

The Legal and Ethical Aspects of the Repatriation of Indigenous Remains:



Introduction



Native people throughout history have been murdered, persecuted, expelled from their own land, and ripped away from their culture.

In the US, there are 350,000 indigenous remains in Museums, Universities, and private collections. Many of these remains were obtained through grave looting.

40% of these remains are not from US origin. Most of the remains come from Latin American countries. It is estimated that there are 121 Brazilian-indigenous remains in museums in the United States. In the AMNH alone there are 9 indigenous remains.

Results

The New Zealand Te Papa Tongarewa is the best fit legal and ethical framework to be modeled in the Brazilian repatriation case. Process Tracing showed that New Zealand's repatriation program can be copied in Brazil, since both countries are under UNDRIP and UNDROIT. Also, Te Papa Tongarewa was the only case study to reach a High Ethical Principle score in the Ethical Principle Assessment.

TABLE 3

	Descendant Community	Holding Institution	Researchers/Scientific Community	General Public
Wellbeing	(9/10)	(7/10)	(6/10)	(8/10)
Autonomy	(8/10)	(8/10)	(7/10)	(7/10)
Justice	(9/10)	(7/10)	(8/10)	(9/10)
SCORING	26/30	22/30	21/30	23/30

View Appendix E for full Matrix

93/120 → 77,7% ethical fulfillment

HIGH ETHICAL PRINCIPLE

Research Question

What repatriation approach most effectively addresses the ethical principles and legal frameworks applicable to the 9 Brazilian Indigenous remains currently held at the AMNH?

Discussion

There is a central implication concerning the repatriation of human remains: **museums not allowing for repatriation.** A native community or a foreign country can have a proper request, legal arguments, and genetic identification of remains; however, if the American museum is not open to the idea or simply does not want to repatriate internationally indigenous remains; repatriation will not occur.

Methodology

1 Feldman's Internal and External Legal Coding System for Museum Constitutions

2 Van Evera's Process Tracing

3 Ethical Principle Assessment

These methodologies were implemented on 3 successful repatriation case studies:

- Haida Nation
- Pasqua Yaqui Tribe and Tribu Yaqui
- New Zealand Te Papa Tongarewa

Next Steps

For a successful repatriation case it is imperative that IPHAN engages in the following actions:

- 1) Discovers the tribal affiliation
- 2) Creates a Program (modeled after the New Zealand case)
- 3) Receives confirmation for all repatriation requests

Acknowledgements

Firstly, I would like to thank the Barnard Laidlaw Committee for giving me the opportunity of conducting this research that is so dear to me. I would like to thank Professor Watson for all the support and help during this process. I would also like to thank my family and friends for their unconditional support.

Lastly I would like to dedicate this work to the members of the Tupinamba and Yanomami tribes in Brazil, and their continuous fight to bring their ancestors back to their land.

Yanomami



References

