

The logo for the Anthropology Book Forum, featuring a stylized blue and white circular design on the left side of a dark blue header bar.

Anthropology Book Forum

Open Access Book Reviews

ELIZABETH WEISS AND JAMES W. SPRINGER, 2020. *Repatriation and Erasing the Past*, Gainesville: University of Florida Press, 278 pp., ISBN: 9781683401575.

Keywords: NAGPRA, repatriation, reburial, human remains, heritage law.

Repatriation and Erasing the Past is a forthright condemnation of the ideology behind, and the enforcement of, the Native American Graves Protection and Repatriation Act (NAGPRA). NAGPRA is the U.S. Federal law that was passed in 1990 to execute the return of Native American heritage and human remains from museums, universities, and research centers to their culturally-affiliated tribal communities. In this monograph, Elizabeth Weiss and James Springer combine bioarchaeological and legal perspectives to examine the scientific and cultural loss behind the repatriation of Native American artifacts and remains. Therefore, from the beginning and in an explicit way, Weiss and Springer position themselves in the debate surrounding the appropriateness of repatriating culturally, historically, and scientifically valuable human remains and artifacts as anti-repatriationists.

The book is divided into three sections, preceded by a brief introduction and followed by a conclusion. The first section adopts a scientific approach to debunk the rationale behind NAGPRA's repatriation and reburial mandates. Chapters 1 and 2 present the central argument that is often raised to halt repatriationist movements: the loss of valuable information for scientific purposes. Chapters 3 and 4 dive into the historical, archaeological, and bioanthropological data that can be obtained from studying human remains. These chapters give an overview of the scientific methods of research used (1) to learn about different aspects of Paleoindian lifestyles, such as diet, health, migration patterns, and culture, and (2) to discredit false narratives and misconceptions, including the original peopling of the Americas, the pre-contact population size, and the violent behavioral trends among and between Native American communities.

The second part of the book focuses on the legal side of repatriationist initiatives. Chapter 5 summarizes the history of American Indian Law and reviews the outcomes of major repatriation court cases, including La Jolla Skeletons and the Kennewick Man cases. Chapter 6 explores the legal issues surrounding genetic research on Native American populations, which are illustrated by the Havasupai lawsuit.

The third and final section dissects the social, cultural, and legal problems caused by the imposition of repatriation. Chapter 7 argues that NAGPRA gives Native Americans preferential treatment due to their race and religion. Chapter 8 criticizes the validity, reliability, and admissibility of oral tradition as evidence in court. Chapter 9 analyzes the traditional treatment of Native American human remains to disprove the popular claim that immediate and undisturbed burial is necessary. Chapter 10 shows the negative impact of the repatriationist ideology on anthropological research, which is materialized in the loss of collections, the inhibition of freedom of inquiry, and scholarly censorship.

Weiss and Springer set two main goals for this book. Their first objective is to place value on the scientific study of archaeological remains as the only systematic and factual way to understand the history of humanity and to reconstruct the past. The authors claim that it is important to study human remains scientifically in order to give voice to those who can no longer speak (p.57) and tell their stories in an accurate manner, so as to do justice to their lives and individualities (p.36, p.97).

The second goal of this book is to openly criticize the postmodernist ideology that NAGPRA is built upon. They label NAGPRA as an anti-constitutional, racist, prejudiced, and anti-scientific program and present arguments to prove their claims.

Firstly, Weiss and Springer argue that NAGPRA is anti-constitutional because it violates the First Amendment of the U.S. Constitution (pp.166-169), which dictates that laws cannot be based on religion. They claim that said policy attempts to incorporate traditional animistic beliefs into an established religion and Native American views into political and judicial policies (p.192). For instance, they contend that the acceptance of oral tradition as judicial evidence proves that the legal system exerts religious and racial discrimination to favor Native American communities over non-Native American individuals (p.183).

In the same vein, Weiss and Springer argue that collectivism and racial favoritism are at the heart of NAGPRA (p.170). According to the authors, NAGPRA is racist as it establishes federal-level discrimination based on race (p.130). It constructs an independent Native American identity, based on “the old idea that Indians are owed a special duty because of their independent status” (p.94) and the persecution and victimization they have endured (p.171). Furthermore, they argue that identifying as Native American automatically and unequivocally grants legal power over other American citizens and bestows them with special rights and opportunities (p.131). The favoring treatment of Native Americans over other communities is manifested in the advantages granted to Native American groups in the various existing conservation and preservation laws. These include the right to be consulted before and during conducting research, the right to intervene in the administrative agency proceedings and court appeals (p.143), and the different handling that Native American DNA, tissues, and bones receive in comparison to other collections (p.203).

In light of the above, the authors state that NAGPRA is an anti-scientific policy because it restricts academic freedom and promotes censorship (p.207). Regarding the former, Weiss and Springer argue that the mindset that has been built around the enforcement of NAGPRA denies researchers the ability to decide what, where, when, and how to conduct research. Since NAGPRA imposes collaboration and consultation between Native Americans and researchers, tribal organizations play an important role in deciding the topics that are put under examination and the methodology that is applied (p.160). Researchers’ fear of hurting sensitivities, and therefore becoming canceled and making their original work unpublishable, prevents them from making strong inferences that may upset Native American administrators and may lead to the termination of collaboration (p.206). They conclude that “[f]or research, interpretation, and publication to depend upon such sensitivity is to undermine the whole concept of objective knowledge and, indeed, of science itself” (p.218).

Likewise, they argue that imposing collaboration between Native Americans and researchers not only makes research more difficult, costly, and time-consuming but can be harmful to the pursuit of the truth. Weiss and Springer maintain that Native American stakeholders are inclined to introduce subjective biases based on religious sentiments that weaken the factual, reliable, and impartial values of scientific data (pp.175-176, p.199, p.218).

Finally, the authors say that NAGPRA is anti-scientific because repatriation and reburial of remains leads to the loss of data and the inability to restudy collections, test new hypotheses and retest old ones, obtain new data through the implementation of new technology, and train students in scientific endeavors (p.194). All in all, the most affected parties are the pursuit of objective knowledge and the truthful reconstruction of not only North American history but the history of Humanity (p.92, p.219).

In conclusion, *Repatriation and Erasing the Past* has become one of the most controversial, criticized, and hatred-provoking publications in recent years in the field of anthropological studies. It is, indeed, an incendiary publication aimed at questioning repatriationist trends and inviting a re-evaluation of the community archaeology research model firmly established since the turn of the millennium. This book adopts an extreme attitude in favor of science, almost achieving the degree of scientific fundamentalism, to vehemently charge against what is assumed to be their opposite: the softening of human sciences through the inclusion of non-metric, non-replicable, non-verifiable information that relies on abstraction and subjectivity. The field of anthropology is struggling to find a fair balance between the human sciences and the humanities, or this may as well be a reactive turn to processualism. Time will determine whether this is the beginning of a New, New Archaeology.

Irene Martí Gil obtained her bachelor's degree in Archaeology from Universitat Autònoma de Barcelona, having pursued an academic exchange at Université Paris-Sorbonne IV and graduated from Escuela de Liderazgo Universitario-Universidad Francisco de Vitoria with a degree in Liberal Arts. She earned her master's degree in Cultural Heritage from University College London in 2017 and her Ph.D. in Anthropology, with a minor in Linguistics, from Louisiana State University in 2023 (sponsored by Fulbright). Currently, she is focused on pursuing research on the topics of archaeological looting and antiquities trafficking from an interdisciplinary (legal, archaeological, ethnographic, and linguistic) perspective.



© 2024 Irene Martí Gil