership, but leave collections in the ASM repository (A.S.1).

Negotiations and consultation are now the norm at ASM. The Board continues to be involved in cultural programs and makes recommendations on culturally sensitive issues (A.S.1). They have increased communication between tribes, ASM (A.V.1), and the state of Arizona. Bylaws, officers, and meeting minutes are now part of a more formalized process. However, they have minimal influence on official ASM policy (A.S.1; A.S.2).

#### **4.6.2 Access to Collections**

Prior to NAGPRA, ASM generally exercised their right to determine parameters of collections analysis with minimal tribal consultation (A.V.1). However, as the San Xavier case demonstrated not all analysis restrictions are a result of NAGPRA. Collections applicable to the law follow stricter guidelines, particularly where destructive testing is

concerned. Researchers follow a series of approval processes, including receiving permission from designated tribal authorities (ASM 2005d).

Practice is more considerate of tribal sensitivities through negotiated repatriation. ASM policy outlines their commitment to the “respect and dignity” of human remains (ASM 2005b:7). To view collections with restricted access a formal request is submitted to the Curator of Bioarchaeology (ASM 2005b).

As is true for most museums, space at ASM is at a premium. They incorporated the need for ceremonial space into remodelling, and now accommodate ritual treatments on an ad hoc basis (D.D.1; Teague 2007). For example, ASM permitted the Hopi tribe to distribute small portions of cornmeal in the archaeological collections, with the condition that representatives remove it in three days (L.T., pers. comm. 2010). Certain requests however, reaffirm an inherent distinction between curatorial and Indigenous cultural protocols. Another tribe requested that personnel feed cornmeal to certain ethnographic objects. While ASM staff respect tribal worldviews, they denied this request as contrary to museum conservation standards and expectations of their staff (D.D.1).

#### **4.6.3 Public Relations and Education**

Native Americans in decision-making positions influence public relations, and inform museum practice (A.R.1; J.J.1). Lomawaima became ASM’s first Native American Director in 2004. As a Hopi working in museums he understood the challenges of finding middle ground between science and spirituality, and intended to continue Thompson’s legacy of relationship development (H.L.1).

Lomawaima and his wife Tsianina’s influential leadership improved relationships between American Indian Studies (AIS) students and ASM. Dittmore said that in the early

years of AIS, students were quiet about their connection to ASM. Lomawaima's leadership brought new perspectives and sensibilities to the museum and repatriation negotiations. He assisted in changing the public profile of ASM. Dittmore thinks that under Lomawaima's leadership there was more of a "Native protocol" (D.D.1).

Cultural education and community involvement at ASM is important for Native and non-Native publics. Angelo Joaquin was hired in 2007 to work in the Public Programs division as a program coordinator (M.J.2). The amount of Native students at ASM has increased through community outreach. Staff have greater cultural sensitivity now, resulting in new accommodating practice. For example, Archaeological Repository Collections Curator Arthur Vokes has a personal practice of inquiring into student concerns working in the vicinity of associated funerary objects (A.V.1).

#### **4.6.4 Collections Care**

ASM staff work beyond legislated mandates, making voluntary and creative changes to their practices. For example, a shortage of storage space at ASM made segregating sacred materials from other objects impossible. Jacobs' solution was to use pink tags to designate burial objects, and string-tie tags highlighted in pink for ceramic funerary vessels. The bright colours alerted people to an objects status, providing a reminder of the need for special respect and care. This post-NAGPRA practice was not legally mandated (M.J.1).

The ASM Pottery Project, designed to remedy storage and other collections management issues, has come to fruition (Moreno et. al 2009:36-40). Beginning in 1999 conservators, collections staff, and descendent communities began working together to re-evaluate ASM collections care. Staff goals included reassessing ceramic collections and transferring them to an environmentally stable facility. Consultation with descendent

communities ensured appropriate protocol. In 2001, Odegaard and Sadongei received a grant to help fund the project and assist any potential repatriations (Moreno et. al. 2009:36).

The project addressed NAGPRA-eligible ceramic collections, resulting in “Guidelines for NAGPRA Pottery: Relocation and Management,” developed through informal and formal consultations with Southwest tribes (Moreno et al. 2009:36-38). Guidelines include not repairing objects with compromised adhesives, and stringent access restrictions for separately stored NAGPRA materials. The project expanded ASM’s cultural and structural comprehension of the ceramic collections. These guidelines have become general ASM practice (Moreno et al. 2009).

#### **4.7 Discussion**

To holistically understand stages of middle ground developed between ASM and Arizona tribes over 117 years I examined individual excavations, negotiated repatriations, and ASM-Tribal interactions. Profiling the different means, modes, and tempos of museum milestones through case studies depicted how policy and practice develop—reactively and proactively. Each case provided an example of how tribal-museum relationships develop on a small scale, yet affect, and are influenced by organizational and national dialogues.

Well before Haury’s efforts to formalize collections policies, the Secretary of the Interior, and the Commissioner for Indian Affairs governed excavations at Ventana Cave and Kinishba. Within the federal government’s purview the initial concept of repatriation emerged (L.T.2). Only in the 1980s however, did the frequency of dialogue increase as tribes and ASM began reinventing their relationships. Indigenous peoples assertions of self-determination replaced Museum concerns over the loss of living cultures. ASM policy gradually began to reflect community connections to its collections.

ASM's repatriation to Zuni contextualized the Pueblo's large-scale, sovereignty-driven efforts to reclaim cultural property (Ferguson et. al. 1996). Zuni's prior experience with repatriation influenced the mode of the tribe's negotiation with ASM because staff had some sense of their perspectives on the *Abayu:da*. Zuni utilized legal theory in their repatriation pursuits. Specifically, *Abayu:da* lie within the purview of 18 U.S.C. § 1163, federal legislation which classifies possession of stolen tribal property as illegal (Ferguson et. al. 1996:254). Zuni also enacted Tribal Resolution no. M70-78-991, which formalized the decision-making authority of ceremonialists with regards to sacred objects, and the tribal councils pledge to assist in repatriation negotiations (Ferguson et. al. 1996:252).

The *Abayu:da* case demonstrated that policy could be driven by ethics, and the intent to establish peaceful middle ground, enabling consistent practice and consideration of future relations. As stolen property the *Abayu:da* was in a different legal and moral category than other ASM collections. The deaccession policy codified that repatriating stolen property did not compromise ASM's fiduciary responsibility. The policy was another means of enabling tribal goals whilst protecting ASM. This repatriation was ethically and legally motivated.

By considering Zuni repatriation protocol ASM implied an inherent respect for tribal beliefs consistent with the cooperative mode of this transaction. Museum actions stand in contrast to other *Abayu:da* repatriations. For example, a figure was anonymously mailed to the tribe without consideration of the preparation necessary by ceremonialists to receive an *Abayu:da* (Ferguson et. al. 1996).

The San Xavier project and repatriation contextualized the dichotomy between spirituality and science in the 1980s. It demonstrated the challenges negotiating archaeological practice and contested property. From the conflict emerged middle ground

characterized by hybrid ASM-Tohono O’odham policy and practice. It was fuelled by intention and foresight. Both groups were in politically charged positions, and developed policy for their respective cultures (Ravesloot 1990). This case reflected an intersection of interests forcing groups to the middle ground (White 1991). Parties alternated between dominant and subordinate roles throughout negotiations, but Tohono O’odham’s ownership of the land placed ASM in a position where negotiation beyond legal mandates was pragmatic. Policy signalled the beginnings of museum-tribe cultural practice, that came to fruition almost a decade later through the Norton Allen Agreement (White 1991).

The organizational changes I documented at ASM that are directly attributable to NAGPRA are fewer than expected. Pre-NAGPRA interaction and negotiated repatriations, such as San Xavier prompted discussion amongst heritage personnel and encouraged introspection on practice and policy (L.T.1). Subsequent policy proposals by ASM staff laid out a necessary infrastructure for organizational change at the ASM-Tribal interface. The overarching spirit of the recommendations was to effect change in collections management by actively including Native perspectives. Thus, the nature of consultation shifted from a means to gain federal excavation permits, toward developing comprehensive museum policy including repatriation. This occurred before Senator John Melcher’s 1988 warning to U.S. Museums to start repatriation proceedings (Livesay 1990).

As events of the 1990s unfolded repatriation-related policies matured through a mixture of influences. Discussions of ethics and integration of Indigenous community values nascent in the 1980s were activated, transforming the identity of the museum through collaboration, partnership, and legislation. The boost of interaction between cultures after NAGPRA accelerated facets of policy growth in areas such as collections toxicity, public restrictions on access to NAGPRA-eligible information and collections, and more rigorous

steps to consider proposals for destructive sampling. Madsen explained that had it not been for NAGPRA, ASM might not have progressed as far as it has with respect to repatriation (J.M.1). However, “the attitudes predate the law” (M.J.1).

One of the most important NAGPRA-related changes at ASM was the uniformity of practice it incurred through mandatory collections summaries and inventories (A.V.1; J.M.C.2). Tribes became aware of ASM holdings, and increased their understanding of the museum’s accountability to them. They saw the law broadly, and the confidence it gave them encouraged tribes to initiate discussions on aspects of ASM practice that were not strictly related to NAGPRA materials (J.B.1). NAGPRA also provided opportunities to apply for funding to facilitate the documentation, consultations, and other initiatives (J.M.C.2).

NAGPRA’s wording is quite specific (A.F.1). Negotiated repatriations can utilize NAGPRA but are not limited by it, as demonstrated by the *Chapayeka* and Ceremonial mask discussions. They illustrated that staff continuously learned about aspects of cultural protocol. Open-mindedness shaped middle ground and created contexts where ASM interpreted legislation broadly. ASM’s flexibility respected tribal spirituality and sovereignty.

“One size, one policy does not fit all and there is no way you could craft one that would, without being offensive or irrelevant to a different group” (A.F.1). Ferg’s observances are poignant when considering the changing classifications of associated and unassociated funerary objects. Las Colinas, San Xavier, and the Norton Allen Collection exemplified the negotiation of these categories. Definitions are malleable and can adjust as cultures change causing potential problems where policy or legislation is inflexible.

Case studies in this chapter demonstrate that repatriation is often the negotiation of three middle grounds as observed by Conaty (2008): museum-museum, tribe-tribe, museum-

tribe. Repatriations reveal the scope of interpretive discretion that remains with museum personnel despite legislation intended to empower tribes. If staff were unwilling to broadly interpret certain laws, or take the time to understand the unique contexts of each case, the transactions may have concluded differently, and potentially acrimoniously.

## **4.8 Summary**

Study of ASM's repatriation-related practice and policy illustrates a range of motivation driving negotiations and excavation protocol. Historically, research interests, and compliance with state and federal laws were essential factors. Overtime when legislation and scientific interests could have supported museum contested ownership and practice, staff chose to repatriate or modify procedures.

The repatriation cases in this chapter—pre or post NAGPRA, chronicle ASM's understanding of repatriation and its organizational impact. The authority and legitimacy of Arizona tribal perspectives increased as curatorial ethics at ASM accommodated a broader range of values. Hybrid practice is now acknowledged as a product of middle ground at ASM. Consultation, research, collections storage, exhibition, and other domains of practice have changed through long-term interaction and dialogue initiated and driven by in part by repatriation.

Policy changes stem from legislation, specific repatriation cases, and formalization of iterative practice where experience informs policy. While not without some contention, negotiations indicate expansions of respect, trust, and pragmatism. New norms have emerged with increasing community access to the museum and benefiting interpersonal relations.

## **Chapter 5: Glenbow Museum**

Continuous discussion and reflection are critically important, as organizations cannot change by imposing a model developed elsewhere. There is no objective reality or “truth” out there waiting to reveal the answer to how museums will continue to adapt, create and prosper. Nor are there recipes, formulae or checklists to enable you to do this. There is only what we create through our engagement with others and events.

Wheatley in Janes (1995:15)

### **5.1 Canadian Repatriation and Glenbow Museum**

Repatriations were occurring across Canada by the 1990s. They were then, and typically remain, quiet and respectful transactions, even as they become increasingly routine (G.C.1). An examination of Glenbow Alberta-Institute in Calgary contextualizes a Canadian museum’s struggle to negotiate repatriation. Since its inception, Glenbow has evolved with changing social and political trends, and forged new paths with Alberta’s Indigenous communities (Janes 1994). Similar to ASM, Glenbow’s mission includes research, education, and discovery, which it does by navigating among legal responsibilities and ethical and moral obligations (Conaty 2004). Glenbow Museum parallels ASM’s intentions to encourage good relationships with First Nations people, yet diverges in aspects of process.

In this chapter I chronicle the development of repatriation at Glenbow. The narrative explores elements that influenced constructive and ethical middle ground changes through the means, modes, and tempos of repatriation-related practice and policy. This chapter incorporates a series of case studies examining Glenbow’s relationship with the

Blackfoot Confederacy. Decades of interaction forged strong ties between these two groups as they negotiated loans and repatriations of sacred medicine bundles.

To explore the crucial dynamics driving Glenbow’s organizational changes I segmented the development into early (1940s-1979), middle (1980-1989), and current (1990-2007) periods. I conclude with a brief examination of cumulative changes in practice and policy, and a discussion of Glenbow’s development. Glenbow annual reports and policies are cited in footnotes.

## 5.2 Glenbow Museum 1940s-1979

Glenbow Museum is the enduring public manifestation of Eric Harvie’s legacy. Its collections began with the founder’s predilection for travel and his intense curiosity.

Ironically, this history laid the foundation for contemporary repatriation requests.

**Table 5.1 Repatriation-Related History at Glenbow Museum, 1940s-1966**

Date	Milestone
1940s	Private collector Eric Harvie begins acquiring material culture representative of Western Canada, including cultural property of the Blackfoot Confederacy.
1950-1960	Glenbow’s “intensive collecting programs” are the basis for subsequent educational and exhibition missions. <sup>1</sup>
1954	Harvie establishes Glenbow Foundation (Glenbow Museum 2009).
1966	The Glenbow-Alberta Institute Act section 20(2) establishes Glenbow Museum by accepting the donation of Harvie’s collections to the province of Alberta for all Albertans. The Act outlines museum rules, regulations, and mission (Province of Alberta 2002).

The social and political environment in Alberta in the early 20<sup>th</sup> century encouraged the alienation of Blackfoot medicine bundles. “[Objects were] first sold in the 1930s when

<sup>1</sup> Glenbow Museum Annual Report, document, 1984:9, Glenbow Museum: Library and Archives, Calgary.

the Blackfoot were on reserves and under the control of Indian agents, missionaries, and police trying to eradicate the culture. The second wave of selling was in the 1960s with alcohol abuse problems.” “A lot of people sold [bundles] to museums because they were afraid they were going to get into the wrong hands because of substance abuse. Museums seemed like a safe place” (G.C.1). In other cases, bundle holders sold them for material gain or to fuel substance abuse (E.Y., pers. comm. 2010).

While the removal of medicine bundles from ceremonial use expanded museum collections it also facilitated the decline of Blackfoot religious societies in which bundles played an integral role. As cultural custodians, religious societies were community keepers of bundle history, knowledge, and power (Bell et. al. 2008:207). Glenbow Foundation collector and archivist Hugh Dempsey (1950s -1960s) noticed the cultural importance. He questioned the ethics of accepting ceremonial objects. However, his concern for the bundles compelled him to make some exceptions in purchasing them (Bharadia 1999:16-17). The ethical conflict underpinning particular acquisitions is represented in sales agreements that permitted the seller to repurchase their bundle within a certain time period (Conaty 2004:9).

Eric Harvie gifted the foundation’s collections to the people of Alberta in May 1966. The Glenbow-Alberta Institute Act began a partnership between the Alberta government and the Glenbow Foundation (Conaty 2004:8, 2008; Janes 1995).<sup>2</sup> The provincial government accepted responsibility for curating Harvie’s collections (Appendix D).

Collecting was still occurring in the mid 1970s when Blackfoot communities began reviving ceremonial practices, reaffirming their unique community identities, and attempting to heal physical and spiritual wounds from the impacts of government assimilation policies,

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<sup>2</sup>Glenbow-Alberta Institute Annual Report, document, 28 February 1967:8, Glenbow Museum: Library and Archives, Calgary.

residential schools, and alcohol (L.W.T.1). During this time of ceremonial revival, Glenbow-Blackfoot community engagement remained minimal. Exhibition methods continued to decontextualize Indigenous objects, and collections records “often reflect[ed] the great lack of understanding of the objects and the cultures from whence they came” (Conaty 2004:9). The potential benefits of reciprocal knowledge exchange between cultures, moreover, the subject of repatriation was not yet pertinent. With few exceptions, lack of engagement and the status quo of “curatorial authority” permeated practice into the 1980s (Contaty 2004:9).

### **5.3 Glenbow Museum 1980-1989**

Similar to ASM, the 1980s brought controversy and change in curatorial policies to Glenbow. Table 5.2 chronicles events that profoundly altered the trajectory of the museum and shaped present day Canadian heritage practice as a whole. Overlapping interests between Native communities and Glenbow regarding the treatment of cultural property challenged curatorial authority through Indigenous resistance to the museum status quo (Harrison and Trigger 1988).

**Table 5.2 Repatriation-Related Changes at Glenbow Museum, 1980-1989**

Date	Milestone
1982-1984	First Nations involvement at Glenbow includes performing ceremonies and staff research for exhibition. <sup>3</sup>
1988	<i>The Spirit Sings</i> controversy occurs. The Mohawk communities of Kanawake, Akwasasne, and Kanesatake unsuccessfully seek to prevent an exhibit of sacred False Face masks at Glenbow Museum. Glenbow Board of Governors passes a First Nations policy recognizing the evolving values of Indigenous communities. <sup>4</sup>
1989	The agreement for financial support with the provincial government expires. Ongoing support, and legal ownership of the collections became unclear. Faced with funding cuts and leadership issues, an institutional restructuring begins (G.C.1; Janes 1995).

In 1983 Glenbow Museum began planning the exhibit *The Spirit Sings: Artistic Traditions of Canada's First Peoples (The Spirit Sings)* for the 1988 Calgary Winter Olympics. While this exhibit presented an opportunity to incorporate Native voices in the developmental process, the core curatorial committee was composed of regional academic specialists (Harrison and Trigger 1988:6). Thus, the mode of creating the exhibit reinforced curatorial authority.

During the development of the exhibit in 1986, the Lubicon Cree announced their boycott of the Olympics, bringing attention to their ongoing land claims dispute with the federal government. Shell Oil, a sponsor of the *The Spirit Sings*, was drilling on land claimed by the Cree, who thought that Shell's sponsorship with government support incorrectly represented them as advocates of Native issues. Thus, the exhibit became a forum for

<sup>3</sup> Glenbow Museum Annual Report, document, 1982, Glenbow Museum: Library and Archives, Calgary; Glenbow Museum Annual Report, document, 1984, Glenbow Museum: Library and Archives, Calgary.

<sup>4</sup> Glenbow Museum: Canadian Indian Concerns, policy, 14 June 1988, Robert Janes Papers, Box 3, Gerry Conaty Ethnology Department File, Glenbow Museum: Library and Archives, Calgary.

political protest on multiple levels regarding the state of Indigenous self-determination in Canada (Conaty and Carter 2005; Cooper 2008; Hanna 2003; Harrison and Trigger 1988:6).<sup>5</sup>

Opinions on the exhibit resonated in both curatorial and Indigenous cultures across Canada. For example, at the request of various First Nations, Bruce Trigger, the Honorary Curator of Ethnology at McGill's McCord Museum, appealed to McCord not to contribute to *The Spirit Sings*. Trigger resigned over the museum's decision to participate (Harrison and Trigger 1988:9). *The Spirit Sings* academic, historic tone raised questions about who could authoritatively interpret and represent Indigenous culture (Wilson et. al. 1988:6). It also questioned the legitimacy of sponsorship by governmental and corporate entities that continue to marginalize First Nations cultures (Harrison and Trigger 1988:9). Adding further challenges to Glenbow's situation, several Mohawk bands attempted to prevent the display of sacred False Face masks within the exhibit (Bell 1992:520; Conaty and Carter 2005).

*The Spirit Sings* encouraged a nation-wide shift in the power balance between Indigenous communities and Canadian Museums (Cooper 2008). It served as the catalyst for bringing museum collections management issues to the public. AFN National Chief George Erasmus initiated the symposium "Preserving our Heritage: A Working Conference Between Museums and First Peoples" that resulted in the AFN-CMA Task Force on Museums in 1988 (Nicks 1992:89). Task Force participants discussed repatriation, collections access issues, and adopted a cooperative model for working with First Nations (AFN-CMA 1992; Conaty 2004; Hanna 2003).

With Indigenous heritage concerns receiving increasing international legitimacy in the public and heritage spheres, Glenbow's policies began to change (Cooper 2008). In May

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<sup>5</sup> Glenbow Museum Annual Report, document, 1989, Glenbow Museum: Library and Archives, Calgary.

1988, they formalized a First Nations Board Policy (Table 5.2). It acknowledged the interconnected relationship between religion and society in Native cultures, and recommended that staff consult cultural representatives for relevant museum events. It also stated Glenbow's legal responsibilities toward collections, and restricted repatriation to illegally acquired cultural property. Despite limitations on repatriation, a critical concession was the Board's consideration of loans to First Nations communities.

The Museum is prepared to loan artifacts to Indian museums and cultural groups which maintain facilities with trained staff, acceptable environmental conditions and security. Such loans will be in accordance with the accepted loan policies of the Museum.<sup>6</sup>

This policy provided a foundation for First Nations communities to request the return of their cultural property and foreshadowed negotiated repatriation (Janes and Conaty 1991). As the above quote demonstrated loan conditions were initially based on Western concepts of curatorial care. However, in keeping with these stipulations Glenbow offered assistance in teaching curatorial methods to interested Indigenous communities.<sup>7</sup> The Board policy was "among the first...to be adopted by a Canadian Museum (Janes and Conaty 1991).

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<sup>6</sup> Glenbow Museum: Canadian Indian Concerns, policy, 14 June 1988:2, Robert Janes Papers, Box 3, Gerry Conaty Ethnology Department File, Glenbow Museum: Library and Archives, Calgary.

<sup>7</sup> Glenbow Museum: Canadian Indian Concerns, policy, 14 June 1988, Robert Janes Papers, Box 3, Gerry Conaty Ethnology Department File, Glenbow Museum: Library and Archives, Calgary.

## 5.4 Glenbow Museum 1990-2001

It must be a priority of the entire institution to ensure that this relationship continues to be positive while respecting the concerns and traditions of both the Indigenous cultures and the museum culture.

Native Affairs Group (NAG)<sup>8</sup>

The Task Force (AFN-CMA 1992), the Board policy, the newly acquired leadership of Director Robert Janes, and Curator of Ethnology Gerald Conaty, set the tone for a new decade at Glenbow by contributing to policy changes (D.B.1). Janes, adds to this sentiment by observing that with Curator Emeritus Hugh Dempsey, he and Conaty “became a small critical mass that changed Glenbow’s direction” (R.J.1).

In the midst of Glenbow’s extensive budget cuts of the early 1990s (R.J.1), Janes did not want First Nations relations to become casualties of hard economic times (Table 5.2). Instead, as part of a holistic plan to restructure the museum he prioritized Glenbow’s interaction with them.

[I was able to] convince our Board of Governors as part of a strategic planning exercise, that First Nations are really important to Glenbow. So First Nations are really singled out in our corporate strategic plan as being an area of priority. Once that happens it becomes our focus, it becomes institutionally important...I think it is a combination of institutional commitment at the highest policy level and then translating that to hiring the right people [Bharadia 1999:27].

Coinciding with Glenbow’s restructuring, NAGPRA and the Task Force were stimulating Canada’s emerging repatriation dialogue. While addressing many of the issues discussed in NAGPRA, the AFN-CMA Task Force report was designed to mitigate the need for legislative solutions by re-examining museum method and theory and proposing guidelines for repatriation (Janes 1990; Phillips 2005:87; Wilson et. al. 1992). For example, it

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<sup>8</sup>Glenbow Museum Native Affairs Group, meeting minutes, 23 June 1992, Robert R. Janes Papers, Box 10, Native Affairs Group 1992-1993 File, Glenbow Museum: Library and Archives, Calgary.

recommended repatriating human remains, illegally procured cultural property, and sacred objects (AFN-CMA 1992). The latter two recommendations were reflected in Glenbow's First Nations policy.<sup>9</sup>

In the early 1990s many staff members, and the Board opposed repatriation (D.B.1; G.C.1). “There was worry that [the objects] would be [re]sold [following repatriation],” (G.C.1) and that it would adversely reduce Native collections (Hanna 2003; Janes 1994). Similar concerns were voiced by ASM staff (R.T.1). Glenbow's transitory solution, was to utilize the Board's policy on loans. It facilitated their first loan of *Siksikaohkiniimaan*, a Blackfoot medicine bundle (Section 5.4.1), which became the point of departure for the long-term loans program that transformed relationships with the Blackfoot Confederacy. Table 5.3 chronicles Glenbow Museum's slow tempo toward repatriation.

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<sup>9</sup>Glenbow Museum: Canadian Indian Concerns, policy, 14 June 1988, Robert Janes Papers, Box 3, Gerry Conaty Ethnology Department File, Glenbow Museum: Library and Archives, Calgary.

**Table 5.3 Repatriation-Related Changes at Glenbow Museum, 1990-2001**

Date	Milestone
1990-1991	The first long-term loan is received by the Kainai Nation (Section 5.4.1).
1990	Glenbow's terms for the loan of a <i>Natoas</i> bundle are contravened, however staff continue returning sacred property for ceremonial use (Section 5.4.4.1).
1991	<p>The First Nations Advisory Committee (FNAC) organizes to assist Glenbow with recommendations on research, collections preservation, interpretation of First Nations collections and loans (Janes 1990:11; Janes and Conaty 1991).</p> <p>Glenbow establishes a Sacred Loans Policy. It provides guidelines for special collections care and potential returns (Conaty and Janes 1997).</p>
1992	<p>Glenbow returns bundles to Piikani ceremonialists (Section 5.4.4.2).</p> <p>The Siksika Nation formalize their perspectives on cultural revitalization and self-determination in Siksika Band Council Resolution [BCR] 92-50 (1992).<sup>10</sup></p> <p>Glenbow establishes NAG.</p>
1993	The Program and Exhibit Development work unit includes special loans staff, and a First Nations community liaison from Siksika (Janes 1995).
1997	Kainai Nation member Pablo Russell provides interpretive programmes in the First Nations Gallery (Bharadia 1999:23).
1997-1999	Glenbow and the Kainai Nation work together to bring <i>Motokei</i> Society Headdress bundles home from the Denver Art Museum (Section 5.4.6.1).
1998	Glenbow signs a memorandum of understanding (MOU) with the Mookakin Cultural Society. The Society become custodians of reclaimed Kainai property (G.C., pers. comm. 2008a).
2000	The Alberta Sacred Ceremonial Objects Repatriation Act passes (Appendix D).
2001	The collaborative exhibit <i>Nitsitapiisinni: Our Way of Life</i> opens (Conaty and Carter 2005:43) (Section 5.4.6.2).

<sup>10</sup>Siksika Band Council Resolution 92-50, legal document, 19 August 1992, Robert R. Janes Papers, Box 10, Native Advisory Council 1991-1994 File, Glenbow Museum: Library and Archives, Calgary.

#### 5.4.1 *Siksikaobkiniimaan* Medicine Bundle

Dempsey's familial ties to the Blackfoot community encouraged Glenbow's first loan of a medicine bundle. He offered it to Kainai elder Dan Weasel Moccassin to help his family fulfil a ceremony. The inaugural loan in 1990 stipulated an indefinite tri-monthly object transfer between the Weasel Moccasin family and Glenbow (Conaty 2004:11).

Within the year this milestone spurred the beginnings of hybrid curatorial practice. After the Blackfoot reawaken a bundle, only initiated individuals are supposed to handle it. Glenbow ethnologists requested that ceremonialists spiritually prepare them through painting and blessing out of "recognition of the power that lies in the bundles and our need to be as respectful as possible" (G.C., pers. comm. 2010). Conaty was also "encouraged to prepare a daily smudge while the bundle was at Glenbow" (Conaty 2008:251).

At this tentative stage in the formation of new middle ground, a year of developing mutual trust and cultural education exchange alleviated Glenbow's concerns of bundle damage. The Weasel Moccasin family was no longer required to return *Siksikaobkiniimaan* (Bell et. al. 2008; Conaty 2004:11). Moreover, cumulative trust quelled lingering concerns that Glenbow would revoke the loan (Conaty 2004:12).

Conaty and Janes were invited to witness the bundle's transfer and subsequent ceremonies. "By bringing me into the [bundle] ceremonies I started to understand. There is conflict, after going through school and getting a PhD, I was trained very scientifically." Conaty's experience changed his perspective. He recalls "the first time they transferred and opened that first medicine pipe bundle—picked up the pipe and shook it—at first I thought, 'this is a museum piece, how can you do that? I hope it doesn't fall apart.' Then the other part was...suddenly this thing was alive—I mean really alive. I really felt something. I realized

that is what it is all about.” This involvement was strengthened when Conaty was invited inside the ceremonial circle and no longer sat with the general population (G.C.1).

Museum representation at the Weasel Moccasin transfer ceremony provided an opportunity for other Blackfoot people to make repatriation requests (G.C.1). While this created positive relations with the Kainai, it strained Glenbow’s relationship with the Provincial Museum (PMA) (Conaty 2004:12). PMA officials were concerned about the possibility of repatriation and suggested Glenbow replicate sacred objects, which the Blackfoot opposed (Bharadia 1999; G.C.1; R.J.1). Concurrently, Glenbow management determined it was not the right time to legally repatriate bundles. Potential funding cuts amongst other repercussions served as deterrents (Conaty 2004).

#### **5.4.2 Loan-Term Loan Policy**

Long-term loans encouraged continued interaction between Glenbow and the Blackfoot Confederacy. Loans were a creative option that addressed overlapping interests by facilitating Blackfoot cultural goals, while concurrently satisfying government officials. Glenbow’s legal ownership of the bundles gave them the option of recalling them (G.C.1). In actuality, “[Glenbow] knew that when the loan expired...the materials weren’t coming back, and...we weren’t going to ask for them.... So technically, and legally, we were [lending materials] for two, three years at a time, and...the loan could be extended if both parties agreed” (D.B.1).

Initially it was difficult for Conaty, the primary loan negotiator, to discern the role of individuals or cultural societies making requests (G.C.1). Bundle keepers’ possess cultural knowledge in accordance with customary teachings (K.M.B.1; L.W.T.1, N.B.1). Conaty’s continued attendance at bundle openings clarified individual qualifications (Conaty 2004).

Glenbow's loan policy required a ceremonial elder to accompany individuals making loan requests. This stipulation was in congruence with Task Force recommendations suggesting "Aboriginal involvement in determining who is the appropriate person or group to receive any repatriated material" (AFN-CMA 1992:15). An elder's presence indicated community support for the candidate. Janes and Conaty approved loans on a case-by-case basis, which illustrated the developing ethical middle ground at the Indigenous-Glenbow interface. It also shielded museum officials from some of the risks associated with determining the authority of potential bundle keepers (Bharadia 1999).

### **5.4.3 Consultation**

Advisory committees became an integral component of Glenbow's consultation practice in the early 1990s. The FNAC (Table 5.3) formed in 1991 and advised on loan proposals.<sup>11</sup> Blackfoot perspectives on object care influenced Glenbow's decision to extend loan periods because bundles transferred in ceremony do not belong in regular collections repositories (Bharadia 1999:27). This example illustrates the flexible loans process that grew and adapted as needed. Initially when a bundle was returned to the museum it was fumigated (Conaty 2004:12). By the spring of 1991 the sacred loans policy revoked this requirement, and loans were renewed with whomever most recently transferred the bundle (Bharadia 1999:27).

To complement the FNAC Glenbow created the NAG. It confirmed and ensured Glenbow's accountability to local Indigenous communities. It required staff to consider First Nations customary practices and cultural values in curatorial practice and museum development. NAG gathered staff bi-weekly to meet and integrate interdepartmental

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<sup>11</sup> Glenbow Museum Native Advisory Committee, meeting minutes, 16 June 1992, Robert R. Janes Papers, Box 10, Native Advisory Council 1991-1994 File, Glenbow Museum: Library and Archives, Calgary.

knowledge into their practice, and monitor changing relationships with First Nations.<sup>12</sup> The budding reciprocal relationship between curatorial and Native cultures was timely as First Nations in Alberta, such as Siksika were codifying their objections to certain museum practices (Table 5.3). One of NAG's purposes was to "find the middle ground between professional standards and community needs" (Janes 1994:153).

Indigenous perspectives began blending with curatorial practice soon after the loans program began. The FNAC worked closely with the director and curators in many areas including categorizing objects that were appropriate for student teaching kits.<sup>13</sup> Elders received invitations to visit Glenbow's storage area to conduct ceremonies (Bastien and Bastien 1992). As part of the integrative practice Blackfoot community member's negotiated in-house forms of object care contrary to conservative curatorial standards, such as smudging inside the museum, which was facilitated with an air purifier (G.C.1). When the ventilation systems were under construction collections were moved under the guidance of First Nations consultants who conducted necessary religious ceremonies (Bell et. al. 2008).

The museum also encouraged the involvement of Indigenous representatives in the conservation process (Conaty and Dumka 1996). Conservators no longer fix ceremonial objects without appropriate community consultation (D.B.1).

By 1991, Glenbow's mandate increased public awareness of their developing relationships with First Nations communities.<sup>14</sup> Programming educated non-Native peoples

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<sup>12</sup> Glenbow Museum Native Affairs Group, meeting minutes, 9 June 1992, Robert R. Janes Papers, Box 10, Native Affairs Group 1992-1993 File, Glenbow Museum: Library and Archives, Calgary.

<sup>13</sup> Glenbow Museum Native Advisory Council, meeting minutes, 19 July 1992, Robert R. Janes Papers, Box 10, Native Advisory Council 1991-1994 File, Glenbow Museum: Library and Archives, Calgary.

<sup>14</sup> Glenbow Museum Loan Document, contract, 15 November 1990, Robert R. Janes Papers, Box 3, Gerry Conaty Ethnology Department File, Glenbow Museum: Library and Archives, Calgary.

on living Indigenous cultures and their interconnectedness with cultural property.<sup>15</sup> Elders were invited to the museum in 1993 during Aboriginal Awareness week to share their knowledge of ethnological objects with the public. Several members of NAG agreed that the elders should be exempt from wearing gloves when handling objects.<sup>16</sup>

#### **5.4.4 Challenges to the Loans Program**

Many of the loans Glenbow's management approved throughout the 1990s succeeded in the museum's mission to return ceremonial objects to traditional use. However, any large-scale initiative will have setbacks warranting re-evaluation, self and organizational introspection. There were occasional complications (Conaty 2006). The following narrative outlines the accommodating mode of a negotiated loan that did not meet Glenbow's policy requirements. It exemplifies how the loans process increased staff education, specifically Conaty's, on Blackfoot customary worldview and practice (G.C., pers. comm. 2008a).

##### **5.4.4.1 *Natoas* Bundle (Sun Dance Bundle)**

During the infancy of the loans process, on November 15, 1990, Glenbow loaned a *Natoas* Bundle to a Blackfoot community member for ceremony (G.C., pers. comm. 2008a).<sup>17</sup> To formalize the loan's approval, the borrower and Glenbow signed a standardized loan agreement the museum used for other heritage institutions (Conaty 2008). To cumulatively develop trust, the *Natoas* bundle was loaned in four month increments subject to an annual review with Glenbow. The museum set strict guidelines regarding the bundle's transfer, sale,

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<sup>15</sup> Glenbow Museum Native Advisory Council, meeting minutes, 12 July 1991, Robert R. Janes Papers, Box 10, Native Advisory Council 1991-1994 File, Glenbow Museum: Library and Archives, Calgary.

<sup>16</sup> Glenbow Museum Native Affairs Group, meeting minutes, 4 May 1993, Robert R. Janes Papers, Box 3, Gerry Conaty Ethnology Department File, Glenbow Museum: Library and Archives, Calgary.

<sup>17</sup> Glenbow Museum Loan Document, contract, 15 November 1990, Robert R. Janes Papers, Box 3, Gerry Conaty Ethnology Department File, Glenbow Museum: Library and Archives, Calgary.

and display, all of which required their approval.<sup>18</sup> As the loans process matured, agreements were tailored for individual borrowers (G.C., pers. comm. 2008b).

An unexpected event caused the borrower to retreat from ceremonial practice. The bundle was not returned as stipulated in the agreement, and Glenbow had difficulty contacting the borrower (Janes 1994:152). The successful return to the Weasel Moccasin family had staff concerned that violation of this loan might jeopardize future considerations.<sup>19</sup> Janes saw things differently, “we have a principle at Glenbow which says that we should avoid practices and policies designed to protect the organization against ‘mistakes.’ Such policies tend to force individuals and the organization to perform at the lowest levels of competence” (Janes 1994:152). In keeping with the museum’s trajectory, Glenbow pragmatically and ethically continued to loan materials.

At the suggestion of Glenbow’s FNAC (Janes 1994:152) and to mitigate the situation, Conaty pursued a Blackfoot form of dispute resolution.<sup>20</sup> Community members were asked to act as mediators between the museum and the borrower. This proved challenging however and few people were up to the task. The community’s subsequent assurance of the bundles safety resonated with Conaty. He was told that it was well treated, and would remain on reserve. The bundle was not returned to the museum (G.C., pers. comm. 2008a).

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<sup>18</sup> *Ibid*

<sup>19</sup> Glenbow Museum Curator of Ethnology to Band Manager, letter, 25 June 1992, Robert R. Janes Papers, Box 3, Gerry Conaty Ethnology Department File, Glenbow Museum: Library and Archives, Calgary.

<sup>20</sup> Glenbow Museum Native Advisory Council Follow-Up List, meeting minutes, 16 June 1992, Robert R. Janes Papers, Box 10, Native Advisory Council 1991-1994 File, Glenbow Museum Archives, Calgary.

#### 5.4.4.2 Beaver Bundle

While trust between Glenbow and Blackfoot communities constructed the foundation of the loans program, Glenbow's obligations to the Alberta government presented challenges for accommodating loan requests. Due diligence for loan approvals included investigation on how bundles were acquired, who was requesting them, and why (Janes 1990). As the *Natoas* bundle loan demonstrated, Glenbow approached negotiations looking at the 'bigger picture' of what the museum was trying to achieve. This perspective influenced pragmatic action. Sometimes circumstances dictated conservative or strategic lending practices to return bundles home. The loan of a Beaver Bundle to ceremonialists Leonard and Audrey Weasel Traveller (Bastien) presented this type of transaction.

Paul Raczka requested a Beaver Bundle from Conaty in 1992 on behalf of Piikani community elders (P.R.2). Raczka is culturally knowledgeable in Blackfoot bundle keeping, and currently cares for a Beaver Bundle (P.R.2). He is, however, a white U.S. citizen. This request required personnel to weigh community benefits and institutional concerns carefully. Conaty wanted to return the bundle, however Raczka's national and cultural status was likely to bring unwanted criticism to the museum. It was necessary to strategically negotiate the means to formally return the bundle.<sup>21</sup>

Conaty and Raczka discussed the museum's concerns about the loan. Raczka understood Glenbow's position. As an alternative, Conaty suggested loaning the bundle to the Piikani Brave Dogs Society. This middle ground option could benefit all parties. The museum had received criticism for permitting loans to individuals. The Brave Dogs were a religious and corporate group under the Societies Act of Alberta. Their acceptance of the

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<sup>21</sup> G. Conaty to R. Janes, RE: Beaver Bundle Loan to Paul Raczka, interdepartmental correspondence, 6 April 1992, Robert R. Janes Papers, Box 3, Gerry Conaty Ethnology Department File, Glenbow Museum: Library and Archives, Calgary.

bundle could alleviate external criticism, while supporting Raczka's request. He was a member of the Brave Dogs (P.R.2), which is not exclusive to Indigenous people.<sup>22</sup>

Weasel Traveller, Raczka, and others considered Conaty's suggestion (P.R.2).<sup>23</sup> They also surmised that if Weasel Traveller requested the Bundle as leader of the Brave Dogs Society it might increase their chances of its receipt (P.R.2). The Weasel Travellers had not pursued a Beaver Bundle previously. However, Leonard's wife Audrey had continuous dreams about one. A persistent spirit informed them that they needed to bring a Beaver Bundle home (L.W.T.1). Leonard visited Conaty to make a formal request. He signed consent forms, and the bundle was returned to ceremonial use (L.W.T.1, L.W.T.2).

#### 5.4.5 Community Revitalization

Leonard Weasel Traveller credits Conaty and Janes with,

perhaps... pioneer[ing] [the] repatriat[ion] of medicine bundles back in to the Blackfoot Nations of the Siksika, Blood Tribe, and Piikani Nation. If it wasn't for their efforts I never would have had the opportunity of getting a second Thunder Medicine Pipe Bundle, and I never would have had the wonderful opportunity to care for a sacred Beaver Bundle [L.W.T.2].

He appreciates the significance of the initiatives that took place at Glenbow in the face of criticism by colleagues trained in a more conservative curatorial culture (L.W.T.1).

Weasel Traveller explained the impact of re-establishing sacred societies and the Sun Dance. "Within approximately a year 50% of the membership stopped drinking alcohol. I don't know if having the Sun Dance and us taking over the society [Brave Dogs] had anything to do with it, but there is a part of me that says yes." "My people need the bundles

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<sup>22</sup> Glenbow Museum Native Advisory Council, meeting minutes, 23 January 1991, Robert R. Janes Papers, Box 10, Native Advisory Council 1991-1994 File, Glenbow Museum: Library and Archives, Calgary.

<sup>23</sup> G. Conaty to R. Janes, RE: Beaver Bundle Loan to Paul Raczka, interdepartmental correspondence, 6 April 1992, Robert R. Janes Papers, Box 3, Gerry Conaty Ethnology Department File, Glenbow Museum: Library and Archives, Calgary.

to perform the sacred ceremonies that bind the people together for the good of all living beings in creation” (Bastien and Bastien 1992:4). Weasel Traveller honours Joe and Josephine Crow Shoe with the revitalization of the Sun Dance and the Brave Dog Society, which continues to positively influence the Piikani community (L.W.T.2).

Conaty who emphasised that accessibility is a key concern when returning cultural materials to communities underscores Weasel Traveller’s comments. More bundles increase accessibility, strengthen cultural identity, and facilitate active ceremonial lives (Bharadia 1999).

#### **5.4.6 Collaboration**

The cumulative results of relationship building are poignant when exhibited through collaboration such as exhibition and other joint initiatives. Interaction between Glenbow and the Blackfoot community through loans processes, and satellite programs continued to evolve throughout the 1990s.

The development of the Mookakin Society in 1996 demonstrated a new level of Kainai self-determination. This not-for profit organization (Conaty 2004) concentrates on repatriation, language preservation, and public education on the Nation’s cultural materials (Bell et. al. 2008). Interaction between the Kainai and Glenbow increased as they pursued community heritage management goals. In classic middle ground format, “they overcame scepticism and suspicion” of each others’ motives and developed a trusting relationship that inspired an MoU in 1998 (Conaty 2008:252).

The MoU outlined obligations between groups, which included Kainai involvement in museum collections management, and Glenbow facilitating repatriation discussions with other museums. Similar to the Zuni, the Kainai Nation had embarked on repatriation

initiatives domestically and abroad in the 1970s (Bell et. al. 2008). The MoU “was a formal piece of paper but it embodied a much more time honoured tradition of trust” (R.J.1). “Bundles have become the basis for Glenbow’s relationship with the Kainai” (G.C.1).

#### 5.4.6.1 *Motoki* Society Headdress Bundles

Glenbow’s assistance in repatriating *Motoki* Society headdress bundles from the Denver Art Museum (DAM) was an example of partnership through the MoU. DAM has a large collection of Blackfoot materials. Their request was for *Motoki* Society headdress bundles collected by Madge Hardin Walters in the 1930s and 1940s (Conaty 2004; Echo-Hawk 2002). Kainai representatives began negotiations in the winter of 1997-1998.

Faced with the complex reality of an international repatriation, the Kainai were willing to compromise and take the bundles on a loan. However, a prior breached agreement with another First Nation made museum officials hesitant to repeat the process until Glenbow offered to co-sign (Conaty 2004:17).

The Kainai returned the bundles in August 1998 after their use in ceremonies. This marked the start of repatriation negotiations. The relationship began positively as the Kainai and DAM submitted a NAGPRA grant application to mitigate the costs of the negotiations process. Because this was an international request, the Kainai also arranged support from the Blackfeet of Montana (Conaty 2004:18).

Kainai elder and member of the Mookakin Society, Narcisse Blood said that from the onset, the mode of the negotiations was adversarial (N.B.1). The museum’s Native American repatriation officer stated, “I am an historian and I believe in the written document” (G.C.1). This statement tacitly implied that Kainai oral history, as relayed by respected elders, would not be weighed equally against their own administrative files or ethnographic research, which

surprised Blood. “The Blood Indians assumed because there was another Indian working with them...that they had an ally” (N.B.1).

The contentious mode of the negotiations proceeded with the museum adhering to NAGPRA’s narrowly defined parameters for object classification (N.B.1). While not required to follow NAGPRA, administrators used the legislation to structure international repatriations (Bell et. al. 2008:220). The bundles are sacred cultural patrimony (Conaty 2004) and NAGPRA differentiates between individual and communal property (Echo-Hawk 2002). The categories were contested during the negotiations because they determined whether or not DAM legitimately owned the bundles under Western law (Conaty 2004).

The repatriation officer disputed the bundles as communal property. Archived correspondence from Hardin-Walters described bundle sales by “owners,” whereas Blackfoot people would say ‘bundle keepers.’ This was problematic for the Kainai whose cultural protocol dictates legitimate bundle transference (Conaty 2004).

The assertion of individual bundle ownership by DAM ignored societal contexts at the time of object alienation, including language barriers. Disrespectful lines of questioning challenged Kainai value systems, slowing the case’s tempo (Conaty 2004:19). Museum officials queried why the Kainai did not protest at the time of the sales. The Kainai, and Conaty countered this argument (G.C.1; N.B.1). Who were they to protest too? “The people acting as agents for Walters were high ranking Kainai politicians appointed by Canadian government officials” (Conaty 2004:20). Blood said that Conaty openly expressed his displeasure with the proceedings (N.B.1). One Blackfoot representative commented, “I don’t believe I just saw that, a white guy sticking up for us; talking to another Indian!” (G.C.1).

In the spring of 1999, in an effort to advance the proceedings, the two parties composed a Protocol Agreement for negotiations. The agreement included five points reflecting Blackfoot values (Conaty 2004:21).

(1) oral history shall be given equal weight to written documents (2) elders, members of sacred societies, and Blood Tribe representatives shall be treated with the utmost respect, in keeping with Blood Tribe protocol (3) outside parties may be consulted to provide information, research, advice, and recommendations (4) either party may bring observers and persons with expertise in appropriate topic areas as required (5) if discussions breakdown on any issue, the parties may mutually agree to refer the matter to mediation by an agreed upon mediator [Conaty 2004:21].

A mutual deadline was set to reach a decision. Despite these negotiated protocols, complications continued to arise. The Kainai needed the bundles home for annual ceremonies. DAM agreed to another long-term loan because transferring sacred materials through international customs was difficult (Conaty 2004).

DAM's decision in July 1999 showed little movement from their earlier position. Under NAGPRA, the social context related to the sale of the objects was irrelevant (Echo-Hawk 2002). Museum research relied on the documentation from Hardin-Walters. Thus, its officials concluded the bundles constituted individual property ineligible for repatriation (Conaty 2004:23-25).

Polarized in their positions, the Kainai presented a final claim in December 1999 (Conaty 2004:24). As a final approach to bridging the chasm of misunderstanding that had widened throughout the negotiations, a member of the DAM board of governors was invited to visit the Blood Reserve. The visit had the desired effect. After returning to Denver, the museum's board voted to deaccession the bundles outside of NAGPRA. Museum administrators justified their actions having previously established precedent by returning materials to a South American tribe. Blood maintains they also wanted to avoid

unflattering publicity that could have resulted from this case (N.B.1). The official repatriation occurred in September 2000 (Echo-hawk 2002:175).

#### **5.4.6.2 *Niitsitapiisini: Our Way of Life***

The trust symbolized by the MoU paved the way for a collaborative Blackfoot-Glenbow exhibit involving the Kainai, Siksika, and Piikani Nations. It contrasted the *Spirit Sings* by representing Blackfoot culture through Indigenous community voices (Conaty 2008). After nearly four years of development *Niitsitapiisini: Our Way of Life* opened November 2001, presenting a revitalized First Nations gallery for the first time in 25 years. The exhibit is the product of a committed Glenbow-Blackfoot partnership. Participants drove long hours, and Glenbow staff devoted time outside of standard working hours to attend ceremonies as Blackfoot cultural protocols were integrated into the process. Sharing in ceremonial work set the tone for the cooperative gallery project (Conaty and Carter 2005).

Modified exhibition techniques distance *Niitsitapiisini* from customary displays. The 8,000 sq. ft. exhibit is interactive, incorporates multi-media, oral history in English and Blackfoot with minimal use of glass cases (Conaty and Carter 2005). Displays demonstrate the continuity of Blackfoot culture through individual stories within a larger cultural narrative. Visitors travel through precontact Blackfoot life into post-contact and residential schools periods. The exhibit comes full circle teaching about cultural revitalization and repatriation. It avoids portraying the Blackfoot culture as static or completely acculturated, and highlights differences within the Confederacy. The gallery tastefully addresses sacred and political subject matter. To reach a broader audience Glenbow developed a book and interactive educational website as companion pieces (Glenbow 2010).

## 5.5 Legislation

With the 1990s coming to a close Glenbow had many outstanding loans to the Blackfoot Confederacy (G.C.1). By 1996-1997 the substantive reciprocal achievements between Glenbow and the Blackfoot foreshadowed a new milestone (R.J.1). The time had come for an increasingly equitable middle ground that mutually assisted cultural and curatorial communities. It entailed “unconditionally return[ing] all of the sacred material. We couldn’t exhibit it, and we couldn’t care for it properly because we didn’t have the proper ceremonial status” (R.J.2). It was a matter of pragmatism and appreciation of the communities’ spirituality as repatriation is both morally and economically relevant to museums (Conaty 2004:15). This final case symbolically, and literally, cut the museum’s ties to sacred Blackfoot cultural property.

### 5.5.1 1999-2000 Sacred Object Repatriation

We have always said that we are holding our collections for posterity. Perhaps, for Native peoples, posterity has arrived.

Janes and Conaty (1992:12)

During a collections review in 1998 Conaty renewed Glenbow’s repatriation dialogue. Management agreed with repatriating ceremonial bundles, however in anticipation of criticism from the Alberta government and the Glenbow Board of Governors, they held a repatriation workshop in November 1998. The goal was to assess Canadian repatriation trends and encourage national consensus (Conaty 2004:15). Museums were unprepared to commit to a countrywide protocol. Yet Glenbow learned that other museums were repatriating and developing policy (Conaty 2004; G.C.1).

Consultation with Blackfoot ceremonialists from Siksika, Piikani, and Kainai were undertaken in 1999 to review Glenbow's Blackfoot property (Conaty 2004). They defined their own limits on the types of objects to be repatriated. Their choices demonstrated strategic and spiritually motivated claims. Communities prioritized sacred bundles but also requested non-communal objects. While expanding repatriation parameters in the future is likely, Glenbow's initial step limited the Nations to sacred ceremonial objects (G.C.1).

Glenbow Board of Governors approved the final list of 251 objects (Conaty 2004:16). The next hurdle was the Alberta provincial government whose 1996 amendment to the Glenbow-Alberta Institute Act required their approval to deaccession museum collections (Conaty 2008). As predicted, bureaucratic challenges with officials prompted Glenbow to appeal directly to then Premier Ralph Klein (R.J.2). The transfer of ownership was approved in 2000 and led to a draft of repatriation legislation (Conaty 2004, 2008).

Alberta's First Nations Sacred Ceremonial Objects Repatriation Act was a Canadian first. Canada has commonly avoided legislation because it is often more restrictive than enabling (G.C.1; R.J.1). This legislation was born out of partnership, trust, and understanding that superseded legal rights and obligations (Bell et. al. 2008:238). It protected Blackfoot communities by ensuring that museums could not recall loans (G.C.1). The legislation ensured that other Alberta museums would take action to equalize the power imbalance with Indigenous communities (Bell et. al. 2008; R.J.1).

The Act legally transferred ceremonial objects in the possession of Glenbow Museum, the PMA (now the Royal Alberta Museum [RAM]), and the Alberta Crown to not-for profit societies (Appendix D)(Province of Alberta 2008). The Mookakin Society and the

Piikani Nation's Long Time Trail Historical Society, which functions in a similar capacity, are not-for profit societies eligible to receive repatriated materials (G.C., pers. comm. 2008a).

The repatriation process requires the Blackfoot to submit requests to an appropriate not-for-profit-society. Then they are submitted to the Alberta Provincial government and the RAM in Edmonton (D.B.1). A community advisory committee consults with the government (G.C., pers. comm. 2008a). Prior to the Act, Glenbow received all requests relevant to the collections. While negotiations remain with Conaty, the process is slower due to legislative procedures (D.B.1).

At the time of this research, only the Blackfoot Confederacy had submitted repatriation requests. While there are outstanding loans to other Indigenous communities there are no established repatriation regulations. Conaty thinks that some tribes are content with possession of objects as opposed to legal title (G.C.1).

A distinctive feature of Alberta's legislation, as opposed to NAGPRA, is that the Act does not discuss ownership. In Alberta, materials can be repatriated if they are essential for continuing religious practice in accordance to community definitions of sacred (G.C.1). Over the years, classifications of sacred materials led to ongoing challenges between Glenbow and Blackfoot communities to reach consensus. The dialogue remained open ended to accommodate different perspectives (Bharadia 1999).

Within Blackfoot communities, sentiments vary regarding the Act, and the need for federal legislation. Some opinions are based upon lack of familiarity with it, but most relate to a lack of regard for Western common law, and concerns about cultural assimilation (Bell et. al. 2008; K.M.B.1; L.W.T.1; N.B.1). "I think that the legislation is something we live with. I am much fonder of an approach where we could do it without [governing] by strict

legislation, using well thought out critical policy developed by Glenbow for the collections” (D.B.1).

## **5.6 Institutional Changes in Collections Management**

Similarly to ASM, not all policy and practice at Glenbow is related to a singular circumstance. Policy changes and hybrid practices are an acknowledged product of long-term interaction with local Indigenous communities (R.J.1). The following section illustrates additional modifications Glenbow’s staff made to legitimize different perspectives and strengthen relationships.

### **5.6.1 Negotiation and Consultation**

ASM demonstrated that nuances of negotiation and consultation are learned over periods of time in intervals that shape a middle ground reflective of cumulative experience. Conaty echoed this observation, explaining subtle yet crucial aspects of negotiation such as body language, and anticipating community cultural needs that become clear through familiarity.

It took eight years to begin to know some of the questions to ask representatives. You have to know a lot to know anything. That is why we spend so much time with other people and going to ceremonies. Part of it is that, and the other is talking...[it is] all part of the process [G.C.1].

Janes supported Conaty’s statement, emphasising that the changes occurring at Glenbow were part of an “iterative educational process” (R.J.1). The initiative demonstrated by Conaty, Janes, and Dempsey, among others, to develop relationships with Indigenous communities changed government and staff perspectives. Former registrar, and head of collections, Daryl Betenia opposed repatriation prior to discussions with Conaty (D.B.1). As a director, Janes discouraged staff inaction with Indigenous communities. “There is only one

way you are not going to make a mistake, and that is to sit in your office all day and not do anything. If you do that then I don't want you here" (G.C.1).

### **5.6.2 Collections Access**

Policies restricting access to sacred materials initially met with criticism from some Glenbow staff that supported freedom of information. The disapproval diminished over the years, and restrictions remain on sacred information and photographs (Conaty and Janes 1997; Janes 1990). Researchers must receive permission from an appropriate ceremonialist to exhibit or photograph sacred materials (Conaty and Janes 1997). Revisions to the First Nations policy (Glenbow Museum Board of Governors 2001:2-3) increased the range of discussion on collections access, and encouraged researchers to develop working relationships with Native consultants.

Glenbow will act as a repository for cultural materials. The museum classifies sacred objects through community consultations and does not accession them. Personnel considering a purchase will consult with members of the FNAC to ensure that materials are appropriate for sale.<sup>24</sup>

To increase collection access, education, and capacity building, Glenbow has been involved with Alberta Indigenous communities in multiple ways. Staff worked with students at the Plains Indian Cultural Survival School. Students curated their own exhibits by choosing materials and subjects that were relevant to them (Bharadia 1999). Glenbow also helps with the development of community museums, and will consider repatriating non-ceremonial objects if they are curated within museum standards (G.C.1). More communities

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<sup>24</sup> Glenbow Museum Native Advisory Committee, meeting minutes, 23 June 1992, Robert R. Janes Papers, Box 10, Native Advisory Committee 1991-1994 File, Glenbow Museum: Library and Archives, Calgary.

are considering their own museums (D.B.1). Repatriated objects educate and instil pride. “If it is going to do some good in the community [it] should go back” (G.C.1).

### 5.6.3 Public Relations and Education

Glenbow prides itself on its educational initiatives. In 1997 a member of the Kainai Nation was hired to provide interpretation in the First Nations Gallery as part of the museum’s school program (Bharadia 1999). “Glenbow is an education place for Natives living in the city and kids who don’t have access to elders in their own family; a starting place. This is their place and they have a connection with us” (G.C.1). “It’s not that other museums are unfriendly. It’s that they [Native people] don’t know that they are friendly because they don’t talk about what they are doing” (G.C.1). Glenbow also admits First Nations people to the museum free of charge.

## 5.7 Discussion

The middle ground might be...what do they want from us? Well they want their sacred materials back so they can continue to practice their traditions and pass them on to their children and grandchildren...we’re losing pieces, but at the same time we have an opportunity to gain a relationship and gain knowledge.

Gerald Conaty (G.C.1)

Glenbow was not exempt from North America’s changing political environment. The *Spirit Sings* was a collision of culture and politics that demonstrated that the two are inherently intertwined (Harrison and Trigger 1988:9). Middle ground develops through necessity. Glenbow was ethically and institutionally obligated to reevaluate First Nations-related practice and policy in the wake of the *Spirit Sings*.

External pressure, internal response, and proactive action shaped middle ground at Glenbow thereby influencing the means, modes, and tempos of loans and repatriation. Janes prioritized the relationship with Indigenous peoples in the face of legislative barriers, and a 40% cut to Glenbow's operating budget (R.J.1). His actions, in addition to Conaty and Dempsey, are an indicator of the ethics driving individual collections managers. Particularly, when "being interviewed for the Glenbow's CEO, the topic of improving relations with First Nations was not discussed in any depth" (R.J., pers. comm. 2010). A combination of politics and organizational constraints required cautious steps to achieve curatorial goals, yet personnel exceeded basic guidelines of the Task Force Report and First Nations policy.

Long-term loan and repatriation cases presented in this chapter demonstrated negotiated values and reciprocal knowledge exchanges over a critical ten-year period at Glenbow. Cases provided insight into the ethical and administrative decisions motivating the loans program and the development of repatriation legislation. Glenbow's collections management decisions were pragmatically motivated, enabling trusting intercultural partnerships. Each narrative relayed learning experiences and opportunities in which Glenbow staff built their cumulative knowledge base of Blackfoot culture.

Glenbow's obligation to the province and their investors affected the tempo of repatriation processes. Loans were not an exceptional concept. Yet Glenbow's unorthodox and strategic application of loans was meaningful because the process integrated Blackfoot values. These respected values permeated practice throughout the museum and illustrated Glenbow's commitment to the moral side of repatriation.

The Blackfoot-Glenbow interface is characterized by interpersonal relationships, which set the tone of interaction throughout the chapter. Janes appreciated the impact of

personal interaction with the Weasel Moccasin family. “Along with the loan was this very sincere attempt by the Weasel Moccasins to involve us as individual human beings in their ceremonial life, and not just as museum directors and curators.” Daniel Weasel Moccasin honoured Janes with one of his names (R.J.1).

Glenbow’s contribution to community revitalization enabled the Weasel Moccasin family to “bring the bundle to life,” and continue their religious practice (Conaty 2004:11). The opportunity to experience the community impact of curatorial decisions by attending ceremonies was a gift of knowledge to staff from the family, and an astute, trusting, choice on their part to pave the way for future returns (Conaty 2004; R.J.1). Both Glenbow and the Weasel Moccasin family exhibited considerable trust gauging the middle ground forming on the foundation of the Dempsey-Kainai relationship. Considering the customary needs of the family, the seeds of hybrid practice and policy were planted.

The key dynamic for policy creation and good relations lay within the treatment of individuals and the collective. This is especially poignant when examining the misunderstandings that occurred in the DAM-Kainai middle ground. Almost a decade after NAGPRA’s passage, Glenbow’s assurances of appropriate bundle care carried more legitimacy than the Kainai’s. This strongly indicates that repatriation legislation does not necessarily foster intercultural understanding. It is negotiated at an individual level and influenced by personal experiences and perspectives. DAM’s trust issues and subsequent hesitancy to loan materials to the Kainai, signified their reluctance to treat Indigenous tribes as distinct entities unlike Glenbow’s practice with the *Natoas* bundle.

Furthermore, DAM’s initial unwillingness to consider the context of alienation contrasted with Glenbow’s modes of negotiation. Cultural objects in museums lose meaning

without context. Therefore, not to have context play a role in repatriation negotiations is counter-intuitive. The Blackfoot's history of community crisis contributed to the alienation of sacred bundles (Conaty 2004). Therefore it is pertinent to consider the ethical legitimacy of sale, and changes in language affecting the integrity of archival files. Conaty emphasized this point by clarifying that Blackfoot people refer to themselves as custodians or keepers of bundles rather than owners (G.C.1). The misunderstandings creating the DAM-Kainai middle ground appear to stem from lack of familiarity. Blood explained, "this is the problem when outsiders don't know our ways...there is no reason why they should, but if they take those bundles then I think it is incumbent upon them to understand..." (N.B.1).

Considering community needs on a case-by-case basis also indicated that Glenbow viewed loan recipients as individually as Dan Weasel Moccasin viewed Janes, Conaty, and Dempsey. This was a crucial dimension in the mode of the *Natoas* bundle loan transaction. The case marked a point in Glenbow's development where returning cultural property facilitated museum mission rather than being contrary to it. Glenbow's legal authority to recover the bundle was secondary to community relations.

The FNAC discussed the *Natoas* case and a ceremonialist suggested adjusting the loans policy. He proposed incorporating customary Blackfoot values rather than placing sole reliance on the museum's formally written agreements.<sup>25</sup> Circumstances such as this raise important questions about what makes an agreement meaningful in different cultures. Incorporating ceremony into the loans process held the potential to elicit greater adherence from borrowers to the agreements (Janes 1994:152-153). Weasel Traveller, among others,

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<sup>25</sup> Glenbow Native Advisory Council, meeting minutes, 16 June 1992, Robert R. Janes Papers, Box 10, Native Advisory Council 1991-1994 File, Glenbow Museum: Library and Archives, Calgary.

explained that ceremonial transfer is more meaningful to Blackfoot people than Western legal documents (L.W.T.1).

Despite the lack of community compliance on the terms of the *Natoas* loan Janes says that he “subscribe[s] to the principle that the abuse of something does not bar its use” (R.J.1). The experience broadened Conaty’s perspectives on community dynamics. “People do not want face to face confrontation. I learned to trust what people were telling me, even if there was no obvious evidence to support what they were saying” (G.C., pers. comm. 2008a). Trust and understanding are essential building blocks for communities and museums, in order to achieve larger goals of relationship building. Whether or not all loans were successful, and the objects returned to ceremonial use, Conaty “ha[s] no doubt that they are affecting positively whomever they are with” (Conaty 2006:255).

The consultation with the FNAC indicated the open dialogue regarding the case. Glenbow seeking cultural expertise to resolve the conflict and consider the future was meaningful. The open dialogue continued with the Beaver Bundle loan. The potential barriers to this loan were significant. Conaty used a strategic and accommodating mode to circumvent barriers and create the means to return the bundle.

Curatorial and Indigenous cultures are often forced to contend with imposed legislation and organizational policies (Chapter 2). Despite these impositions community members are confident in their values. This confidence is poignant when examining the means to return bundles, and considering the divide between Western legislation and Blackfoot cultural protocol. As Leonard Weasel Traveller stated:

Gerry Conaty knew that once [bundles] left the museum they were never going back. I think for a while he tried to have the contract renewed on an annual basis, but after a couple of years he [stopped].... Technically Glenbow owned nothing. The creator gave them to us. We [have had] a relationship... since time immemorial [L.W.T.1].

An important aspect of the loans process is the tempo in which bundles were returned. The Weasel Travellers requested a bundle concurrently with the Beaver Bundle. A formal request was submitted on April 13, 1992, processed by Glenbow on April 16, 1992, and subsequently approved by Janes on April 28, 1992.<sup>26</sup> This strongly contrasts with the slower tempo of legal repatriation (Chapter 4).

After a decade working with Glenbow, repatriation gave the Blackfoot Confederacy legal autonomy over their collections. While Glenbow had “consciously tried to dismantle the traditional power relationship between Native people and museums” (Conaty 2004:31), legal transfer of ownership legitimized their perspectives under Western law. The tempo of the cumulative repatriation was slow, relating to the levels of authority composing a museum’s middle ground. There are dominant and subordinate positions throughout the museum enterprise. Individual curators and Indigenous representatives must buy into the protocol to support repatriation. There are many levels of government and management to convince. Conaty and Janes’ unflagging support and determination, in partnership with the Blackfoot, is a testament to individual initiatives. Glenbow’s decision to begin repatriation proceedings set the wheels in motion for the provincial legislative process (R.J.2).

## 5.8 Summary

Glenbow’s evolving relationship with the Blackfoot Confederacy provides a linear progression of organizational development with one Indigenous group. Individual initiative

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<sup>26</sup> L. Bastien to Glenbow Curator of Ethnology G. Conaty, letter, 13 April 1992, Robert R. Janes Papers, Box 3, Gerry Conaty Ethnology File, Glenbow Museum: Library and Archives, Calgary.

and negotiated practice on the part of Blackfoot and Museum representatives was fundamental in melding tribal-museum collections management. Trust and good-faith changed the public and private identity of the museum.

Had the *Spirit Sings* not occurred Blackfoot-Glenbow middle ground would have developed at a different tempo. The relationship accelerated after the exhibit when Glenbow was under considerable public scrutiny. “The *Spirit Sings* was a catalyst for Glenbow as an organization, but this work would have transpired nonetheless” (R.J., pers. comm. 2010). Janes came to Glenbow from the Prince of Whales Northern Heritage Museum in the Northwest Territories. The practices introduced to Glenbow were already standard procedure there. Janes hired Conaty who had similar experience working with First Nations people at the Royal Saskatchewan Museum (R.J., pers. comm. 2010). They prioritized Glenbow’s organizational accountability by expanding collections access, transforming public opinion, and increasing Glenbow’s social relevancy (Janes 1995).

Case studies showed that more hinges on the return of cultural property than legal title transfer does. Mutual respect and reciprocal knowledge exchange are meaningful for future prospects. The revitalization of Glenbow, and local Indigenous cultural practices demonstrates how groups can facilitate each other’s goals through compromise and innovation while planting the seeds of policy creation. Relationships became an important part of an ongoing learning process, and a salient example of the constructive role curators can play working with Indigenous communities (Conaty 2004).

## Chapter 6: Chapter 6: Conclusions, Ethics and Inevitability

With [repatriation] as it relates to respect for the dead, it is important to foster it in a positive manner. It is unfortunate that we have to do it, but we welcome the opportunity to [repatriate] so that we can place the ancestors to rest once and for all.

Shane Anton (S.A.1)

Repatriation is a nexus for organizational change, an idiosyncratic catalyst in the development of both Indigenous and non-Indigenous heritage institutions (Hanson 1980; Killion 2007a). As I have shown, repatriation-related practices and policies of Indigenous and curatorial communities have changed at variable rates, in different places, and under specific circumstances. Glenbow and ASM interactions exemplify this type of curatorial and Indigenous cultural change, surprisingly little of which is directly attributable to NAGPRA.

Negotiating repatriation at ASM and Glenbow revealed themes of choice, education, pragmatism, community interests, and virtue ethics. The following sections demonstrate how these themes relate to, extend, or modify White's middle ground. Controversy at both museums provided cornerstone instances, which served as catalysts for change. I found that underlying major shifts are less conspicuous events, processes, and personalities influencing daily interaction and organizational change, eventually giving rise to significant and sustained change. After summarizing the case study results, I discuss eight key findings.

## 6.1 Lessons Learned: Policy and Practice

Museum policies and practices at Glenbow and ASM reflect developing organizational structure and professional goals (Bolman and Deal 1997). Policy is formalized practice that has, or will, become normative (White 1991). Tracking decades of repatriation-related change at these museums revealed trends to re-evaluate academic and Indigenous cultural priorities. Early on, neither excluded Indigenous communities nor consistently encouraged systematic Indigenous participation. As White described, creating ties between cultures results in “networks of mutual obligation” (White 1991:16). Prior to recent partnerships, museums denied having any obligation to include Native communities. That disconnect meant no accountability for past research practices, as initial modes of interaction were a result of colonial imperatives and cultural misunderstanding.

Ethical responsibilities by the curatorial culture began with early research, as archaeologists and anthropologists became “co-creators of a world in the making” by studying Indigenous peoples (White 1991:1). Ongoing discussions of sovereignty and identity, ownership, sacredness, collections value, and partnerships stimulated repatriation-related policy in the 1930s at ASM and the 1950s at Glenbow. Organizational perspectives on these concepts changed with ethical and intellectual currents as ASM and Glenbow recognized that the public they served included Indigenous peoples. Shifting political support during the 1980s brought dialogue on these concepts to a crescendo.

The San Xavier Bridge project initiated significant reform at ASM just as the *Spirit Sings* exhibit helped push Glenbow into a new era of working with Indigenous communities toward a common middle ground. Both groups held antipodal views about the same material so they needed some mutual compliance to reach their end game. Reactions to these circumstances, in the form of policy proposals, illustrated “attempts to reorder a fragmented

world” (White 1991:11), with pragmatism and virtue ethics as key ingredients fostering middle grounds. Negotiating groups evolved organically from concentrating solely on their own goals to becoming motivated to help others succeed (see White 1991; Driver 2007).

Repatriation negotiations (formal and informal) intensified collections management discussions, revealing consequences over past and present choices made by all parties. This critical factor affected the balance of power that directed subsequent changes. Negotiated modes of operation progressively dismantled traditional power structures. The overall cultural change within these organizations demonstrates protocols characterized by traits that are “in between cultures” (White 1991:X). The middle ground is a realistic space where the polarity between cultures decreases to aid the coexistence of new forms of collections management that is “an amalgam of new and old logics” (White 1991:11).

Condensed from Chapters 4 and 5, figures 6.1 and 6.2 show repatriation-related milestones from both museums. They experienced controversy within similar time frames that parallel other events in North America. Negotiation provided opportunities to integrate a range of values into policy and practice, avoiding court-mandated resolutions. Non-legislated ethical solutions achieved through cooperation and good faith illustrate the potential for relationship building and sustaining partnerships for cultural preservation and perpetuation. This became evident as ASM-Tohono O’odham and Glenbow-Kainai defined their middle grounds. Yet, tribal priorities play a role in whether good-faith relations lead to collaborative projects. Zuni declined active participation in early discussions for the Paths of Life exhibit. Moreover, their *Ahayu:da* repatriation had little impact on the already good relationship with ASM (D.D.1).

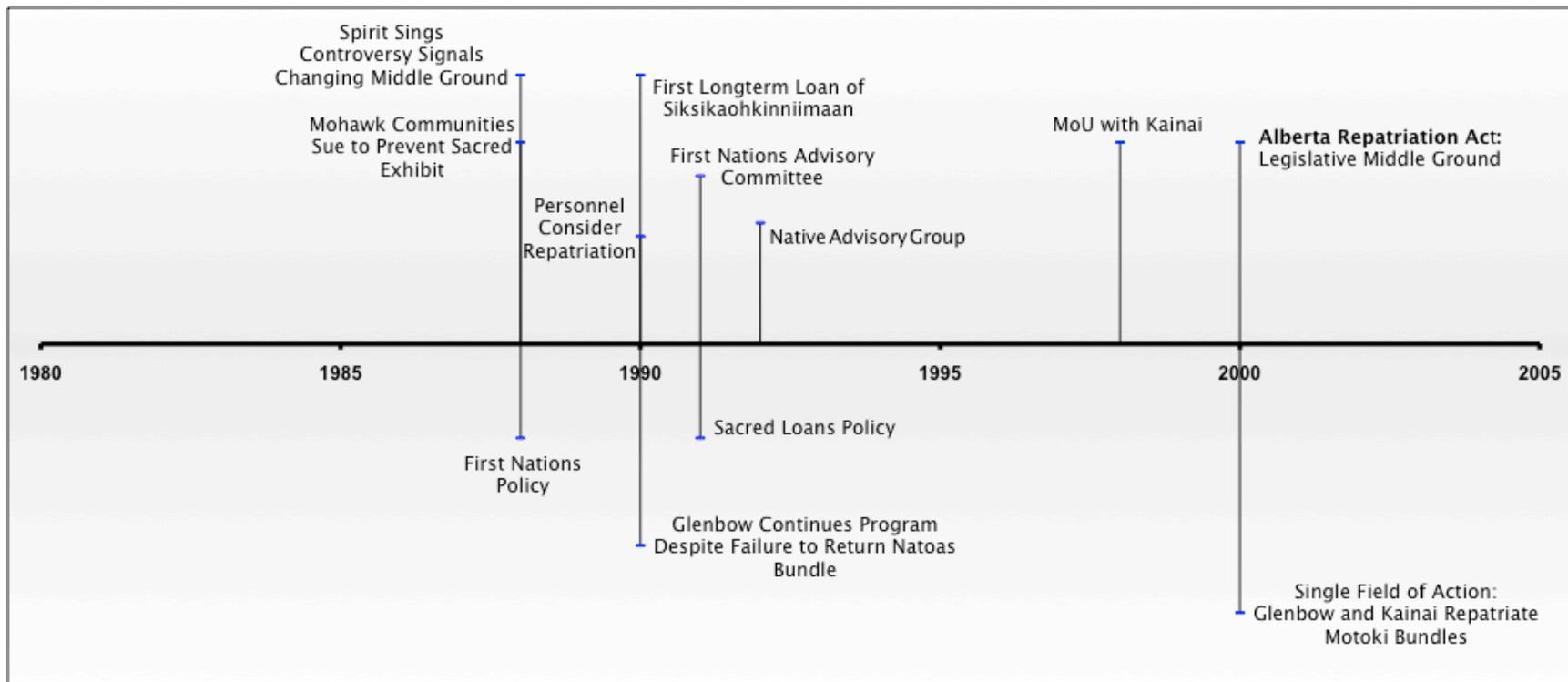


Figure 6.1 Timeline of Glenbow Milestones

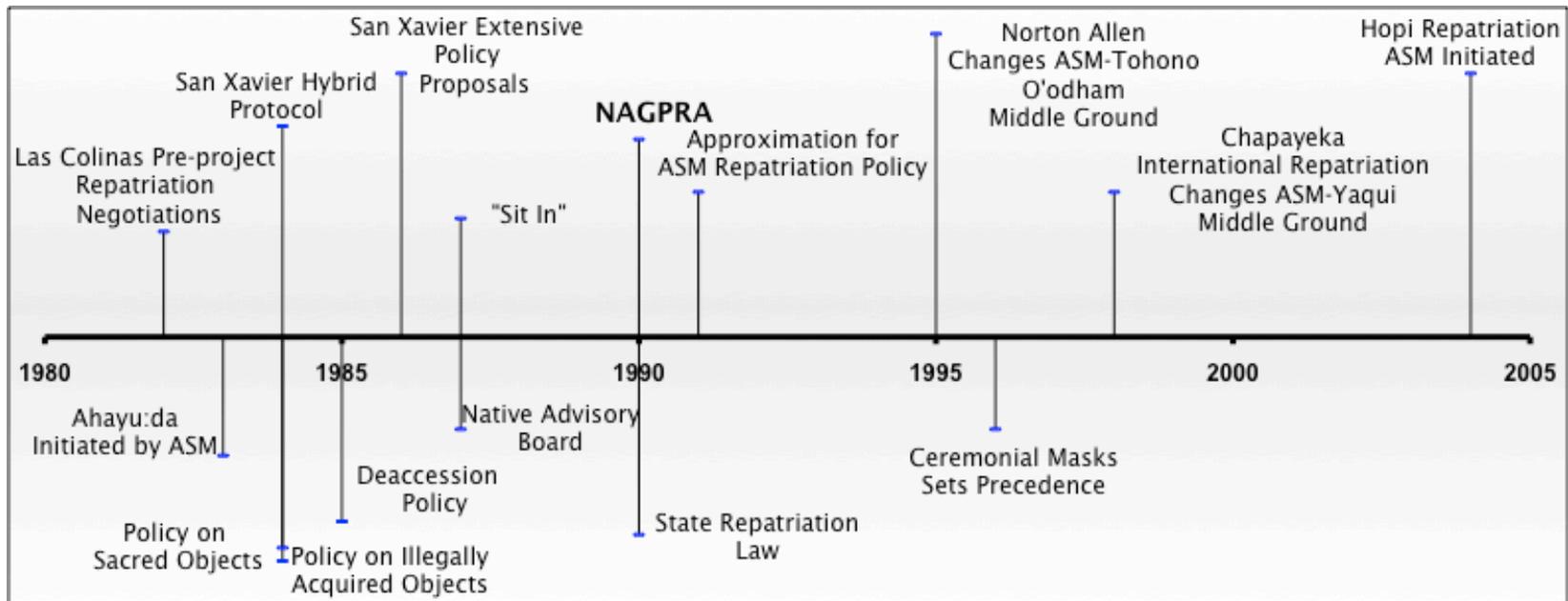


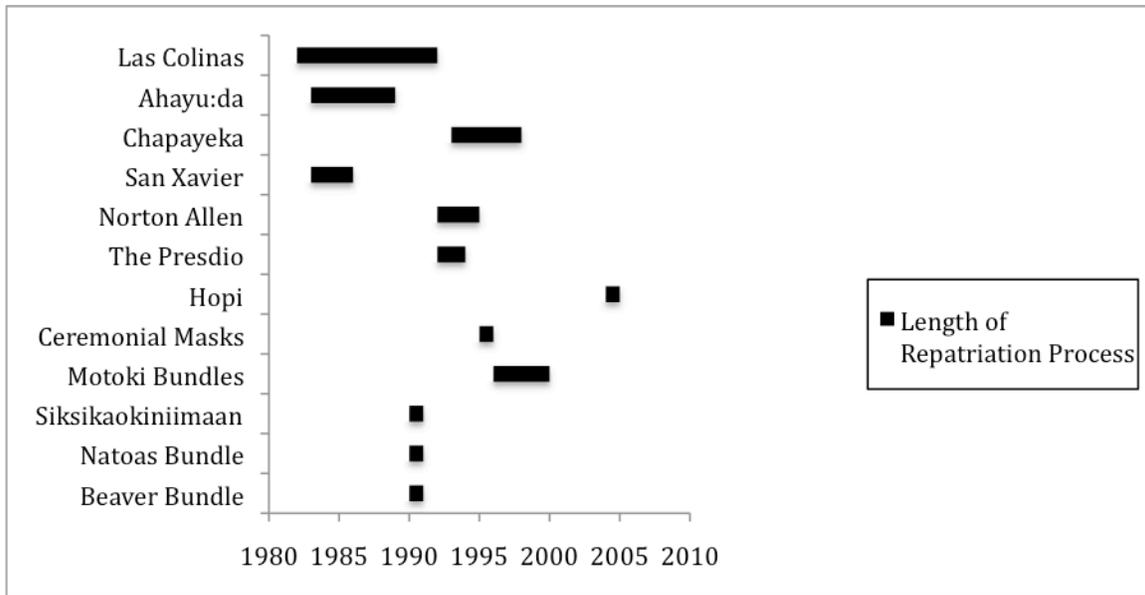
Figure 6.2 Timeline of ASM Milestones

ASM and Glenbow follow policies that respect Indigenous perspectives. Examples include protocols restricting the collection of sacred objects, and those requiring tribal approval for collections analysis. These policies among others illustrate increased intercultural familiarity (LeBaron 2004:14). The museums' understanding encouraged creative solutions to complex repatriation issues bearing on modes of experience, intention, and effective communication. Their openness to Indigenous value systems, at an individual and group level, informed organizational development. This revealed the nexus of middle ground and virtue ethics. Developing relationships is critical, as "[we] cannot promote interests we cannot identify, and the way we learn to identify people's specific interests is by having interacted with them" (LaFollette 2007:201).

### **6.1.1 Case Studies**

Within the larger chronicle of repatriation at ASM and Glenbow, individual cases demonstrate how organizational and institutional dialogue, combined with tribal perspectives, influence negotiation and create contexts for policy development. Examination of the means, modes, and tempos of these cases in figure 6.3 reveals patterns in how these elements affected each other, and where contexts conducive to relationship building began. Yet reliably comparing cases in this manner was difficult due to small sample size, unique situations, and varying quantities of information. What has emerged is the importance of concentrating on the non-quantifiable modes of negotiated repatriations.

Figure 6.3 shows the approximate length of each negotiated repatriation process from the beginning of discussions to the physical return of the collections. The means and tempos of repatriation at ASM and Glenbow demonstrate a significant divide in repatriation processes at the two museums.



**Figure 6.3 Negotiated Repatriations: Loans and Legal Transfers of Ownership**

ASM staff and Indigenous consultants value their relationships with local tribes, however, NAGPRA and Arizona state law “loomed large” in conversations about the means to repatriate. In Alberta, the development of repatriation legislation 10 years later was a crucial milestone of Glenbow-Blackfoot middle ground. Yet, in contrast to ASM, legislation was secondary to discussions of relationship building. This was due in part to my consultations focus on long-term loans as opposed to legal transfers of title. However, Janes provides his opinion of legislation’s importance to the Glenbow-Blackfoot relationship. “Gerry, the Blackfoot and I never seriously talked about legislation, as being either important, desirable or essential. We simply acted based on trust, the middle ground and mutual best interests and invented our own solutions” (R.J., pers. comm. 2010). As future scholars study legal repatriations in Alberta the dynamic of conversation may change.

The differences in means provide insight into the contextual nature of the negotiated middle grounds at ASM and Glenbow. As opposed to ASM’s lack of guidance in early

repatriations, Glenbow benefited from examining NAGPRA and participating in the Task Force. Influenced by these guidelines and participation in Blackfoot customs, Glenbow's priority was returning sacred objects for ceremonial use rather than legal repatriation. Long-term loans succeeded in returning bundles faster than most ASM repatriations (Figure 6.3). According to Betenia, the tempos of post-2000 repatriations at Glenbow have slowed with increased bureaucracy (D.B.1).

This mean-tempo correlation raises questions about the motivations for repatriation. Whether or not returning ceremonial materials as loans during negotiations provides an expeditious option in situations where overlapping claims do not exist and cultural affiliation is unquestioned. Loans are a statement of organizational ethics and trust between the parties involved.

The pre and post-NAGPRA negotiated repatriations I examined at ASM show no readily apparent mean-tempo patterns with the implementation of NAGPRA. Legislation affects tempo, but so do museum and tribal priorities. Legislation is not necessarily an indicator of a negotiation's tone. Lengthy discussions can indicate mutual trust building (S.A.1). Therefore, I amplify the mode to understand the human element of repatriation processes. Modes of negotiation reveal that personal, professional, and group ethics advance cases. These factors create contexts for mutual education that are not limited by legislation or evident through a means-tempo comparison. Las Colinas, San Xavier, *Abayu:da*, *Chapayeka*, and the Ceremonial Masks all represent these contexts.

The commonality between these cases was that key individuals saw the need to balance relationships and professional obligations in systematic practice outside of NAGPRA. These cases demonstrate reciprocal learning when open-minded individuals

encounter unfamiliar circumstances. During educational transition periods efforts to formalize policy and improve the consistency of practice indicated ASM's motivation to strengthen relationships with communities.

An emergent trend from these cases is the redefinition of professional obligation and the motivations behind it. For example, ASM personnel began consulting with tribes as part of legislative compliance to the U.S. Federal Antiquities Act, ARPA, and Arizona Antiquities Act. These laws influenced museum ethics before NAGPRA (Appendix C). Practice initiated before 1990 became standard operating procedure for non-mandated aspects of collections management—including exhibition, educational outreach, tribal collections management assistance—and the provision of ceremonial space. Repatriations occurring after 1990 carry the possibility of being more than legislated ethics, if the intention exists. The nuances of the *Chapayeka* and Ceremonial Mask negotiations showed that sometimes NAGPRA provides a means to repatriate rather than a mandate.

Negotiated repatriations reveal the most about ethical perspectives shaping and modifying notions of middle ground. The modes of certain transactions have greater implications as they occur through initiatives for collections care that would have otherwise fallen through legislative gaps. Instead, they advanced the search for middle ground by redefining trust relationships. For example, the Norton Allen Agreement (the Agreement), the repatriation to Hopi via ASM policy, and the *Motoki* bundles were successful transactions because of partnership. Glenbow was not required to loan bundles to the Blackfoot, nor modify collections management policies such as conservation and storage. The means of these transactions are significant, but the mode is symbolic.

The *Motoki* and Hopi repatriations and the Agreement demonstrate extended versions of White's "single field of action" (1991:67-68). His framework does not portray this action as an official partnership. Mutual interests overlap, resulting in combating a commonly perceived threat, which in turn causes change in the larger society. In curatorial-Indigenous cultural terms, single field of action becomes an intentional partnership with elements of virtue ethics. Examining the details of these cases provides varied and important circumstances that can serve museums and Native communities as a whole.

In the case of the *Motoki* headdresses, Glenbow and the Kainai worked to legally repatriate the bundles to Canada, ensuring Kainai ownership. The Hopi repatriation demonstrated ASM's continued commitment to partner with tribes to repatriate collections residing in the private sector. This policy originated in the early 1980s. The Agreement brought the Norton Allen collection into public view and engaged descendent communities, thus ensuring its stay in Arizona and accessibility for educational purposes. Although Allen's donation to ASM technically places the collection within NAGPRA's purview (ASM 2005e), the trust, commitment, and interests of those involved in negotiating the Agreement contribute to its potential for long-term success (Teague et. al. 1997).

All of these cases benefit curatorial and Native communities whether through physical reclamation of objects, increased trust, or good public relations. They show ranges of accommodation, cultural legitimization, and professional motivations. Curators have professional authority and expertise that can help Indigenous communities, and they have much to gain by providing the help. Museum assistance in these transactions or joint ventures is indicative of past relationships and lays the foundation for the future.

To me what repatriation means, more than the here and now is what it means for the future. If it's taken as an opportunity to build these relationships, it'll mean more collaborative research it'll mean better relations in the future. I see it more as a building to the future...that being more important than what happens today. It is going to create those channels of communication and trust that will allow good work to be done [P.L.1].

These cases dismantle barriers to repatriation and make transactions meaningful by incorporating multiple perspectives. In the vein of *principled* negotiation, parties invent options for mutual gain that aid relationship building (Ury and Fisher 1991). Museum and tribal representatives emphasised the importance of open, honest, face-to-face dialogue (A.F.1; L.T.1; P.L.1; R.J.1; S.A.1).

Themes and trends from my repatriation case studies illustrated that modes of negotiation were a more accurate way to examine contexts for relationship building. Flexible practice and policy in consultation are core elements of temporal, historical, political, and geographical factors dictating such transactions.

## **6.2 Key Elements of Negotiated Repatriation**

From the analysis of the means, modes, and tempos of each of my case studies I will now develop and explain eight key inter-connected elements of negotiated repatriation. Each contribute to a constructive middle ground, and carry implications for other heritage organizations: (1) Virtue Ethics; (2) Communication; (3) Symbolism; (4) Organizational change; (5) Politics; (6) Legislation; (7) Individual Relationships and Leadership; and, (8) Acknowledged Hybrid Policy.

### **(1) Virtue Ethics**

An ethical middle ground creates the space for genuine intention to understand and blend values into new practice (Vitelli and Colwell-Chanthaphonh 2006). My case studies

supported research conclusions that identify the benefits of employing certain virtues when working in contexts of asymmetrical power relations, such as marginalized communities (LaFollette 2007; Radden 2007).

For those working in the curatorial culture virtues such as trust, reciprocity, respect, sensitivity, patience, foresight, empathy, flexibility, adaptability, and tolerance benefit individuals and organizations (LeBaron 2004; Vitelli and Colwell-Chanthaphonh 2006). Pragmatism also emerged as a crucial guiding principle in collections management. When combined, these virtues can create good faith relations “no amount of legal paperwork can create or ensure” (Janes 1994:6).

Productive middle ground occupied by museums and Indigenous communities forms through assertions of divergent interests coupled with meaningful modes of negotiation enhanced by virtue ethics. Teague explains that outlining obligations and protocol can also benefit the processes (L.T.1), as demonstrated by the San Xavier Bridge project. Agreements created during this project and through Glenbow long-term loans established new guidelines under Western and Indigenous laws. These provisions allow time and opportunity for relationship building (Bell et. al. 2008:251). Patience and foresight are important because “negotiations will likely be drawn out over a period, because the tribes want to get a comfortable feeling. It is good to start building the relationship early” (S.A.1).

“Honesty and respect is really what it comes down to...to not be afraid to be honest, because being dishonest doesn't serve anyone. Disagreements are important. We can learn a lot from disagreements” (P.L.1). Glenbow and ASM advanced in policy development through conflict, demonstrating constructive ways parties can mitigate disagreements. “This isn't about being...efficient. This isn't about whether we get it done as fast as possible”

(Teague 2007:3) aptly expresses the spirit of ASM and Glenbow as these cultural organizations reinvent themselves. Exercising virtue ethics encourages respectful relationship building, and partnership (Fisher and Ury 1991; Kahane 2004).

## **(2) Communication**

Indigenous and curatorial communities cannot negotiate on an equitable plane if they do not mutually understand each other's objectives. Choice and flexibility were crucial components of the San Xavier excavations success. ASM's efforts to increase communication on archaeological methods, and Tohono O'odham's expression of religious customs increased parties' intercultural knowledge. Their actions modified middle ground because they were initially mutually unclear about the other's intentions, yet understood the advantages of an alliance (White 1991:7). The ASM had the opportunity to conduct research, and the Tohono O'odham community needed a new bridge (Ravesloot 1990). The groups' cooperation contributed to the foundation for an expansion of Tohono O'odham-ASM middle ground, and paved the way for the precedent setting Agreement.

Increased communication between museums and tribes through negotiated repatriation has reduced some of the stigma of collecting sacred property. To proactively protect materials from uncertain futures, Dempsey and Thompson both accessioned sacred objects (Conaty 2004; R.T.1). Misunderstandings of cultural protocol may have led to some of these accessions. Yet, in the context of the times curators thought they were doing the right thing, which some Indigenous people understand (L.W.T.1).

Middle ground advances through intention. Effective communication ensures that everyone understands the details of specific circumstances (L.T.2). For example, simply making information meaningful to all parties mitigates misunderstandings (Kahane 2004:12).

Negotiators' recommendations of proactive consultation and introspection correspond with tenets of virtue ethics (Kahane 2004; Teague 2007).

### **(3) Symbolism**

Repatriation is inherently symbolic because it brings together different cultures providing contexts to “forge common meaning and structure” “by disrupting old notions of territory” (White 1991:1,11). Through open-ended dialogues groups are negotiating futures while constructively remediating the past. ASM-Tohono O’odham and Glenbow-Kainai are examples of middle grounds found through mutual legitimization in aspects of practice and policy. The acceptance of some practices (i.e., employing a medicine woman, or adopting Western curatorial techniques) and rejection of others (i.e., ritual feeding of objects), are tacit valuations on deeply held spiritual beliefs. The extent of a group’s willingness to modify their protocols to accommodate others implicitly accepts or rejects another’s authority in determining and expressing their identity (Silliman 2005).

Middle ground does not indicate agreement on all protocols, nor does it resolve all intercultural issues (White 1991). However, the resolutions in these many and varied spaces affect institutions as a whole. Repatriation demonstrates curatorial willingness to reinvent the identities of all involved (Silliman 2005). The act is one aspect of mediating paternalism toward tribes, acknowledging them as legitimate owners and capable caretakers of their cultural property. Creating policy to repatriate these materials (i.e., medicine bundles, *Abayu:da*) symbolized an evolving middle ground.

### **(4) Organizational Change**

Repatriation is a means for organizational change. Customarily, a museum was a place of research where an object was “separated from its actual reality, and transferred to a

new museum reality in order to document the reality from which it was separated” (Stransky in van Mensch 2002:145). Glenbow and ASM mitigated this practice by employing and consulting cultural experts. They have enriched staff knowledge of collections and transformed collections management. “Good museums practice” is defined differently today than 30 years ago as both organizations have become forums for negotiating values, ethics, education, current and future partnerships. Collaborative exhibitions and rancorous protests of the Lubicon, Mohawk, and Tohono O’odham exemplify this.

My case studies illustrated that repatriation often requires more than a singular act of returning cultural property. It necessitates a wholesale reevaluation of practice and policy. This comports with a survey completed by Sullivan et. al. (2000), gauging critical factors in constructive repatriation programs. Strengthening the Yaqui-ASM middle ground through negotiated repatriation encouraged increased Yaqui participation at ASM. Reyes thinks that educating non-tribal members about Yaqui culture is important. Their participation also ensures some protection of tribal cultural and intellectual property (A.R.1).

In the process of negotiating middle ground, groups relinquish full authority of cultural practice forgoing some opportunities to create real structural reform. This is evident in the Southwest Native Nations Advisory Board’s lack of official influence in ASM policy creation (A.S.1). Sadongei also explains that despite compliance with repatriation, ASM staff “still have much to learn when it comes to expressing a spirit of collaboration” (A.S., pers. comm. 2010). Osteology lab manager John McClelland, reaffirms Sadongei’s statement saying “there is still much to do and we could do a much better job of reaching out to our communities (tribal and others) in putting together our exhibits and public programs” (J.M.C., pers. comm. 2010).

## **(5) Politics**

Repatriation has helped renew a sense of confidence in community self-determination and profoundly undermined the burden of captured heritage as the status quo with Native peoples and museums. Tribal resolutions on collections management such as those passed by Tohono O'odham, Siksika, and Zuni affirm cultural sovereignty and identity. Though often required in the U.S. for repatriation transactions, resolutions are also a useful way to bridge Western and Indigenous laws in middle ground. These documents stipulate community protocols, while presenting them in a more Western format (White 1991). A resolution such as Zuni's, when combined with Western legal theory, profoundly influenced the modes, and means of their repatriation negotiations.

Although Native people actively participate at museums such as Glenbow and ASM, generational differences in perspectives are emerging. I have outlined numerous cases of cooperation between communities. However, Reyes explained that younger generations of Pascua Yaqui are increasingly protective over their cultural knowledge and property due to research legacies (A.R.1). Reyes' comments provide a cautionary example suggesting that newer generations of cultural representatives may feel less obliged to legitimize their perspectives to museums for the sake of partnership (Watkins 2005).

The middle ground remains fragile. This reality amplifies the importance of working beyond legal mandates by continuing to blur notions of territory if middle ground is to be more than a temporary or transitional space (White 1991).

## **(6) Legislation**

Repatriation and legislation are structurally intertwined in North America (Bell 2009). Legislation influences the creation of the curatorial-Indigenous cultural middle ground

because it facilitates a new norm. As case studies demonstrated repatriation legislation is a useful tool but it is not the end point. It lays a firm foundation for relationships that extend beyond statutory language and foment pragmatic negotiations (Suagee 1995:23). As Thompson said, “you have to find a legal framework because there is always someone who says you aren’t allowed to do that”(R.T.1). “The means can be adjusted as long as there are ethical means to make the ultimate goal come true” (R.T.1).

The *Chapayeka* mask repatriation, the Agreement, Glenbow-Blackfoot long-term loans, and the *Motoki* repatriation demonstrate efforts by all parties to creatively find ways to work within and without legislative restrictions and potentially forge partnerships for heritage preservation. At ASM, Yaqui definitions of identity superseded imposed international borders dividing the tribe under NAGPRA. Accommodating modes of engagement extended the boundaries of the law. ASM supported Pascua Yaqui’s right to exercise their cultural protocol in mitigating circumstances they did not create. At Glenbow, loan arrangements achieved similar outcomes. Working relationships culminated in repatriation legislation rather than being created by it.

Glenbow’s milestone is in the same vein as Thompson’s work with local Arizona tribes to amend the Arizona Antiquities Act. ASM helped legitimize traditional tribal territories under Western law by expanding their repatriation rights on state land. Native reservations, where some of the earliest ASM excavations occurred under federal purview, typically reflect a small portion of customary tribal territory (Squamish Nation 2001). Thus, this partnership was symbolic as well as professional and pragmatic. Initiatives at ASM and Glenbow suggest that an ethical middle ground has less to do with each country’s legislation and more to do with the intention and motivation of individuals (R.J.1).

## (7) Individual Relationships and Leadership

The affective power for change lies in individual relationships and leadership. “The institution doesn’t have a personality. You need the individuals with drive, the will, and the courage to do things differently” (R.J.1). Case studies, and research conducted by Welch et. al. (2010), on the effectiveness of individual actions in preserving cultural heritage buttress Janes’ statement. ASM’s and Glenbow’s history of strong leadership were instrumental in changing repatriation-related policy and practice at crucial junctures in museum history, affecting the public identity of the organizations.

Of the cases examined in this thesis, the Blackfoot-Glenbow middle ground achieved through the loan of *Siksikaobkiniimaan* exemplified both individual initiative and the impact of personal relationships. Dempsey’s ties to members of the Blackfoot community were crucial to his initiation of the loans process. This relationship increased the museum’s tempo toward repatriation. As a mode of negotiation, Janes and Conaty’s attendance at Kainai ceremonies tacitly expressed their interest in Blackfoot culture. It showed their genuine motivation to maintain long-term relationships and was central to the loans process. In a ceremonial environment, tribal members probably felt greater ease requesting bundles from them. Conaty and Janes put faces on the organization. This was another way of increasing physical and intellectual accessibility at the Glenbow-Blackfoot interface.

At ASM, within the context of the times, Cummings encouraged education based archaeological-tribal interaction, and assisted in returning Yavapai human remains. Haury created early collections policies. Thompson developed ASM collections management, partnered with Arizona tribes for state repatriation, and facilitated a pragmatic transition to NAGPRA (L.T.2). Lomawaima’s leadership continued and strengthened Thompson’s work with local tribes.

Museum personnel cited throughout this thesis were leaders who embraced organizational change. In many instances, frontline museum personnel and archaeologists negotiated with Indigenous peoples. Strong administrative leadership is critical, but museum management and federal agencies approve their recommendations. This was evident with the *Ahayu:da* noticed by Rogers, and Dittmore and the *Chapyeka* collection. In these circumstances, professional responsibility is always a variable but the details of these cases reveal actions influenced by virtue ethics.

### **(8) Acknowledged Hybrid Policy**

Hybrid practices, such as Indigenous museums, are elements of middle ground that have existed since the 1960s (Chapter 2). Yet hybrid museum protocols, such as conservation, are relatively new appearing in the last 35 years. Traditional curatorial “standards of conduct have little or no meaning to the majority of people who have an interest in what we do as institutions” (Janes 1994:153). Glenbow and ASM have modified aspects of their practice, acknowledging that appropriate curatorial methods are contextually dependent on the type of object and cultural perspective (Janes 1994).

Museum-tribal collections management practices represent a modification of Indigenous and curatorial protocols in middle ground (White 1991). *Niitsitapiisini* was a symbolic example of a new curatorial cultural at Glenbow. This exhibit stands as a permanent tribute to personal and organizational changes in curatorial philosophy. *Niitsitapiisini* placed the interpretive authority of collections with Blackfoot peoples. Forums such as this emphasise the role of customary knowledge at Glenbow where the public can learn that it is “scientific, empirical, and metaphorical” (Janes 1995:98).

### 6.3 Concluding Thoughts

By rethinking collections management while mindful of repatriation and reburial issues Glenbow, ASM, and relevant Indigenous communities confronted moral, political, and historical questions (L.T.1; Robinson 1980:55). Repatriation is one of a host of collections management concerns in which curatorial and Indigenous communities have struggled to find middle ground. Its historical depth and political-practical breadth are far greater than is reflected in the public discourse that followed NAGPRA's passage in 1990. This truth underpins the importance of examining cases throughout North America that predate repatriation legislation and those that extend the boundaries of legal mandates. Repatriation carries implications that extend beyond legal categories, imposed legislated ethics, and individual transactions.

Repatriation as an extension of White's middle ground provides insights into cultural, institutional, and individual values that emerge during negotiation. Middle ground is the place where these groups negotiate common understanding and confront divergent, and convergent collections management concerns (White 1991:x). Negotiated repatriations affect contemporary and future practice in public heritage institutions because decisions made on different middle grounds carry cumulative possibility for overall institutional change.

Examining individual repatriation cases shifted the focus from law to relationship building and maintenance to which negotiation is the cornerstone. This raised questions for future research, such as the importance of investigating constructive ways to keep relationships viable after projects or repatriations conclude. This is one of the challenges that museum's face through changes in personnel, Indigenous government, and limitations on staff and time (A.R.1; D.B.1; P.L.1; R.J.1).

There are also non-virtuous consequences to negotiated repatriation that deserve further attention. Opportunities to repatriate remain uneven. Legislation, intertribal politics and cultural interpretations, international borders (Chapter 4), and individual museum officials determine how cases are negotiated and with whom. This potentially omits non-federally recognized tribes (Chapter 2), individual families (Chapter 4), communities that are not participating in treaty processes, or communities across international borders.

This study was not intended to gauge overarching, non-legally mandated change in museums. However, larger scale systematic studies would be useful to understand the wider implications of policy changes occurring in museums such as Glenbow and ASM. Janes and Conaty both stated that because there was no follow-up study on applications of the Task Force, determining how much change has occurred as a result in Canada is difficult (R.J.1; Conaty 2008). One study of post NAGPRA changes concluded that most museums collections management changes occurred in relation to NAGPRA eligible collections (Sullivan et. al.'s 2000). Further study on non-NAGPRA related changes will be beneficial to gain perspective on differences and similarities in U.S. and Canadian practice and policy. Moreover, as indicated by Sullivan et. al. (2000) and Glenbow Museum, research on the state of repatriation and management of general collections will also provide valuable details on current non-legislated practice. Thus, providing further direction for the development of an ethical middle ground.

## Appendix A: Consultants

**Table A.1 List of Canadian Museum and Cultural Specialist Consultants**

<b>Name</b>	<b>Affiliation</b>	<b>Position</b>
<b>Narcisse Blood</b>	Kainai Nation	Elder, Educator, and former Chair of the Mookakin Cultural Society.
<b>Chief Leonard Weasel Traveller (Bastien)</b>	Piikani Nation	Elder, sacred bundle keeper
<b>Korine Many Bears</b>	Piikani Nation	Elder, sacred bundle keeper
<b>Paul Raczka</b>	Piikani Nation	Sacred bundle keeper
<b>Daryl Bettenia</b>	Glenbow Museum	Manager, Collections
<b>Gerald T. Conaty</b>	Glenbow Museum	Head Curator, Ethnology
<b>Robert R. Janes</b>	Fmr. Glenbow Museum	Director, President/CEO
<b>Chief Janice George</b>	Squamish Nation	Hereditary Chief
<b>Barbara Winter</b>	Simon Fraser University Museum of Archaeology and Ethnology	Curator
<b>Eldon Yellowhorn</b>	Piikani Nation, Simon Fraser University	Director of First Nations Studies

**Table A.2 List of U.S. Museum and Cultural Specialist Consultants**

<b>Name</b>	<b>Affiliation</b>	<b>Position</b>
<b>Joseph T. Joaquin</b>	Tohono O’odham Nation	Resources Specialist
<b>Shane Anton</b>	Salt River Pima Maricopa Indian Community	Cultural Preservation Program Supervisor
<b>Amalia Reyes</b>	Pascua Yaqui Tribe	Resource Coordinator and Manager of Dr. Fernando Escalante Community Library & Resource Center
<b>Beth Grindell</b>	Arizona State Museum	Current Director
<b>Hartman Lomawaima</b>	Hopi Tribe, Fmr. Arizona State Museum	Director
<b>Raymond H. Thompson</b>	Arizona State Museum	Director Emeritus
<b>Jan Bell</b>	Fmr. Arizona State Museum	Head of Collections
<b>Diane Dittmore</b>	Arizona State Museum	Ethnological Coll. Curator
<b>Alan Ferg</b>	Arizona State Museum	Archivist and Registrar
<b>Mike Jacobs</b>	Arizona State Museum	Archaeological Coll. Curator
<b>Patrick Lyons</b>	Arizona State Museum	Head of Collections Acting Associate Director
<b>John Madsen</b>	Fmr. Arizona State Museum	Repatriation Coordinator, Assoc. Curator, Archaeology, Emeritus
<b>Alyce Sadongei</b>	O’odham/Kiowa, Fmr. Arizona State Museum	Assistant Curator of Native American Relations
<b>Lynn Teague</b>	Fmr. Arizona State Museum	Research Department and Repatriation Coordinator
<b>John McClelland</b>	Arizona State Museum	Lab Manager, Osteology
<b>Arthur Vokes</b>	Arizona State Museum	Repository Collections Curator
<b>Dr. John Ware</b>	Amerind Foundation	Director
<b>Dr. William Billeck</b>	National Museum of Natural History	Program manager, Repatriation Office

## Appendix B: Arizona State Museum Case Studies

**Table B.1 Chronology of the San Xavier Bridge Project and Repatriation**

Date	Milestone
May 1984	ASM CRMD develop a research design for the San Xavier Bridge project in consultation with Narcho (Ravesloot 1990:36).
May 19, 1984	San Xavier District Council allows excavation at the bridge site if (1) ASM obtains a Tohono O’odham tribal council resolution; (2) The BIA obtains permission from tribal land allottees; (3) Tribal council approves data recovery and analysis; (4) Community members supervise archaeologists; (5) A medicine person determines treatment of human remains; (6) The tribe decides the final resting place for burials (Ravesloot 1990:37).
June 21, 1984	ASM gives San Xavier District Tribal Council a formal research presentation. They are concerned about the consequences of analysis and excavation practices. The tribe asserts ownership over excavated materials, and asks archaeologists not to dispose of any objects (Ravesloot 1990).
Jan. 18-21 1985	Archaeologists discover cremations, and delay testing for consultation with the medicine woman. Reburial without analysis occurs because tribal protocols for human remains are unresolved. Negotiations on analytical and excavation procedures continue. ASM creates a policy statement to mitigate similar problems in the future (Ravesloot 1990:41).
Feb. 15, 1985	Tohono O’odham establishes guidelines for burial analysis: (1) Human remains stay within burial urns; (2) Scattered burial urns and remains are gathered and kept as one individual; (3) Objects discovered close to burial locations are associated burial objects; (4) No washing of the burial urns or fragments. ASM rejects these requirements because of difficulty with compliance (Ravesloot 1990:41).
Feb. 20, 1985	Final protocol for analysis is confirmed, and includes: (1) Modified analysis of human remains; (2) Notification of the district council and medicine woman upon discovery of a burial; (3) Ceremony by the medicine woman before excavation resumes; (5) Restricted site access to community members and project personnel; (6) District representatives, the medicine woman and the tribal chairman determine the final resting place of human remains (Ravesloot 1990:42).
Apr. 5, 1985 - June 1985	The second phase of the project begins, guided by the newly established protocol (Ravesloot 1990).
Oct. 12, 1985 - Feb. 1986	The San Xavier Bridge is rebuilt with ASM and Tohono O’odham monitors.
May 14, 1987	An Indemnity Agreement between the Tohono O’odham and the BIA protects ASM and holds the U.S. responsible as trustees of materials from allottee land (Ravesloot 1990:46).

**Table B.2 Chronology of the Norton Allen Agreement**

Date	Milestone
1938- 1978	Norton Allen excavates in and around Gila Bend, Arizona.
<p data-bbox="266 474 412 506"><b>May 26, 1992</b></p> <p data-bbox="266 653 412 684"><b>June 4, 1992</b></p>	<p data-bbox="451 443 1398 537">ASM meets with the Committee to review a preliminary draft of a three-way proposal (suggested by Laney) amongst Tohono O’odham Nation, ASM, and Allen, for the potential dispersion of his collection.</p> <p data-bbox="451 562 1382 747">At Joaquin’s request, Teague forwards a revised version of the draft proposal to the Tohono O’odham Attorney General. It includes conditions the Committee thinks should be in the proposal submitted to Allen: (1) All parties agree to curation in perpetuity of the materials in the Allen collection; (2) ASM will act as repository and conservator in accordance with museum standards; (3) First priority of use is given to Tohono O’odham; (4) The Nation agrees to conserve the collection within ASM environmental standards.<sup>1</sup></p>
<p data-bbox="266 804 412 835"><b>July 15, 1994</b></p> <p data-bbox="266 926 412 957"><b>Dec. 16, 1994</b></p>	<p data-bbox="451 804 1333 898">The Tohono O’odham Legislative Council passes a resolution approving an Intergovernmental agreement with the Arizona Board of Regents regarding the Allen collection.</p> <p data-bbox="451 926 1101 957">The Intergovernmental Agreement is now signed by all parties.</p>
<p data-bbox="266 1014 412 1045"><b>Feb. 10, 1995</b></p>	<p data-bbox="451 1014 1349 1077">Tohono O’odham Legislative council passes a resolution confirming collaboration with ASM.</p>

<sup>1</sup> ASM Coordinator L. Teague to Attorney General, Tohono O’odham Nation, Ref. Norton Allen Collection: Proposed Agreement, correspondence, 4 June 1992, Norton Allen Collection, Accession 91-3, ASM, Tucson.

## Appendix C: Legislation Applicable to ASM

**Table C.1 Repatriation Legislation Applying to ASM**

<p style="text-align: center;"><b>The Dawes Act – General Allotment Act February 8, 1887</b></p>	<p>U.S. federal government assimilation policy to deter communal living. The BIA allots parcels of reservation land to Native people registered with them (Castile 1998). As individually owned land, consent is required from owners before excavations.<sup>2</sup></p>
<p style="text-align: center;"><b>Historic Sites Act of 1935</b></p>	<p>Enacted by President Roosevelt under the New Deal. A board was established for guiding the federal government on parks and historic sites. The Act is relevant to NAGPRA because it established the National Parks Service, which is central to federal cultural preservation actions (Fine-Dare 2002:66).</p>
<p><b>Civil Rights Act (1964) – P.L. §88-352 July 2, 1964 [H.R. 7152] 78 Stat. 241</b></p> <p><b>Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000d, et seq.</b></p>	<p>As evidence of changing ethical and intellectual trends in archaeology and law, ASM Archaeologists were required to provide equal employment opportunity for field excavation. Title VI prohibited discrimination for activities receiving federal funds (United States Department of Justice 2003). Prior to this legislation community members assisted in ASM excavations.</p>
<p><b>Archaeological Resource Protection Act of 1979 (P.L. 96-95; 93 Stat. 721; 16 U.S.C. 470; 43 C.F.R. 7.5; 25 C.F.R. 260).</b></p>	<p>The Federal government has jurisdiction over materials excavated prior to ARPA. The law penalizes unauthorized excavation, removal, damage, alteration, or defacement of archaeological resources 100 years or older on public or Native lands. Federal agencies are mandated to consult with tribes (potentially) culturally affiliated to a site affected by ARPA permit (Welch 2003:1).</p> <p>Points of note:</p> <ul style="list-style-type: none"> <li>• Excavated materials from public land are property of the U.S.;</li> <li>• Tribal consent must be obtained before a permit for excavation is issued on tribal land;</li> <li>• Permits on tribal land can include terms specified by the tribe;</li> <li>• Exchange or final disposition of Native collections is subject to tribal permission (P.L. 96-95 §5[2]);</li> <li>• Regards cultural materials as scientific resources and material on federal land is U.S. property (Hutt 1998).</li> </ul>

<sup>2</sup> W. W. Wasley to R. Thompson, letter, 11 June 1965, Highway Salvage Box 42, Series 14, Ss 6-7 RG, F 343-350, San Xavier Correspondence F 346, ASM Archives, Tucson.

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**Convention on Cultural Property  
Implementation Act January 1983 (19  
U.S.C. 2600 -2613)**

ASM complies with the Convention on Cultural Property Implementation Act (ASM 2005c:4). The U.S. became a signatory of the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. The convention prohibits illegal and illicit import, export, and transfer of ownership of archaeological and ethnographic materials.

Points of note:

- Archaeological objects must be at least 250 years old
- Ethnographic materials must have been made by non-industrial or tribal peoples
- Outlines import and export restrictions (UNESCO 1970).

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**Arizona Antiquities Act A.R.S. §41-  
844 [Revised 1990]**

- **Supplements federal law which is not applicable to state excavation**
- **Affinity is easier to define**
- **Broader interpretation of object categories than under federal legislation**

Applies to the discovery of sacred objects, cultural patrimony, or human remains.

- ASM contacts individuals and tribal governments with direct kinship, potential cultural or religious affinity, and scholars from state universities with research interest.
- If materials are of Indigenous descent ASM notifies tribes occupying or that have occupied the location, Arizona Commission of Indian Affairs, and the Intertribal council.
- After six months of negotiation if no agreement is reached the disposition is determined by the closest kinship or governing body with cultural or religious affinity.
- In lieu of the above, materials are left at the point of discovery unless affecting construction, at which point they are reburied as close as possible to the original site.
- If unclaimed remains have research value, there is a one year limitation on testing. During this time the materials can be stored at ASM or other repositories, then reburied with assistance of the tribe closest to their point of discovery. The tribe may agree to extend the period of analysis (Bender 1992:391-418).

## Appendix D: Legislation Applicable to Glenbow Museum

**Table D.1 Legislation Applicable to Glenbow Museum.**

Date	Milestones
<b>Indian Act:</b> S.C. 1914, c.35, s.8; S.C.26, s.7; S.C. 1932-33 c.42, s.10	Attempts to assimilate First Nations people resulted in the prohibition of the Sun Dance in 1895 (Cunningham et. al. 2008:450).
<b>Alberta Historical Resources Act</b> R.S.A. 1980  <b>Non-Archaeological Resources</b>	Under this act an historic resource is defined as ... “any work of humans that is primarily of value for ...its prehistoric, historic...or cultural, scientific or aesthetic interest ...including but not limited to prehistoric [and] historic, structure or object” [RSA 1980 cH-8 s1;1992 c16 s2]. The Minister is left with significant authority over these definitions (Bell 1992). This relates to the Glenbow because Harvie’s donations to the people of Alberta became property of the Minister (Province of Alberta 2009).
<b>Glenbow-Alberta Institute Act 1966:</b> R.S.A. 1980 c.G-5 s20 R.S.A. 1996 c.21 s18 R.S.A. 2000 c.G-6 cF-11.2 s6	<p>Regarding transfer and ownership of cultural materials, the Act was amended in 1996. All property as of April 1<sup>st</sup> was a “collections asset.” If it was not already under Crown ownership it was transferred to the Crown “regardless of who owns it” [Section 20(1)]. Thus increasing Glenbow’s reliance on government approval for institutional decisions.</p> <p>The amendment in 2000 recognized Alberta’s repatriation legislation and relinquished crown ownership of applicable materials (Province of Alberta 2002).</p>
<b>First Nations Sacred Ceremonial Objects Repatriation Act.</b>  R.S.A. 2000 c. F-14 Amended, Bill 19 2008.	<p>Enacted January 14, 2000, this legislation allows repatriation of sacred ceremonial objects to designated cultural not-for profit societies in the Blackfoot Confederacy. Agreements made repatriated objects to:</p> <ul style="list-style-type: none"> <li>• Kanai: the Mookakin Cultural and Heritage Society.</li> <li>• Piikani: the Long Time Trail Historical Society</li> <li>• Siksika: Siksika Nation Museum</li> </ul> <p>The Act stipulates that the after repatriation the First Nations are deemed custodians of the material on behalf of their community [2000 c.F-11.2 s3] (Province of Alberta 2008).</p>

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