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Repatriation of Indigenous Human Remains in Canada: An Analysis of the Issue and Relevant Policies

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ABSTRACT

On June 21, 2021, the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) came into force as legislation in Canada, becoming the first real piece of legislation governing the use and repatriation of Indigenous artefacts and human remains in the country. Although Canada has had stories of successful repatriation prior to UNDRIP becoming law, most of the literature on the subject of repatriation and relevant policies come from the United Kingdom, the United States, Australia, and New Zealand. This paper proposes to look at the issue of the repatriation of Indigenous human remains and relevant policies in Canada through the lens of said literature available from other countries. The main threads through which this subject is analysed are the material and cultural importance of repatriation to Indigenous communities; the flaws in existing legislation and policies, both in Canada and abroad; and the lack of financial resources available to ensure the full enforcement of existing legislation and policies, to Indigenous groups seeking the repatriation of their cultural and human remains, as well as voluntary repatriation efforts from institutions not under legislative or policy obligations. This paper ultimately finds that existing legislation is inadequate, as it favours settler values, states, and institutions, rather than the cultural and material importance of repatriation for Indigenous communities.

Keywords: Indigenous; human remains; repatriation; policies

Introduction

To say that the issue of repatriation is a highly debated topic would be redundant and unhelpful; one simply must look at the ongoing debate on Greece's request to the British Museum to return the Elgin Marbles to understand the true complexity – or simplicity, depending on one's cynicism – of the issue. And the case of the Elgin Marbles does not even regard human remains. Rather than adding to the conversation of the pros and cons of repatriation, this paper begins by assuming the position that most, if not all, contested objects and human remains in museums

should be returned, and when appropriate, reburied. This paper, then, proposes a discussion of the policies and legislation that govern the repatriation of Indigenous artefacts and remains in museums and private collections. Although this paper aims to primarily address the Canadian context, it will be making heavy use of literature and examples from the United Kingdom and the United States to compensate for the comparatively slimmer pickings of academic articles on the subject in the Canadian context.

The framework for the repatriation of Indigenous artefacts and remains is in international law and policy and is generally articulated through the World Archeological Congress (WAC)'s Vermillion Accords, and the United Nations Declaration on the Rights of Indigenous People (UNDRIP). The WAC's Code of Ethics was adopted in 1990 and recognises legal ownership of indigenous cultural heritage to descendants of that heritage; while it acknowledges the importance of Indigenous remains to their people, it is not law, and does not make any mention of legal requirements for repatriation or legal ownership (World Archeological Congress, 1990). The Vermillion Accords, adopted by the WAC in 1989, expands on the WAC's Code of Conduct by allowing that wishes of the dead and their community should be followed "whenever possible, reasonable and lawful" (World Archeological Congress, 1989, para. 3).

UNDRIP, on the other hand, is concerned with affirming Indigenous People's rights in a more general fashion, while also recognising and acknowledging the historic and systemic injustices that have been perpetuated against Indigenous people throughout world history (United Nations Declaration on the Rights of Indigenous Peoples [UNDRIP], 2007). Within UNDRIP, the most important articles enshrining Indigenous peoples' rights to the repatriation of their artefacts and human remains are articles 11 and 12, which states Indigenous peoples' rights over

their own histories, "their ceremonial objects", and explicitly states that Indigenous people have "the right to the repatriation of their human remains" (UNDRIP, 2007, article 12.1). UNDRIP has only recently been implemented into Canadian legislation as The *United Nations Declaration on the Rights of Indigenous Peoples Act*. SC 2021, c.14, on June 21, 2021.

Despite policies from international agencies, and similar legislation and policies in several countries, including the UK, the US, and Canada, Indigenous people are still struggling to gain control and ownership over their human remains. This is due to several factors, but those analysed in this paper will focus mainly on the continuous lack of acceptance of the importance of repatriation to Indigenous self-determination; flaws and legal loopholes in international policies and national legislations; and a general lack of adequate funding being provided within these policies to enable repatriation efforts.

The Importance of Repatriation to Indigenous Self-Determination

In 2002, the remains of forty-eight ancestors from the Haida First Nation (from what is now known as British Columbia) were brought home after spending decades in the American Museum of Natural History in New York (Collison, 2021). Objectively, this story marks a legal and moral success among efforts from Indigenous communities around the world to repatriate cultural objects and ancestral remains that have been stolen from them over centuries of colonisation.

In this case, the Haida were successful in part thanks to the cooperation of the American Museum of Natural History. In a December 3rd interview given to Matt Galloway of CBC's *The*

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Current, the co-chair of the Haida Repatriation Committee, Jisgang Nika Collison, noted that once the group got to New York, there were tensions with some members of the museum administration about a food burning ceremony to feed the ancestors before bringing them home (Collison, 2021). The ceremony eventually took place next to Central Park, followed by a secret feast in the collections room of the museum. The experience brought further understanding from some of the museum staff and employees, so much so that on the morning of departure, a member of the museum staff woke up at the crack of dawn to ride with the ancestors from the museum to the hotel in which members of the Haida Repatriation Committee were staying so that the ancestors didn't have to ride the few blocks in the bus on their own. In Collison's own words, the experience "went from, 'these are just bones. Why couldn't we just mail them back to you?' to her [the staff member's] visceral shift in understanding of the world in that she knew she needed to travel with the ancestors so they could continue the journey with us" (Collison, 2021). According to the News section of their website, the American Museum of Natural History (n.d.) has since aided in the repatriation of remains from their collection to the Tseycum First Nation in 2008, and to the Museum of New Zealand Te Papa Tongarewa in 2014.

This kind of repatriation work is essential to affirm Indigenous peoples' rights to their own history, self-governance, and self-determination as a group. Although Elizabeth Weiss and James W. Springer's 2020 book *Repatriation and Erasing the Past* was quickly denounced as racist, demonstrative of outdated views on repatriation, and promoting paternalistic views of science and Indigenous peoples (Halcrow et al., 2021), certain sections of their book remain useful to demonstrate case histories of repatriation claims and examples of certain harmful ways of thinking that this paper denounces as counterproductive. One of the main arguments presented

in the book is that repatriation of Indigenous human remains prevents anthropologists and scientists from being able to study said remains for historic and scientific purposes (Weiss and Springer, 2020). However, it is important to note that scientific and anthropological studies have a history of reinforcing racist stereotypes and justifying discrimination based on bogus scientific claims of the inferiority of certain races: "The analysis of non-white human remains in the nineteenth century was grounded in cranial morphometrics and pioneered by US physician and physical anthropologist Samuel G. Morton, which provided a basis for racist theories linking morphometrics to intelligence, ability, and criminality" (Halcrow et al., 2021, p. 212; see also Hubert & Fforde, 2005).

Although this paper does not entirely discredit scientific practices which gather historical information from human remains, it recognises that these practices, even today, are reminiscent of violent and discriminatory beliefs and practices against Indigenous peoples. These practices also continue to promote the ideals of colonialism and the fallacy that Indigenous peoples are an extinct species that requires study (Orona & Esquivido, 2020). In the case of groups who have been historically oppressed, like Indigenous groups, the process of repatriation is also one of reconciliation, self-affirmation, and determination amongst Indigenous peoples (Hubert & Fforde, 2005; Orona & Esquivido, 2020).

The right to self-determination by Indigenous peoples is protected under article 4 of the UNDRIP (2007), although this article is mainly concerned with Indigenous self-governance. Article 11, on the other hand, protects "the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature" (UNDRIP, 2007).

The Task Force Report on Museums and First Nations (1994) in Canada has also found that Indigenous peoples' involvement in the telling of their own histories and narratives in Canadian museums is necessary and beneficial: "There is agreement that increased involvement of First Peoples in museum work is essential in order to improve the representation and interpretation of First Peoples' histories and cultures in museums" (Assembly of First Nations & Canadian Museum Association, 1994, p. 4).

Indigenous peoples have a right to authority over their peoples' history and narrative, which can be told and preserved through oral histories, examination of cultural artefact and remains, or through any other means, *if Indigenous peoples have the right to determine what, how, and why* they share this information. In some cases, anthropological and scientific studies can be useful tools to rediscover lost history or to help determine the provenance of artefacts or remains, but these uses must still be determined by the Indigenous groups involved (Ball, 2020; Hubert & Fforde, 2005).

Repatriation also has a use in helping Indigenous nations maintain and develop systems of governance, cultural practices, and inter-nation cooperation. In a 2015 study of the 2005 repatriation of Anishinabeg remains from the Canadian Museum of Civilization (now called the Canadian Museum of History) to the Kitigan Zibi community, Julian Whittam highlights several of the community benefits that the repatriation process had on the Algonquin Anishinabeg tribes around the Québec and Ontario regions. In this case, the Kitigan Zibi community already had a strong system of governance, along with financial systems and resources, but the four-year long repatriation efforts helped strengthen inter-tribal relationships among the Algonquin Anishinabeg nation (Whittam, 2015). The repatriation also forced the community to re-examine

some of their ceremonial practices to develop a new ceremony for the purpose of reburial of ancestral remains (Whittam, 2015). Efforts like this help maintain and rejuvenate traditional cultural ceremonies by encouraging sharing of these ceremonies and beliefs from community elders to younger generations, and by encouraging ongoing practices to evolve. While they can also be difficult for some communities, Hubert and Fforde (2005) argue that they can bring about beneficial conversation. Finally, the repatriation and subsequent reburial of the Algonquin Anishinabeg remains also lead to the creation of the Kitigan Zibi Cultural Centre in the community (Whittam, 2015).

Thus, repatriation is not only an essential practice to allow for Indigenous self-determination and interpretation of their own history, but also a powerful tool to help maintain and develop traditional ceremonies, and ways of knowing necessary for the survival of these practices. Both rights are protected under articles 5, 11, 12 of the UNDRIP (2007).

Flaws and Legal Loopholes in International Policies and National Legislations

A large body of academic literature on the ethical and moral implications of the treatment of human remains comes from the United Kingdom thanks to old practices of grave robbing and the retention of certain organs following the death of individuals in hospital for anatomical study; both practices lead to the creation of the Anatomy Act in 1932 and the Human Tissue Act in 2004 (Hubert & Fforde, 2005; Rugg, 2017). In these cases, the issues at stake centred on the rights of the deceased and their families to informed consent and to have their wishes followed after their death. Hubert and Fforde (2005) maintained that grave robbing practices and organ retention in

hospitals was so prevalent because those whose graves were robbed were poor, and deceased hospital patients were subject to "'medical detachment'" within the doctor-patient relationship. These factors effectively place these bodies in the category of "other", allowing treatment of the dead that most would not want done to their own family or themselves (Hubert & Fforde, 2005).

In chapter 9 of *Repatriation and Erasing the Past* (2020), Weiss and Springer attempt to use court cases to demonstrate that Indigenous claims to their remains and spiritual sites are tenuous; however, the chosen superimposition of cases also has the effect of demonstrating that cases of religious freedom – which are related to cases of repatriation – are more often decided in favour of the plaintiffs when the plaintiffs are white rather than Indigenous. Examples of this are found in the Badoni v. Higginson and the Sequoyah v. Tennessee Valley Authority cases; in both cases, the issue was the prevention of the flooding of a site of spiritual importance to the Indigenous community: both were decided against the plaintiffs. Conversely, the Sherbert v. Verner case (an issue where the plaintiff wanted her First Amendment Right not to work on her Sabbath recognised), found in favour of the plaintiff (Weiss and Springer, 2020, ch. 9). Weiss and Springer (2020) also make mention of many cases involving the Amish or Seventh-day Adventists that were decided in their favour. Although the authors explained the results away because the Amish and similar groups have "well-defined rituals and beliefs" (Weiss & Springer, 2020, ch. 9, p. 139) – giving the impression that the authors believe Indigenous nations do not – these cases, and the apparent opinions of the authors, do demonstrate that rulings against Indigenous peoples in cases of spiritual beliefs and repatriation are often excused due to the "othering" of Indigenous peoples.

In a similar vein, the passage of time and the process of archeology create a similar "othering" effect on human remains. Julie Rugg explains in a 2017 paper that "[t]he dead body that is least likely to elicit emotional response is the skeletal, fragmentary remains of an unknown individual, and highest regard is given to the newly-dead and known 'deceased', with multiple variations of gradation evident between these extremes, dependent on the passage of time" (p. 214). Indigenous remains are often owned by museums in larger quantities and are less well-identifiable by name than the remains of white people, which helps preserve a quality of nameless otherness to the remains. Conversely, for Indigenous peoples, the concept of belonging and identity of remains transcends time and lies instead in oral histories and beliefs (Hubert & Fforde, 2005).

Although the concept of time is irrelevant to Indigenous groups claiming ownership over certain remains, age plays an important role for other parties disputing such claims. In the case of the Kennewick man, the courts initially ruled against the Indigenous groups laying claim to the skeleton because the skeleton had been dated at 9,000 years of age, and that its morphology was distinctly East and Southeast Asian, which to the court, meant "that no reasonable person could conclude upon the evidence available that Kennewick Man was Native American within the meaning of NAGPRA [the Native American Graves Protection Act][1]" (Weiss & Springer, 2020, ch.

[1] NAGPRA (the Native American Graves Protection Act) was enacted by the United States government in 1990 to mandate that federally-funded institutions such as museums must repatriate Indigenous human remains and significant cultural artefacts to their communities of origin. In addition, NAGPRA establishes procedures which must be enacted if Indigenous human remains or artefacts are discovered during excavations on federal or tribal lands. Excavations which uncover Indigenous human remains or cultural artefacts on state or private lands are not covered by NAGPRA, but the legislation would take effect if those remains are transferred to a federally-funded institution as a result of their excavation (*Native American Graves Protection and Repatriation Act*, 25 U.S.C. 3001 et seq., 104 Stat 3048, 1990).

9, p. 151). Despite the court's findings, later DNA analysis found that the skeleton did share DNA traits with the tribes which had originally laid claim to the skeleton, leading to its eventual return to those groups (Weiss & Springer, 2020, ch. 9).

Similarly, the Canadian Museum of Civilization had originally believed that the age of the remains found in the Kitigan Zibi case (between 5,000 and 6,000 years old) would disqualify any relation to the Algonquin Anishinabeg people (Whittam, 2015). The remains were eventually granted to the people of Kitigan Zibi once it had been demonstrated that since the remains had been found on their ancestral lands, they fell under their responsibility regardless of their actual origins (Whittam, 2015). These, and similar struggles in legal cases regarding repatriation of Indigenous remains are permitted to exist under the legislation that governs such cases. Under the Native American Graves Repatriation Act (NAGPRA) in the US, responsibility for proving that the remains do not belong to the Indigenous group making a claim lies with the defendant, not with the Indigenous group (Weiss & Springer, 2020, ch. 9; see also Orona & Esquivido, 2020). I have already demonstrated that despite this burden of proof, American courts often disregard Indigenous histories and beliefs which would establish Indigenous ownership of the remains in favour of often incorrect and historically violent and colonial scientific beliefs. In Canada, however, the burden of proof falls on the Indigenous group, which brings about similar difficulties in proving ownership.

Part of the reason that the Haida people were able to repatriate their remains from the American Museum of Natural History is the application of their own Indigenous laws to the case. The Haida Repatriation Committee used their own set of tribal laws to help guide these

repatriation attempts (Collison, 2021). In the United States, NAGPRA is used to determine Indigenous rights to their ancestral remains and guide efforts to repatriation. Unfortunately, NAGPRA's authority stops at American borders, meaning that the Act cannot be used to repatriate remains from outside the US (Collison, 2021). Although the Committee's repatriation attempt was successful, Collison's retelling of the events demonstrates flaws within the policies surrounding Indigenous remains and cultural heritage.

Although Indigenous groups are seen as sovereign states in the US (Springer & Weiss, 2020), the US does not have bilateral agreements with other nations which would allow repatriation across borders. Although the UNDRIP affirms the rights of Indigenous groups to have their remains repatriated to them, the UN's declaration remains largely unenforceable until they are incorporated into countries' internal laws (Orona & Esquivido, 2020). This puts the onus of repatriation on national legislation and the policies of individual museums. It is also important to note that the Task Force Report on First Nations and Museums and NAGPRA only apply to museums and federally-funded institutions respectively, leaving a large gray area in repatriation legislation and policies regarding remains held in private collections (Assembly of First Nations & Canadian Museums Association, 1994; Orona & Esquivido, 2020). Of course, NAGPRA also applies only to federally recognised tribes, which causes its own set of complications and leaves hundreds of tribes without available legislation for the repatriation of their remains and ceremonial artefacts (Orona & Esquivido, 2020). Canada only recently adopted the UNDRIP as part of its domestic laws, and it will be interesting to see how it will affect future repatriation efforts (*The United Nations Declaration on the Rights of Indigenous Peoples Act*. SC 2021, c.14). The Task Force

Report on First Nations and Museums is only a policy, and not a piece of legislation, meaning that at the time of the repatriation of the Kitigan Zibi remains, there were no laws in Canada that directly govern repatriation efforts.

Lack of Funding Available for Repatriation Efforts

Another hurdle facing repatriation efforts, and the final issue addressed in this paper, is the financial burden of identifying remains for repatriation, accepting remains being held in private collections, and the legal fees often associated with repatriation requests when the owner contests the repatriation. These are all important considerations when thinking about repatriation, and in many cases, there is little in terms of funding allowed for under existing legislation and policies.

Under the Task Force Report on Museums and First Peoples (1994), museums are responsible for offering the remains of individuals which can be identified either by name or nation to the appropriate group for repatriation. NAGPRA also requires institutions to publish their collection inventory for tribes to identify their ancestral remains within these collections (Orona & Esquivido, 2020). Regardless of the financial burden on Indigenous groups looking for their ancestral remains, repatriation efforts therefore require significant financial investments on the part of museums and similar institutions.

Museum collections are far larger than what is on display, and museum catalogues are often less than perfect. To identify remains that can be repatriated, museum staff must go into the collection and identify these remains by hand. This can also be complicated when remains are identified that do not have any clear provenance. Oftentimes, museums will shirk their

responsibility to declare remains under their care that may require repatriation under federal law and policies (Bernstien, 2021). In the case of Kitigan Zibi, the remains were identified within the Canadian Museum of Civilization collection by the people of Kitigan Zibi while they were working on another project, seven years following the publication of the Task Force Report on First Nations and Museums (Whittam, 2015). Even if museums had the necessary funding and were more willing to identify and offer up the remains in their collection for repatriation, the laws and policies governing these efforts impose obligation in respect of their national Indigenous groups only, meaning that international repatriation lies in the goodwill of the institution housing the remains, and the Indigenous groups' awareness of the existence of those remains.

For private owners and institutions, there is no legal requirement to document and publish remains within their collections, but it is common in the US for private museums and owners to attempt to donate their human remains collections to federally-funded museums, and it is likely that similar practices are in effect in Canada (Edgar & Rautman, 2014). Unfortunately, not all museums have the financial resources to accept artefacts that require such responsibility. Edgar and Rautman (2014) recommend that funding be made available for museums in the US to provide these institutions with the resources necessary to accept remains and research their provenance to add them to the NAGPRA registry when necessary. Similar funding would be necessary in Canada to give effect to the UNDRIP.

There is also the issue of the financial burden on Indigenous groups seeking the repatriation of their remains. Even if the remains are offered up to the Indigenous group – thus eliminating any legal fees if the institution housing the remains is unwilling to let them go – there

are still financial considerations for the transport of remains, the organisation of funeral rites, and identifying new land for the reburial, which can be complicated by the chemicals often used to preserve remains in museum collections (Orona & Esquivido, 2020). In the Kitigan Zibi case, representatives of the Algonquin Anishinabeg nations were sent to a conference about the repatriation of Indigenous remains hosted by the Haida Gwaii Repatriation Committee, which also necessitated funding (Whittam, 2015). In the US, funding for such efforts is provided by NAGPRA, but as Orona and Esquivido (2020) point out, the responsibility of applying for funding – under colonial laws and systems – falls to the Indigenous group in question. There are currently no similar funding programs available in Canada, making the issue even more difficult.

The Canadian Context

At the current moment, the most pressing repatriation issue in Canada concerns the identification of unmarked burial sites at residential schools across the country. There were over 139 residential school across Canada, and efforts for investigations have been either started, or are slated to start, in only thirty-eight of residential school sites (Deer, 2021; *List of residential schools*, n.d.). The digs and searches at all other residential school sites will require significant financial investment, along with the efforts to document the children who died at the schools by the National Centre for Truth and Reconciliation in Winnipeg (Deer, 2021). There are no current legal frameworks mandating the government's responsibilities in this situation; however, this is not to mean that federal and provincial governments should not have any responsibilities in this process. A financial investment from federal and provincial government would represent an important first step in taking responsibility for previous governments' role in residential schools,

and in making reparations to Indigenous communities. Financial investments will also be needed to help identify remains and rebury them appropriately – without even thinking of the emotional and psychological investments needed by the communities affected, which would also require further funding to address.

Finally, to support the Task Force Report on First Nations and Museums' recommendation to increase Indigenous involvement in museums and Indigenous interpretation, funding would be necessary to help train Indigenous youth with interests in archeology and anthropology to lend their skills and knowledge to the Task Force's efforts (Assembly of First Nations & Canadian Museums Association, 1994). Funding is necessary for these efforts to begin in earnest, especially since many Indigenous peoples in Canada live below the poverty line. Financial support should also be given to training efforts located in Indigenous communities, thus lessening the obligation for Indigenous youth to leave their communities to receive training.

Until very recently (June 21, 2021), there was a flagrant lack of real, enforceable, and tangible legislation in Canada to support repatriation efforts for Indigenous human remains. Before then, the importance of repatriation has been highlighted by academic literature, the UNDRIP, and the Truth and Reconciliation Committee (TRC), yet legislation has only just been posed and funding to aid repatriation efforts for Indigenous remains is still lacking. The Canadian Museums Association was awarded $1 million to work on a review in collaboration with Indigenous peoples to identify and "to develop best practices in the preservation and presentation of Indigenous culture" in Canadian museums according to the government's obligations under the UNDRIP and the TRC, which was due in March 2022 (Bernstien, 2021, para.

22). The review was ultimately published on September 27, 2022, and recommends that repatriation be the default approach to the existence of Indigenous human remains and culturally significant artefacts in museums (Canadian Museums Association, 2022; Danyluk & MacKenzie, 2022).

The review, titled *Moved to Action: Activating UNDRIP in Canadian Museums* also recommends the "[e]nact[ing of] strong legislation to support the repatriation of Indigenous belongings and ancestors," along with the provision of funding to support repatriation efforts, museums, and Indigenous cultural initiatives (Danyluk & MacKenzie, 2022, p. 36). As far as legislative recommendations, the review recommends the implementation of the UNDRIP in all provinces and territories and a "[r]eview [of] existing laws relating to heritage for compliance with UNDRIP" (Danyluk & MacKenzie, 2022, p. 36). Further research would be necessary to identify the key elements necessary in new legislation on the repatriation of Indigenous human remains.

Conclusion

This paper has examined existing frameworks for the repatriation of Indigenous human remains in Canada and the United States. Internationally, the WAC's Vermillion Accords and the UNDRIP are the main guiding policies surrounding the repatriation of Indigenous human remains and significant cultural artefacts. In the United States, NAGPRA provides the legislative framework for the repatriation of Indigenous ancestors and culturally significant items. In Canada, the UNDRIP has recently been passed into law, but there is no federal legislation to provide guidelines on Indigenous repatriation. The Task Force Report on Museums and First Nations, published in

1994, and the CMA's recent review, *Moved to Action: Activating UNDRIP in Canadian Museums* provide some framework, but are not legally enforceable.

However, despite these policies and legislations (where they exist), Indigenous peoples are still struggling to gain control and ownership over their human remains. As this paper has explored, this is due mainly in part to a refusal to accept the importance of repatriation to Indigenous self-determination, flaws in existing legislation and policies, and a flagrant lack of funding to repatriation efforts. In particular, legislations like NAGPRA often fall short because they are limited in scope, fail to extend their protections to unrecognised Indigenous groups, and are not enforceable across federal borders. These laws also often fail to recognise Indigenous sovereignty, histories, and beliefs which, if taken into consideration, would support Indigenous claims to their lands, ancestors, and cultural objects.

In Canada, there is no current federal legislation mandating or supporting Indigenous repatriation efforts. In order for the federal government to fulfill its obligations to Indigenous communities, the creation of repatriation legislation is essential. Such legislation would necessarily require the protection of Indigenous rights and self-determination, the recognition of Indigenous sovereignty and significant financial investments to support the implementation of such a legislation, as recommended by the CMA's review, *Moved to Action: Activating UNDRIP in Canadian Museums*.

But this only scratches the surface. Although this paper has looked specifically at repatriation issues as relevant to Indigenous human remains, there are several other remains

belonging to white, Black, and other people of colour being held in museums which also need to be returned; and there are even less laws and policies in place there to help those efforts.

References

American Museum of Natural History. (n.d.). https://www.amnh.org

Assembly of First Nations & Canadian Museums Association. (1994). *Task Force Report on Museums and First Peoples*. Canadian Museums Association. https://museums.in1touch.org/uploaded/web/docs/Task_Force_Report_1994.pdf

Ball, D. P. (2020, June 13). How Indigenous researchers are reclaiming archeology, anthropology. *The Globe and Mail*. https://www.theglobeandmail.com/canada/british-columbia/article-how-indigenous-researchers-are-reclaiming-archeology-and-anthropology/

Bernstien, J. (2021, July). When it's time to give back. *Maclean's*. https://archive.macleans.ca/article/2021/7/1/when-its-time-to-give-back

Canadian Museums Association. (2022, September 27). Museums moved to action: Advancing the Truth and Reconciliation Commission's Call to Action #67. *Cision*. https://www.newswire.ca/news-releases/museums-moved-to-action-advancing-the-truth-and-reconciliation-commission-s-call-to-action-67-885901925.html

Collison, J. N. (2021, December 3). *"These pieces are part of us": Repatriating belongings and remains stolen from Indigenous peoples* [interview]. The Current; CBC Radio. https://www.cbc.ca/radio/thecurrent/the-current-for-dec-3-2021-1.6272173/these-pieces-are-part-of-us-repatriating-belongings-and-remains-stolen-from-indigenous-peoples-1.6272889

Danyluk, S. & MacKenzie, R. (2022). *Moved to action: Activating UNDRIP in Canadian museums*. Canadian Museums Association.Deer, K. (2021, September 29). Why it's difficult to put a number on how many children died at residential schools. *CBC News*. https://www.cbc.ca/news/indigenous/residential-school-children-deaths-numbers-1.6182456

Edgar, H. J. H. & Rautman, A. L. M. (2014). Contemporary museum policies and the ethics of accepting human remains. *Curator: The Museum Journal 57*(2), 237-247. https://doi.org/10.1111/cura.12064

Halcrow, S., Aranui, A., Halmhofer, S., Heppner, A., Johnson, N., Killgrove, K., Robbins Schug, G. (2021). Moving beyond Weiss and Springer's *Repatriation and Erasing the Past*: Indigenous values, relationships, and research. *Journal of Cultural Property 28*, 211-220.

The Final Report of the Truth and Reconciliation Committee of Canada. (2015). https://pm.gc.ca/en/news/backgrounders/2015/12/15/final-report-truth-and-reconciliation-commission-canada

Hubert, J., & Fforde, C. (2005). The reburial issue in the twenty-first century. In G. Corsane (Ed.), *Heritage, museums and galleries: An introductory reader* (pp. 116-132). Routledge.

List of residential schools. (n.d.). Residential Schools Settlement - Official Court Website. https://residentialschoolsettlement.ca/schools.html

Native American Graves Protection and Repatriation Act, 25 U.S.C. 3001 et seq., 104 Stat 3048 (1990).

United Nations Declaration on the Rights of Indigenous Peoples. (2007, September 13). United Nations. https://www.un.org/development/desa/indigenouspeoples/declaration-on-the-rights-of-indigenous-peoples.html

The *United Nations Declaration on the Rights of Indigenous Peoples Act*. SC 2021, c.14

Orona, B., & Esquivido, V. (2020). Continued disembodiment: NAGPRA, CAL NAGPRA, and recognition. *Humboldt Journal of Social Relations 42*, 50-68.

Rugg, J. (2017). Materiality, identity, mutability: Irresolvable tensions within burial reform. In J. Bradbury & C. Scarre (Eds.), *Engaging with the dead: Exploring changing human Beliefs about death, mortality and the huma body* (Studies in Funerary Archeology, Vol. 13, pp. 210-216). Oxbow Books.

Weiss, E., & Springer, J.W. (2020). *Repatriation and Erasing the Past*. University of Florida Press.

Whittam, J. (2015). “In a Good Way”: repatriation, community, and development in Kitigan Zibi. *Anthropologica, 57*(2), 501-509. https://www.jstor.org/stable/26350458

World Archeological Congress. (1990). *First Code of Ethics*. World Archeological Congress. https://worldarch.org/code-of-ethics/

World Archeological Congress. (1989). *The Vermillion Accord on Human Remains*. World Archeological Congress. https://worldarch.org/code-of-ethics/