

what might happen when these ideas move from a colonial to a nationalist political and historical context (Nilsson Stutz, 2008; 2013). However, in order to get to that level of analysis we must recognize the obvious power dynamics that permeate the process and move toward mutual understanding.

Today, thirty years after the passing of NAGPRA, most archaeologists accept repatriation as a natural part of American archaeological and museum practices. Most of us can have thoughtful conversations about these matters. It is therefore perhaps not surprising that we now witness a backlash against this movement. In the end, we must question the publisher, University of Florida Press. Why did they decide to provide these authors with a platform in the first place? It is true that the authors have freedom of speech, but they are not entitled to a book contract. So why did an American University Press decide to invest in this book right now? Did they really think this would contribute to a productive debate? Critical self-examination moves archaeology and biological anthropology forward as we assess the power relationships in the discipline, our colonial and nationalist pasts, and our relationships with stakeholders in the past and present. And, just like everything else that is important, these aspects of our disciplines must always continue to be moved forward, examined, and debated. However, the tone and

argumentation represented by this book are counterproductive, and it is my hope that *Repatriation and Erasing the Past* will be a parenthesis in the progression of this debate and not a game changer.

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LIV NILSSON STUTZ

Linnaeus University, Sweden

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Elizabeth Weiss and James W. Springer. *Repatriation and Erasing the Past* (Gainesville: University of Florida Press, 2020, xii and 265pp., 24 figs, 5 tables, hbk, ISBN 9781683401575, pdf ISBN 9781683401858)

Before starting *Repatriation and Erasing the Past*, I took a deep breath to open my mind and clear my heart. Being familiar

with the lead author's previous publications (e.g. Weiss, 2008) and the current controversies that swirl around her

(e.g. Wade, 2021), I anticipated that this new book would be an attack on the kind of collaborative research and community-driven curation practices that I and many others have advanced in recent decades.

Yet, I deeply believe in honest intellectual engagement. As scientists, we should be open to all and any critiques of our work—that indeed the advancement of science requires fairly examining viewpoints and ideas that run counter to our assumptions and conclusions. I genuinely set out to encounter the book on its own terms.

After reading just the first page, I found it hard not to start a reply. I was furiously scribbling notes. More reading, more notes. And more notes. By the end of the introduction, I had written enough to craft an entire article.

As I read on, I realized that I would not be able to pen the typical review because so much of the book requires refutation. How could I demonstrate the book's flaws, interwoven into nearly every sentence, in 2,000 words?

I resolved to write a review, instead of the entire volume, of just one page. I selected a page that would be fair to the authors—page 211, I decided, the first page of the volume's conclusion.

First sentence of the first paragraph:

'Starting as early as the 1970s, some anthropologists began to express concerns about repatriation becoming the norm, but with the passing of NAGPRA in 1990, the realization of reburial by force of law became unavoidable (Kakaliouras, 2014).'

This statement mischaracterizes the Native American Graves Protection and Repatriation Act (NAGPRA).

Nowhere in NAGPRA, in either the law or its federal regulations, does the word 'reburial' appear. NAGPRA only requires that *legal control* over certain

human remains and cultural items be given to lineal descendants, Indian tribes, and Native Hawaiian Organizations. Only when the institution holding the human remains or cultural items establishes cultural affiliation or accepts a disposition request for culturally unaffiliated human remains does legal transfer occur. Then, what the descendants, tribes, or Native Hawaiian Organization choose to do is up to them.

Although indeed reburial is often the choice, some tribes and descendants elect to continue the curation of their ancestors in museums and/or conduct scientific study (Kemp et al., 2007; Ferguson, Anyon & Ladd, 2000: 258). Nothing in NAGPRA *forces* reburial, only the transfer of legal control. If the scientific community can demonstrate its value to descendant communities—that is, if scientists can gain the consent of the legal stewards of ancestral remains and their belongings—then there is absolutely nothing in the law to prevent research or continued curation.

It is enigmatic that Kakaliouras (2014) is cited as a coda to this opening sentence. Titled 'When Remains are "Lost": Thoughts on Collections, Repatriation, and Research in American Physical Anthropology', Kakaliouras argues that the kind of 'loss' the authors lament—the lack of access by some researchers to certain collections and records due to repatriation—is born from 'a fundamental lack of confidence in how large and morphologically diverse skeletal collections can "work" for us in the first place' (Kakaliouras, 2014: 216). Kakaliouras optimistically posits that by reorienting its perspectives, physical anthropology does not need to see repatriation as a 'loss'. For example, Kakaliouras writes, by not describing assemblages of skeletal remains as people, by seeing repositories as containing multiple stories, by expanding theoretical interests to questions of memory and identity, and more, physical anthropologists need

not position themselves as antagonists to Native American rights (Kakaliouras, 2014: 219–20).

Notably, such fast and loose citations plague *Repatriation and Erasing the Past*. For example, on page 73, the authors reference an anecdote from one of my books. However, rather than citing me (Colwell, 2017), the authors cite a harsh review of the book, by a critic whose ideology aligns with theirs. Perhaps if they had referenced the original source, they could have portrayed the anecdote accurately.

Second sentence: ‘Still, anthropologists consoled themselves with the knowledge that remains that were unaffiliated to a modern tribe would remain available for study.’

This is misleading.

First, most major anthropological societies, and large numbers of individual anthropologists, supported NAGPRA’s passage (e.g. Kintigh, 1991); thus, the suggestion that anthropologists as a whole needed ‘consolation’ is erroneous.

Second, any anthropologist who consoled themselves with this ‘knowledge’ was misguided. As histories of NAGPRA have detailed, once the legislation began to take shape in Congress, there were numerous conversations about what to do with ancestral remains that could not be culturally affiliated (e.g. McKeown, 2013: 93, 103, 135, 186, 243). When NAGPRA passed, it was not a question of *whether* but *when* cultural unaffiliated remains would be addressed. There was such intense disagreement about how to solve this issue that instructions were not included in NAGPRA and when its federal regulations were published, they were held in ‘reserve’—meaning, that there would be some sort of regulation detailing how to address culturally unaffiliated remains, but to be determined at a later date—and became the law’s ‘unfinished business’ (Daehnke & Lonetree, 2011: 93).

Third, there was nothing in NAGPRA or its federal regulations that sanctioned making culturally unaffiliated human remains ‘available for study’.

Fourth, the battle over what to do with culturally unaffiliated human remains began almost immediately after NAGPRA’s passage, lasting for two decades, until the regulations for these remains became law on May 14, 2010. It is hard to imagine anyone feeling ‘consolation’ during these raging debates (Dumont, 2011).

Third sentence: ‘In 2013, however, unaffiliated remains lost their protected status.’

This is incorrect.

The section of the regulations 43 CFR 10.11 (‘Disposition of culturally unaffiliated human remains’) became law on May 14, 2010 (Colwell-Chanthaphonh, Maxson & Powell, 2011: 28). In no legal or moral sense did the remains of these human beings have a ‘protected status’ for researchers.

Fourth sentence: ‘This change to NAGPRA means that all collections of Native American remains will likely be gone in the next four to five decades (Gonzalez & Marek-Martinez, 2015).’

This is an incorrect statement and a contradictory citation.

First, implementing NAGPRA is an intensely time-consuming and laborious process. Based on numbers provided to me for this review by the National NAGPRA Office, between 2010–2020, notices were published on 16,521 individuals labeled as culturally unaffiliated, with 111,0383 culturally unaffiliated individuals still reported left in museum and federal agency collections. Thus, given the current pace, we’re looking at nearly seven decades before notices are published on all of the culturally unaffiliated people. Furthermore, this estimate does not acknowledge that published notices do not equate to reburials, and does not include

international and private collections, which take far longer to address without any extant legal remedies. We are likely at least a century out from the work being done—and in truth it will never be done due to the constant inadvertent discoveries and excavations that continue through development and research projects.

Second, the citation of Gonzalez and Marek-Martinez does not substantiate this claim. Gonzalez and Marek-Martinez's article does not give the 'next four to five decades' figure; it makes no estimation at all.

Indeed, again, the book is citing a paper that argues the opposite of its point. Titled 'NAGPRA and the Next Generation of Collaboration', Gonzalez and Marek-Martinez (2015) lay out an optimistic agenda for how scientific research will not end, but can continue in the age of repatriation.

Given that Gonzalez and Marek-Martinez's article was an introduction to a collection of articles, I guessed maybe someone else in the issue provided the 'four to five decades' estimate. I downloaded the issue and searched for the cited figure. I could not find it.

Fifth sentence: "It is doubtful that the repatriation movement will end with the reburial of the last remains."

This is misleading.

First, this statement seems to confuse what NAGPRA covers. The law does not just address human remains; it also includes three categories of cultural items, including funerary objects, sacred objects, and objects of cultural patrimony. So, indeed, repatriation will not stop with human remains.

But second, and more to the point, this statement seems to imply that Native Americans are aiming to empty collections. In fact, most tribes are focused on relatively small portions of collections. For more than twelve years, I worked at the

Denver Museum of Nature & Science and helped lead one of the most proactive repatriation programs in the world. Even after more than a decade of constant work, less than one per cent of the museum's anthropology collection has been repatriated. The suggestion that Native Americans want to empty museums is easily countered by the florescence of tribal museums and archives, the number of collaborations that have resulted from NAGPRA consultations, and the fact that no museum has gone out of business due to repatriation (Roy, Bhasin & Arriaga, 2011; Putnam, 2014; Chari & Lavallee, 2013).

Sixth sentence: 'For instance, the state law CalNAGPRA allows Native American tribes to require museums and universities to hand over materials such as newly made artifacts, replicas, casts, and written reports.'

This claim is false.

CalNAGPRA, the California state law in support of the federal legislation, does not specifically mention 'newly made artifacts', 'replicas', 'casts', or 'written reports'. On the contrary, CalNAGPRA (Section 1. Article 2.812(d)) defines those 'cultural items' subject to the law as the same as NAGPRA, which is limited to human remains, funerary objects, sacred objects, and objects of cultural patrimony (Section 3001(3)).

Seventh sentence: 'The Hopi tribe in Arizona has long had a complete moratorium on access to field notes, photos, and sound and video recordings.'

This statement is a mischaracterization.

The Hopi Tribe, a federally-recognized nation not located in California, has no such moratorium—first because they do not have legal control over practically any materials in museums, collections, or laboratories, and second because, since the late 1980s, they have built one of the strongest collaborative tribal research programs in the United States.

Without a citation, I can only presume this passage is referring to the archival materials in some collections that were gathered in violation of U.S. law and in contravention of Hopi practices. For example, as I have detailed in one paper about a problematic collection of sketches of Pueblo rituals, the Hopi have proactively tried to prevent the documentation of their most sacred ceremonies since at least the late 1800s (Colwell-Chanthaphonh, 2011). However, over the decades, even as the tribe welcomed outsiders to their ceremonies and took strenuous measures, supported by U.S. law enforcement, to limit outside documentation, visitors regularly took photos and created illustrations. Because of such violations, in 1994, Hopi chairman Vernon Masayesva requested a moratorium on all archival materials related to his tribe, particularly those containing ritual, esoteric, and privileged information (Brown, 2003: 14–15). Most every archive ignored the request.

But only gesturing towards Masayesva's request from twenty-seven years ago elides the central part of the story: The Hopi Tribe has built one of the most active historical and cultural research programs in the U.S., conducted in collaboration with a range of researchers, including archaeologists, anthropologists, historians, geographers, geologists, ethnomusicologists, and more (Kuwanwisiwma, Ferguson & Colwell, 2018). The Hopi Tribe is not anti-science. They are only against the forms of science that violate their legal and human rights—that is, the kind of science advocated for in *Repatriation and Erasing the Past*.

Last sentence of the first paragraph: 'When the remains are gone, more removal of materials is likely to be required by the repatriation movement; nothing should be considered safe.'

This is hyperbolic.

As noted above, the day 'when the remains are gone' is either a century away

or won't arrive. Additionally, as noted above, illicitly and illegally gathered materials targeted for repatriation are a small fraction of most collections.

Many Native American communities cannot even get back their own ancestors' bodies and their most sacred items without years of struggle and effort. That Native Americans are now coming for everything else—notes etc.—is not only far beyond the scope of any extant law but also a caricature of what really matters to Native peoples.

And ... oh no.

I'm now at my word limit for this review and I only got through the conclusion's first paragraph.

By my estimate—2,000 words here to address not even one page—I'd need 438,000 words, or about six books, to fully critique *Repatriation and Erasing the Past*. And so, I can only hope that this brief review makes the clear point: Nearly every sentence of *Repatriation and Erasing the Past* is strewn with mischaracterizations, inaccuracies, misleading assertions, false claims, or hyperbole.

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CHIP COLWELL

Editor-in-chief of *SAPIENS, USA*

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