

Conservation of Indigenous Heritage in the United States: Issues and Policy Development

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ABSTRACT. Conservation of indigenous heritage is closely associated with the political and social position of the indigenous people in society. In order to understand the ongoing debate and changing perspectives on indigenous heritage, study of the growth of American Indian communities and their relationships with the U.S. government is crucial. Therefore, this article examines the federal policies and programs and the political dynamics presented in conserving indigenous heritage by reviewing Indian policy developments within the past two decades. American Indians did not possess ownership of their own cultural heritage and could not participate in the administration and formation of legal protection for heritage conservation. Policy changes have been influenced by the evolving roles of American Indian communities; this article explains how tribes finally became a partner in heritage conservation efforts.

Native Americans are perhaps the most recognized ethnic group by U.S. policy, and their cultural heritage has invited heated policy discussions. Conservation of indigenous heritage is closely associated with the political and social position of the indigenous people in society. Identity, diversity, sustainability, authority, ownership, various economic benefits, and political purposes have been important issues in indigenous heritage. These issues often not only encourage protection and conservation efforts but also engender

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conflicts. Moreover, the issues and operations in indigenous heritage can vary depending on the history and politics of a country. In order to understand the ongoing debate and changing perspectives on indigenous heritage, the study of American Indian communities and their relationships with the government is crucial.

Preservation policies have addressed the tangible heritage of Indians, such as their properties, lands, sites, and archeological remains. Folklife programs have presented and documented the performing arts and oral traditions—the intangible heritage of Native Americans. When referring to their intangible heritage, U.S. public policy programs often use the words “folk” or “traditional.” These concerns have largely informed federal programs regarding American Indian culture.

This article examines the federal policies and programs and the political dynamics involved with conserving indigenous heritage, particularly with policy development in the last two decades. The advocacy efforts of the Native American community are also studied to see what their policy concerns are and how the federal understanding of indigenous heritage has changed. The early federal policies on indigenous heritage are briefly discussed after reviewing some key definitions; next, the federal players and their programs to support conservation of indigenous heritage are studied. The later part of the article focuses on the policy developments in the conservation of indigenous heritage since the end of the 1980s and considers new directions in the relationship between the federal government and tribal governments.

TERMINOLOGIES

The term “indigenous” carries a discriminatory and degrading notion. In many countries, including in the United States, the term has been controversial. In the United States, indigenous heritage can refer to both tangible heritage, or physical remains, and intangible heritage, or cultural traditions and expressions, of aboriginal people who occupied North America before the arrival of European settlers. Unlike other U.S. ethnic minorities, Indians have to claim their legal status and prove their eligibility to obtain government services and land. Nonetheless, deciding who is an American Indian can be complicated, since definitions of the Indian vary from one administration to another. Even agencies at the federal level can define that status differently depending on their programs (Chaudhuri 1985). The Indian Self-Determination and Education Assistance Act of 1975 and the Native Hawaiian Education Act of 1965 provide the clearest definitions for Indian-related policies. The Self-Determination and Education Assistance Act defines an Indian as a person who is a member of an Indian tribe. The act further says an Indian tribe is:

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Any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians. (U.S. Congress 1975, Sec. 4, d, e)

The terms “American Indian” and “Native American” have been used more commonly than the term “aboriginal” or “indigenous” in the United States. Due to the controversial term “Indian,” a new term was sought during the civil rights movement of the 1960s, giving rise to the term “Native American” as one of replacements (Chaudhuri 1985). Both terms have appeared in federal policies; however, many in the indigenous communities feel that the term “native” is offensive and implies a negative and primitive impression. Thus, all these terms have drawbacks. When the federal government uses “Native American” or “American Indian,” the term usually refers to American Indians, Alaska Natives, and Native Hawaiians.

The term “tribe” has been controversial as well. The term carries multiple meanings even in the field of anthropology. What the term “tribe” means can be a response to social and political conditions and events. It can describe a type of sociopolitical organization or a stage of developmental progress of such an organization. Anthropological definitions tend to imply honor or integrity (Sheffield 1997). Nevertheless, in contemporary society, the implications may be less positive. Fred Gearing stresses the political connotation of tribe as “a political array of social boundaries” (1968, 111). The boundaries can be religion, language, economy, and politics. Due to the negative experiences that degrade their history and pride, Native Americans have rejected the use of the word altogether and have used their own term of choice, “nation,” to stress their sovereignty (Sheffield 1997).

For the purpose of conservation or promotion of indigenous heritage, the definition used by the Department of the Interior (DOI) is most influential. The DOI has expanded the beneficiaries of its programs and tried to improve cooperation on conservation of indigenous heritage with tribes. However, the definitions still imply that authority on conservation of indigenous heritage belongs to the U.S. government. In this article, I use the terms “Native American” and “American Indian” interchangeably, simply because of the absence of better terminology.

INDIGENOUS HERITAGE AS ARCHAEOLOGICAL RESOURCES

The U.S. government, especially in the beginning, never recognized any obligation to conserve Indian heritage and culture. The social and cultural relationship between new settlers and Indian tribes hardly evolved beyond the

necessary cultural and economic trades, and as the settlers' dominance grew, tribal oral history and art became isolated from the majority culture and society (Dorson 1959). Passing down traditions through custom, rituals, or oral transmission in tribal communities became more difficult as the economic and social dependency of tribes grew. Indian traditions and culture began to develop solely into objects of tourist interest or scientific study in anthropology, archaeology, and ethnography (Dorson 1959). Indeed, these scientific research groups have heavily influenced policies on preserving American Indian heritage.

Historically, policy on indigenous heritage has been primarily an acknowledgment of this cultural patrimony and has underscored it as a part of national resource preservation. Subsequent policies and programs focused on the archeological remains of Indian culture. For example, in 1892 Congress authorized the establishment of the Casa Grande archeological reserve to save the ruins of this prehistoric adobe structure in Arizona. The first national legislation was the American Antiquities Act of 1906, which protected prehistoric ruins on federally owned lands. The act fundamentally supported scientific study and neglected the spiritual aspects and cultural practices of Native American culture. Indian remains and sacred objects were classified as archeological resources, which allowed them to be excavated and handled for research.

Colwell-Chanthaphonh considers the act a legal process for "incorporating Native Americans into the web of national politics and markets" and for placing Indian cultural resources under U.S. governmental control (2005, 375). The tension between cultural extermination and archeological preservation of indigenous heritage resembles other nations' colonial practices that eradicated aboriginal culture, while taking possession of the group's artistic and cultural treasures.

Preservation through Folklife Programs

While the policies and programs of conservation concerning built heritage often disregard indigenous heritage unless associated with the white man's history, federal programs and policies on the intangible aspects of Native American heritage have come to embrace the tangible as well. The Antiquities Act and federal archeological programs did not exclusively protect indigenous heritage and did not necessarily reflect Indian ways of conservation. While the involvement of the federal government in folklore may not be sizable, indigenous heritage has often been promoted under a variety of folklife programs, which usually documented and presented indigenous heritage. The federal government established the Bureau of American Ethnology in the late nineteenth century. The initial federal program in traditional culture was the Archive of Folk Culture (AFC) in the Library of Congress in 1928, followed by the New Deal projects that were operated in the early 1930s. The National

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Endowment for the Arts (NEA), the AFC, and the Smithsonian Institution's Center of Folklife and Cultural Heritage (CFCH) are considered the three primary players for folklife at the federal level. The NEA concentrates on the artistic aspect of folklife, ranging from dance and music to visual art. The AFC and the CFCH are involved in general folklife with strong emphases on indigenous heritage.

The NEA created its folk arts program in 1974 to meet the demands of the wide-ranging artistic and cultural legacy in the United States. The Folk and Traditional Arts Program of the NEA is designed to support heritage preservation as well as artistic excellence, and indigenous heritage is a significant part of the program. Supporting institutions or organizations that promote the preservation of native heritage and tradition, such as the Alaska Native Heritage Center, not only honor native cultural tradition but also support the tribal community. The NEA has also recognized individual artists and specific forms of traditional art through programs such as the one that grants National Heritage Fellowships. The chosen artisans or craftspeople, such as basket weavers, quill workers, and tradition bearers, have been honored as masters. For example, Emily Kau'i Zuttermeister, a hula master, and Paul Tiulana, an Inupiaq Eskimo mask-maker, dancer, and singer, were honored in 1984; Alice New Holy Blue Legs, a fellowship winner in 1985, was a Lakota Sioux quill artist (National Endowment for the Arts 2008).

Through these programs, the agency has supported the preservation and artistic excellence of indigenous heritage and has recognized American Indian artists and craftspeople. The programs recognized Indian arts and crafts that were largely ignored by the fine-art market or institutions. Since folk art or cultural tradition passes to the next generation in informal settings within a community, recognizing individuals who have special artistic skills is particularly important for cultural survival.

The establishment of the American Folklife Center marked a federal sense of urgency about saving a disappearing heritage. The American Folklife Preservation Act, enacted by Congress in 1976, created the Center to "‘preserve and present’ this great heritage of American folklife through programs of research, documentation, archival preservation, reference service, live performance, exhibition, publication, and training" in the Library of Congress (American Folklife Center 2004). A large part of its collection originated from the collections of the Archive of Folk Culture. The Center heavily focuses on the conservation of indigenous heritage, especially in its early periods. An important part of the collections is Native American Music and Narratives, in which diverse forms of intangible Native American heritage have been documented as sound and moving image recordings, photographs, and archives. This employs anthropological and ethnographic approaches to the intangible heritage of Indian tribes.

Native American tradition and culture have always been an important part of the Smithsonian Folklife Festival, sponsored by the CFCH since 1967. The festival offers vast exposure to indigenous heritage to the American public as well as to foreign visitors. Presentation of traditional clothing, food, drink, dance, music, and stories clearly indicates that the festival supports sustainability and many forms of authenticity. Nevertheless, the focus remains largely on cultural tradition, rather than on the modern life of Native American people.

The Smithsonian Institution's National Museum of Natural History (NMNH) presented North American Indian culture from the perspectives of anthropology and ethnography. The Smith Sound Eskimo life group, which was originally created for the Buffalo Exposition of 1907 and moved to NMNH, became the icon of the permanent exhibition on American culture. Eventually closing in 2004, the exhibit focused on the Indian past and the relationship with European settlers in early U.S. history. It failed to distinguish the different cultural development of diverse Indian tribes and largely worked to reinforce primitiveness (Fitzhugh 1997). In sum, the permanent exhibition of Indian culture displayed for more than five decades was heavily criticized for cultural misrepresentation and the reinforcement of stereotypes of Native American people. The exhibition was eventually closed, and its collection was transferred to a newly created National Museum of the American Indian, which opened in 2005.

Compromising Heritage in Contemporary Society

Authenticity, as the value attribution of cultural heritage, is the key to the success of heritage tourism in an economic sense. The economic benefits of heritage tourism quickly generate interest from governments and businesses. Tradition and heritage have become resources for heritage tourism and are often viewed as a tool for community development or revitalization (Chahabra et al. 2003). Many reservations depend on incomes from cultural tourism. Coincidentally, many tribal artists and craftspeople confront the conflict between authenticity and economic profitability. It has become common for folk artists to modify their artwork and their identities to appeal to patrons on local, regional, and national levels (Joyce 1992). Selection and representation of cultural heritage for sale in ethnic tourism can cause construction of an inauthentic heritage that victimizes Indian communities as well as visitors.

Arguably, the commodification of heritage and tourism diminishes respect for tradition and negatively affects the transmission of heritage (Prott 2000). Native American communities have fought to change the image foisted on them by mass culture. Ironically, however, they often produce the cultural products using these images since they have greater marketability. While

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authenticity is considered important in heritage tourism, what exactly constitutes authenticity? Moreover, heritage is not something fixed but continually transforms itself through reinvention and reformulation. Documentation and presentation of indigenous heritage becomes further complicated, since traditional folklores often vary by different tribes and with adaptations to new lifestyles. The conservation of living culture is complex, especially in light of authenticity and sustainability, and both can make the legal and administrative aspects of heritage difficult.

Why bother to document heritage when it has multiple versions and changes or evolves constantly? If a folk musician plays in a festival wearing “Nike Air” footwear, is the performance inauthentic? If the musician performs in traditional dress, is it more authentic or simply better “staged”? While authenticity and sustainability are key issues of conservation of indigenous heritage, balancing these issues with economic interests and competing with mass culture have been challenging for policy development and cultural practice.

Growth of the Native American Community

Despite numerous federal programs that contribute to the conservation and presentation of Native American arts and culture, indigenous heritage has typically been understood as an “Indian matter” rather than a heritage conservation issue. Therefore, policies for indigenous heritage tend to be well supported by the Senate Committee on Indian Affairs and Indian Communities. The committee has dealt with the advocacy and formation of policies on indigenous heritage, while issues of historic preservation are usually discussed in the House Committee on Resources and the Senate Committee on Energy and Natural Resources. The Subcommittee on National Parks, Recreation, and Public Land and the Subcommittee on Public Lands, National Parks, and Forests also play important roles due to their responsibilities in cultural resources management.

The advocacy for Indian policy is closely related to the fate of the Committee on Indian Affairs, which started becoming the focal point of advocacy efforts for Indian rights after its reestablishment in 1973. The 1970s are considered the time that Indian sovereignty was fortified through the Self-Determination and Education Act. In 1984, it was repositioned as a permanent committee, and by the end of the 1980s, the established political environment for indigenous heritage was favorable to Native Americans. Through working on political independence, civil rights, and health and education, the committee and Indian communities themselves built political confidence and policy development strategies for cultural heritage-related issues in the 1990s. In conjunction with political and economic interests, diverse groups in Indian communities have participated in supporting policies to protect indigenous

heritage, including tribal governments, religious leaders, businesses, and cultural organizations. The organized advocacy efforts emphasized “self-determination” in heritage conservation to increase tribal ownership of their heritage. Beyond presentation and recognition through folklife programs, indigenous heritage has come to be acknowledged as a part of Indian rights.

NEW DIRECTION FOR THE TRIBAL-FEDERAL RELATIONSHIP

The history of Indian policy can be characterized as the relationship between the U.S. government and Native Americans, and policies on indigenous heritage can be viewed as part of that relationship. For a long time, Indian policies forced Native Americans to abandon their cultural heritage and adapt to white European culture (McCool 1985). Social and economic welfare programs of the U.S. government often neglected indigenous cultural and historic environments. Lamentably, the effort to incorporate the value of traditional culture and the need for economic development have forcefully encouraged the production of cultural souvenirs as the market in cultural tourism grows. Indian communities have sought legal protection for their traditional culture. However, authority is still a difficult issue in the determination of ownership.

Giving authority to communities, which originally created and/or currently practice cultural heritage, has earned approval in international society (Van Zanten 2004). UNESCO’s position is that indigenous people should have the rights to the identification, continuation, and development of their cultural heritage, both at the individual and communal levels (World Heritage Committee 2001). According to the UNESCO glossary, the definitions of the terminologies related to intangible heritage are as follows:

Bearer: a member of a community who recognizes, reproduces, transmits, transforms, creates and forms a certain culture in and for a community. They can also function as practitioner, creator and custodian.

Agency: the capacity to make decisions that have an impact on social practices and representations in which individuals and communities are involved. (Qtd. in Van Zanten 2004, 38)

In the United States, governments have played the role of “agency” but have given little authority to the “bearer” groups: Native American communities. The legislative body, Congress, gives the administrative authority and the power to protect and conserve tribal heritage of federally recognized Native American tribes to the relevant agencies. The National Park Service (NPS) and the Bureau of Indian Affairs (BIA) in the DOI have most closely worked for indigenous heritage. The NPS has been involved in the conservation of indigenous heritage since the beginning of the twentieth century through

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archeological programs as the administrator of the American Antiquities Act of 1906 and the Archeological Resources Protection Act of 1979.

The administrative role of the NPS has grown significantly through the enactment of the Native American Graves Protection and Repatriation Act (NAGPRA) in 1990 and the amendment of the National Historic Preservation Act (NHPA) in 1992. It manages the national NAGPRA program and works with Native Historic Preservation Officers. After the NPS approves the officers who are elected by tribal governments and the Tribal Historic Preservation Plan, tribes are able to reclaim their rights to tribal culture and heritage. Through the NPS, grants and technical assistance are available for indigenous heritage. There have been problems and obscurity in implementation of the policies, yet the policy changes show progress toward building respect for the traditional heritage of indigenous communities.

Despite efforts to coordinate the interests of both bearers and agencies, fundamental differences about the goals of conservation persist. Even though the U.S. government ensures the protection of sacred objects and sites in traditional culture, that very preservation or documentation may defy tribal cultural philosophy. Traditional culture and folklore often feature oral traditions and beliefs passed down from generation to generation without formal documentation (Oring 1986). Conservation supports a succession of traditions but may also serve to thwart natural growth in cultural practices. Such efforts may violate natural law and the life cycle of everything in Native American philosophy and religion (Pablo 2001). For this reason, Native Americans consider many conservation programs proposed by governmental and scientific agencies to be antithetical to traditional ways of heritage transmission.

Finally, for many tribal communities, certain knowledge and methods are shared only among very select members of the communities, and numerous tribes sometimes prohibit documenting such information to preserve the sanctity and secrecy of those parts of their culture (Downer 2003). Many tribes that have refused to reveal their sacred places and the associated traditions have lost control of these sites because of bureaucratic ignorance of the norms of tribal confidentiality. A policy that respects the different interests and perspectives of Native American communities, governments, and scientists, in regard to indigenous heritage, has become a necessity.

Federal Policies on Indigenous Heritage

For the past two decades, Indian communities have cooperated with federal agencies and diverse interest groups in policy formation and modification: (1) they have improved upon a long established yet ineffective policy; (2) they have won the right to present their traditions, art, and culture on the National Mall; (3) they have successfully enacted a policy to protect the religious symbols and

human rights involved with Native American cultural heritage and changed the practices of museums, art markets, and scientific research fields; and (4) they joined the federal historic preservation system with their own representatives. Such successes in a relatively short period have been impressive—some have even proclaimed victory; however, there is still much to be done.

Indian Arts and Crafts Act

The Indian Arts and Crafts Act (IACA) is a “truth-in-advertising” law and essentially a legal response to the rapidly growing market for Indian arts and crafts (U.S. DOI 2006). One of the goals of the act is to protect the authenticity of indigenous heritage in cultural tourism. Initially enacted in 1935 as a part of the Indian New Deal during the Roosevelt administration, the purpose of this marketing law is “to promote the development of Indian arts and crafts, for improving the economic status of Native Americans” by prohibiting the fraud and misrepresentation of Indian arts and cultural appropriations (U.S. Congress 1990a). It created the Indian Arts and Craft Board (IACB) under the DOI and shaped its advisory role. While the act is closely related to protecting the authenticity of indigenous heritage, it has received little attention in Indian heritage conservation communities.

Changes have been made to the act in response to problems raised by Indian tribes as they became a crucial part of the policy-making process. Modifications to the IACA have focused on strengthening legal punishments and reflecting the Indian voice. Despite the criminal provisions and penalties for violation, the 1935 act was hardly enforced. It was a well-intentioned but essentially meaningless policy for more than six decades. House Report 101-400 (U.S. Congress 1990a) points out the ineffectiveness of the IACA. Not a single prosecution was filed between its establishment and 1990, and any evaluation of the performance of the Indian Arts and Crafts Board (IACB) was absent. The 1990 act reinforced regulatory aspects, radically increased criminal penalties, and created legal variations for violations. However, it still did not cover attorney’s fees for a prevailing plaintiff, which was one of the main complaints raised by Indian communities. The Native American groups felt that lack of coverage prevented effective implementation of the act. Such criticisms have appeared in testimonies for the 1990 and 2000 amendments. While the evaluative testimony by the DOI remained positive, the Indian communities called the act an ineffective and powerless “paper tiger with no teeth” (U.S. Congress 2000a, 43). Finally, the 2000 act created opportunities for Indian artisans and organizations by providing financial compensation for legal actions and the IACB’s assistance and representation.

An organized advocacy has been one of the key factors in reflecting the Indian voice in amending the act. Indian heritage policies now develop within

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a mutually supportive network of political allies that includes the Senate Committee on Indian Affairs, Native American constituency interests, and concerned federal agencies and programs. The Senate Committee on Indian Affairs, the federal agencies, and the tribal constituency supported the act, even if their interests and concerns might be different. Senator John Kyl, one of the few American Indians who has served in Congress, led the effort to pass the 1990 amendments. In addition, the act is important for states, such as Arizona and New Mexico, that earn a sizable amount of revenue through the sales of Indian cultural products. The testimonies by Indian artists and organizations before the Senate show different opinions on the act from that of the agencies in the hearings. In particular, representatives from the Council for Indigenous Art and Culture and the Indian Arts and Crafts Association spoke out for the need for better implementation to protect Indian arts and crafts.

Economic interest has been the main driving force in policy formation and subsequent revisions. As the Indian arts and crafts market becomes increasingly competitive, protecting economic profits of the market has turned into a bigger issue beyond the loss of Indian communities. The House Report 101-400 (U.S. Congress 1990a) that was filed in the Report to Congress by the Department of Commerce (DOC) in 1985 stressed the national economic loss to foreign forgeries of Indian arts and crafts. The DOC calculated at that time that the fraud and misrepresentation of Indian arts and cultural appropriations was approximately 10 to 20 percent of the market, which translated into about \$400 to \$800 million. During hearings in 2000 (U.S. Congress 2000a), the economic importance of Indian arts and crafts to their community as well as the nation was emphasized again. Testimonies repeatedly stressed the heavy dependence on arts and crafts in Indian communities. The tourist market related to cultural tourism provides job opportunities for Indians and is a source of revenue for Indian tribes as well as state governments. Moreover, the testimonies stressed that this market is valuable for the nation on both domestic and international levels. It is also interesting that many of those testifying stressed the economic loss due to the counterfeit sale of Indian arts and crafts, rather than the issues related to cultural heritage. Of course, emphasizing economic impact is a well-established element of arts advocacy.

Not all Indian artists or organizations benefit from the IACA. Congress defines who are Native Americans and determines eligibility requirements. Indian status is often decided by legal definitions of biological or racial background, and many policies and programs on indigenous heritage have adopted these perspectives. Sheffield (1997) points out that the act does not qualify as a property right policy because of the politically determined status of certified tribal artists. For example, according to the definition found in the IACA of 1990, eligibility belongs to a member of any

Indian tribe, band, nation, Alaska group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; or any Indian group that has been formally recognized as an Indian tribe by a State legislature or by a State commission or similar organization legislatively vested with State tribal recognition authority. (U.S. Congress 1990)

Although biological aspects are still predominant, recognition of those who follow the cultural heritage of Native Americans has been recently added to the eligibility criteria. In the early 1990s, two tribal governments certified artisans and craftspeople who are not Indians by blood but who practice Indian tradition and culture through arts and crafts as tribal artists, and the DOI approved the decision despite some resistance (Sheffield 1997). Tribes exercised the authority to apply their own criteria to recognize success and sustain cultural tradition within the changed policy frame.

National Museum of the American Indian Act

The National Museum of the American Indian Act (NMAIA) received legislative recognition in 1989 and was amended in 1996 in regard to repatriation and cultural patrimony. The placement of the museum (NMAI) near the Capitol alongside other Smithsonian museums on the National Mall in Washington, D.C., has tremendous symbolic meaning that mixes political accomplishment with cultural celebration. While the location of the museum close to the U.S. Capitol resulted from a lack of space on the Mall, its placement makes a strong visual statement. Ostrowitz describes this as a “visual dialogue with the United States, nation to nation” (2005, 404). Cobb stresses the significance of the NMAI in its commitment to Native American cultural sovereignty and stresses the different philosophy in conservation and exhibitions from Western museological standards (2005).

The House and Senate bills stress that the museum would be beneficial for all of the American public; however, the coalition for the legislation was driven by the combination of many specific interests. In addition to Indian political leaders and organizations, many states supported the museum through their elected representatives and state agencies related to Indian affairs. There was already a tremendous collection of Indian cultural artifacts collected by the Heye Foundation for a new museum in Washington, D.C., which lessened the federal government’s financial burden and increased its responsibility to save national treasures. Not only limited to the financial benefits to the federal government, the museum was also an attractive deal to lower-level governments and expected to bring economic benefits such as community development and cultural tourism. The state and city governments of New York welcomed the idea to convert the Customs House to an Indian museum to bring cultural

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and economic vitality to Lower Manhattan, an underutilized part of the city. Nevertheless, from legislative formation to museum design, the effort to have the museum be by and for the Indian community has been the most important part of the process.

Since the close engagement between the museum and Indian communities was the goal, Native American participation in museum governance was required. In the Senate bill (U.S. Congress 1989b), an Indian was defined originally as “a member of an Indian tribe,” which requires legal recognition by the U.S. government. However, the participation of Indians in the museum governance broadened as the bill developed. Seven positions on the board of trustees were reserved for people of Native American ancestry. The collections management of the NMAI respected Native American philosophy and incorporated their intangible heritage in the most up-to-date storage facility. The Cultural Resources Center (CRC) in Suitland, Maryland, was constructed to practice conservation according to tribal belief systems and treated artifacts as visual representation of Native American philosophy, encouraging rituals and ceremonies related to cultural objects. Even before opening, the museum tried to amplify the participation of the Native American community. The CRC has actively promoted education for Native American students and museum professionals, as well as employment for Native Americans. Overall, the museum was designed to nurture Indian heritage and support education through scholarships and museum training programs.

The museum opened its doors to the public in 2005. As noted, its goal is to include presentations of the living culture of Indians: mythology, spiritual life, oral history, and social and political life in contemporary society, beyond archeological and traditional ethnographic emphasis. The bill H.R. 2668 describes the NMAI as “a living memorial to Native Americans and their traditions” (U.S. Congress 1989a), and this description was stressed throughout the subsequent hearings. “A living memorial” implies important aspects of indigenous culture and society as worthy of preservation. One is respect for intangible heritage: oral traditions and expressions (including language as a vehicle of intangible cultural heritage), performing arts, social practices, rituals and festive events, knowledge and practices concerning nature and the universe, and traditional craftsmanship. Myth and traditional stories are played on screens with narratives in the exhibition area. The museum is designed to have indoor and outdoor spaces for performances and ceremonies, which are important parts of Indian tradition and culture. This method of presentation integrates tangible and intangible heritage in museum practice.

The other implication of a “living memorial” is showing respect for the life of Native Americans in contemporary society. “We are still here” is the main message that the museum delivers to the American public and was a focal point in planning the museum (Cobb 2005; Lujan 2005). Richard West, the

museum director, emphasized this point in his interview with the *Washington Post*: “We are still here and making vital contributions to contemporary American culture and art” (qtd. in Trescott 2004, A01). The exhibitions depict the modern life of Indians, emphasizing the point that Indians have not disappeared. These exhibitions also explain Indians’ struggles, including issues relating to identity and political status, and attempt to correct the widely accepted stereotypes about Indians. The museum displays modern Indian art as well. The exhibits of modern Indian art are meant to broaden the focus from precolonial aesthetics to contemporary cultural expressions.

There are still doubts as to whether the museum is really “by Indians and for Indians.” Exhibitions definitely stress the cultural pride and richness of Native Americans; however, the dark side of Native American history has been ignored. In addition, the depiction of modern tribal life seems fairly defensive. By minimizing conflicts or sensitive issues, critics claim, the museum misrepresents Indian heritage and encourages a romantic notion that Indians are “spiritual warriors” (Lujan 2005, 515). Also, the efforts of the museum to present several hundred tribes blur the distinctiveness of each tribe (Rothsterin 2004). Despite criticisms of some of the museum’s programs, the NMAI represents a real recognition of the power of Native American perspectives when it comes to the presentation of traditions, culture, and social reality.

Native American Grave Protection and Repatriation Act

The Native American Grave Protection and Repatriation Act (NAGPRA) established basic compliance and legal standards for the repatriation of Native American human remains, funerary objects, sacred objects, and cultural patrimony (U.S. Congress 2000b). The act asks museums and federal agencies to return such archeological or historical collections to American Indian tribes or communities. It requires organizations to prepare summaries and inventories of Native American collections, so the data can be used as references for tribes to request repatriation. It created a review committee to advise and monitor implementation. The committee consists of seven members who represent diverse institutions and varying expertise: museums, universities, and tribal communities. Although the act is usually regarded as human rights legislation, rather than a heritage preservation policy, its significance stems from the creation of the legal rights of indigenous people to their cultural properties (Abraham et al. 2002).

Political relationships in the formation of NAGPRA were complicated, as the legislative processes involved conflicting constituencies and agencies. The Senate Committee on Indian Affairs strongly supported the act. However, the House Committee on Interior and Insular Affairs and the Senate Committee on Natural Resources were concerned that the act would place restrictions on

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the use of federal lands and add to the administrative responsibilities of the NPS. Essentially, NAGPRA may be understood as a regulatory policy, since it provides legal protection for the sacred sites and objects of indigenous people. The act is designed to benefit a particular underprivileged ethnic group—indigenous people—whose human remains and funerary objects need to be treated with appropriate respect (McKeown and Hutt 2003). When necessary, this requires returning sacred objects to their respective tribes.

The passage of NAGPRA required the reconciliation of the views of several interested parties, in particular, museum professionals and Native American communities (Sharamitaro 2001). It was the understanding between the American Association of Museums (AAM) and Native American communities that was crucial to the passage of the law. Agreement was reached as representatives of museums realized that human remains and sacred artifacts had to be understood on a personal and emotional level, rather than as artifacts in museum collections (AAM 2000). In response, Congress mandated the establishment of a review committee as part of NAGPRA, which should have three members nominated by Indian tribes and three members appointed by museum and scientific organizations (2000b, Sec. 8.)

National Historic Preservation Act: 1992 Amendment

The National Historic Preservation Act (NHPA) has been a touchstone policy for conservation of historic properties and sites at the federal level since 1966. Through the amendment in 1992, the NHPA adopted the basic concept of NAGPRA and other policies on Indian heritage and opened up tribal participation in historic-preservation decision making. The amendment approved the participation and authority of Indian tribes, Alaska Natives, and Native Hawaiians in the national historic preservation system and created annual funding for Tribal Historic Preservation Officers (THPOs). Approved by the NPS and recommended through consultation with the Secretary of the Interior by the NHPA, THPOs are officially designated by a federally recognized Indian tribe or Alaska Native group to direct tribal historic preservation programs and work as delegates of their nations on heritage issues. Specifically, Sec. 101(d)(2) allows that THPOs may take charge of State Historic Preservation Officers' responsibilities.

CONCLUSION

While the federal government recognized the cultural and economic values of indigenous heritage in the beginning of its historic preservation effort, it has largely focused on management and uses of tangible heritage of American Indian communities, oppressing their rights to their own traditions and cultural heritage until

recently. The unbalanced development between tangible heritage and intangible heritage has ignored the oral history and cultural practices of American Indians. Social and political circumstances have also made it hard to carry on native languages and customs. While some archaeological remains were acquired and managed by the federal government and intangible heritage of American Indian culture could be recognized in folklife programs, Native Americans did not have many rights in the administration and formation of legal protection to conserve their own heritage. This dissonance between non-Native American and Native American governments concerning heritage has existed for centuries. Finally, official methods are in place for cooperation between the U.S. government and tribal governments in finding solutions to outstanding heritage issues.

The bearers' rights to their own culture and heritage have only been formally recognized relatively recently and have resulted in several policy modifications. However, while Indian perspectives and the participation of Indian groups are now a recognized part of the policy process, tribes still have little authority over policy formulation and depend on the bureaucratic agencies. For that reason alone, NMAI holds significant meaning, since the governance and program development of the museum are in the hands of American Indians. In addition, the roles of THPOs are important, since they cover the gap where federal heritage policies, for instance the NHPA before the 1992 amendment, did not address the issues related to the conservation of indigenous heritage. In sum, tribes finally started becoming a partner in heritage conservation, rather than being the subject of preservation.

KEYWORDS

American Indian heritage, heritage policy, indigenous heritage

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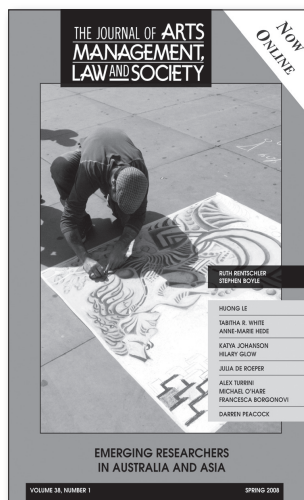
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