

SCIENCE AND THE POLITICS OF IDENTITY

Kennewick Man's Funeral: The Burying of Scientific Evidence

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Abstract. Kennewick Man, an early Holocene (9,000 years old) skeleton found in Washington State in 1996, has been a lightning rod for political discussion. Due to his alleged Caucasoid features, Kennewick Man controversially called into question who first peopled the Americas. A projectile point lodged in his hip also catapulted him to celebrity status. Spared the quick (within ninety days after an inquiry) repatriation typically required under the 1990 federal Native American Graves Protection and Repatriation Act (NAGPRA), Kennewick Man was fully examined by a team of scientists chosen by the government who were forbidden to discuss their findings. Although the team concluded that Kennewick Man has cranial features associated with both Caucasoids and modern Native Americans, he is considered mainly to resemble modern Japanese Ainu, Polynesians, and Southeast Asians, as are other early Amerindian finds. Despite the resolution of early controversies, Kennewick Man continues as a symbol of the ideology of repatriation. In this article, I review the evidence for my belief that, taken to an extreme, the demand to bury aboriginal skeletons, not only in America but also around the world, poses a potentially serious impediment to scientific enquiry.

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While I was collecting the data for my Ph.D. dissertation at the Canadian Museum of Civilization in Ottawa, the reburial of the museum's largest skeletal collection was under way. The Haida "First Nations" (as Canadians refer to Native Americans) were claiming 151 skeletal individuals. Mark MacKinnon, a reporter for Canada's *Globe and Mail* newspaper, began his August 18, 2000 article as follows:

After spending an entire century in the basement of a museum in Ottawa being probed and prodded by scientists, the remains of two Haida men and one Haida woman are finally on the way to British Columbia, where they will be buried for a second time near the ocean where the three spent their days. The three skulls and jawbones were among 148 sets of skeletal remains returned to the Haida.

The Haida were not satisfied with the return of the skeletal remains. During the repatriation, museum workers and officials were required to participate in Native American rituals on the museum grounds for the spirits of the skeletons, as well as to attend a "Feast to Show Respect." Another request of the Haida was for the destruction of casts made of some of the bones. No scientist will ever be able to study this large collection again.

The sample I worked on is now also in jeopardy. I had x-rayed the bones of over 100 individuals from the Tsimshin tribe of British Columbia dating between 3,500 to 1,500 years old. Although the Haida have no affiliation with these remains, museum officials were fearful that the remains I was working on would be seen and reclaimed too. I was warned to keep a low profile. Subsequently, and probably based on the lists of remains that the museum is required to publish for Native activists, the sample I worked on attracted attention and may also be repatriated.

My work on the Tsimshin involved x-rays of the upper limbs (Weiss, 2001a). If the remains are reburied, neither I nor anyone else will ever be able to study the lower limbs or any other part of this sample. Nor will any new tech-

niques that may be invented, or other analyses, such as DNA tests, ever be performed. Although much of the cultural history of the Tsimshin is known (Halpin and Seguin, 1990), much still remains to be discovered. Studying the bones could lead to finding more of the missing pieces on Tsimshin history and activity patterns.

These events bothered me at the time and gave me a personal reason to look more deeply at the whole issue of "repatriation." Other collections in the museum that have not yet been sexed or aged, much less studied, are also likely to be claimed. I appreciate that repatriation is a sensitive issue. However, I am concerned that this issue has not been adequately debated, either in Canada or in the United States. In this article, I hope to raise consciousness about the issue by reviewing some of the examples of repatriation that have taken place and the political issues surrounding them. I will look specifically at the case of Kennewick Man and use him to raise questions about reburial in general.

Kennewick Man

On July 28, 1996, two college students discovered an almost complete skeleton along the Columbia River in Kennewick, Washington. In the following weeks, more remains were removed of what was to become known as Kennewick Man. At first, Kennewick Man was thought to be a homicide victim; thus, Jim Chatters, a forensic anthropologist, was called in to make an identification. Chatters (1997) stated that Kennewick Man apparently had Caucasoid features. He also noticed that the right hip bone had a basalt or andesite flake embedded in it, which led to an investigation of the skeleton's age. Through geological examination of the soil and radiocarbon dating of the skeleton, Kennewick Man was determined to be approximately 9,000 years old (Schneider, 1998).

This was stunning news. It meant that Kennewick Man was one of only about six or seven well-preserved remains that old ever found in North America. Kennewick Man was hailed as one of the most important archaeological discoveries of the decade. However, this important find was immediately threatened. Under the provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), Kennewick Man could be reburied within ninety days after an initial examination of the remains if any federally recognized Native American tribe claimed affiliation, whether biological, cultural, or geographic.

Soon after the discovery of Kennewick Man, a coalition of Columbia River tribes, headed by the Umatillas of Northeastern Oregon, filed a formal claim to the skeleton, even though there was no direct evidence linking them to him (National Park Service, 2003; Preston, 1997). Like many other Native Americans, the Umatillas' creation myth can be paraphrased as "we know that our people have been part of this land from the beginning of time." They did not want scientists to contradict their myths, and they were es-

pecially motivated to rebury Kennewick Man given his alleged Caucasoid features and the publicity thereby generated (Preston, 1997). After all, skeletons such as Kennewick Man might be used to suggest that modern Native Americans had replaced earlier Native Americans through warfare, and so were behaviorally comparable to Europeans when it came to colonization.

Under NAGPRA regulations, the government is required to advertise in a local paper its intention of repatriating a skeleton. A 30-day waiting period after the appearance of the advertisement is mandated before bones can be repatriated (Preston, 1997). During this 30-day waiting period, and before the Army Corps of Engineers could hand over the bones to the coalition of Columbia River tribes headed by the Umatillas, eight anthropologists filed suit against the repatriation of the skeleton on the grounds that Kennewick Man might not be a Native American and, thus, not subject to NAGPRA. These anthropologists were George Gill of the University of Wyoming, C. Vance Haynes of the University of Arizona, Richard Jantz of the University of Tennessee, C. Loring Brace of the University of Michigan, D. Gentry Steele of Texas A&M University, Robson Bonnicksen of Oregon State University, Douglas Owsley of the Smithsonian National Museum of Natural History, and Dennis Stanford of the Smithsonian National Museum of Natural History.

According to one, admittedly minority, anthropological view, Native Americans were relatively late arrivals to North America and were hypothesized to have driven out the original inhabitants, who could have been Caucasoids (Bradley, 1985; Haynes, 1982; Preston, 1997). Dennis Stanford, then chairman of the Department of Anthropology at the Smithsonian's National Museum of Natural History, said that if Kennewick Man were reburied before being studied, the loss to science would be "incalculable" and that the skeleton had "the potential to change the way we view the entire peopling of the Americas" (Hunt, 1999:322).

A judge in the U.S. District Court in Portland, Oregon decided in favor of the eight anthropologists who had claimed that the decision by the Army Corps to repatriate the remains of Kennewick Man was flawed because Kennewick Man had not been determined to be Native American. Consequently, a team of archaeologists, geologists, and forensic anthropologists was selected by the government to study Kennewick Man—albeit using only nondestructive methods (Gibbons, 1997).

The government team first ascertained that the remains belonged to a single individual (Powell and Rose, 1999). They also sexed Kennewick Man as male and aged him as between 45 and 50 years old, based on skull and pelvic traits. External measurements and computer-assisted tomography scans (CT or CAT scans) were taken. This first round of examinations did not allow invasive research, but when these initial tests proved inconclusive concerning Kennewick Man's ancestry, DNA tests were allowed for

the second round. These tests also proved inconclusive. This may have been due to contamination of the sample, lack of DNA in the material tested, or the technique used (Smith et al., 2000). It is now considered unlikely that further DNA tests based on teeth, or larger pieces of bone, would be any more successful.

Although the DNA and other tests were not conclusive, the government's team of scientists did obtain much information. From the cranium, Powell and Rose concluded, on the question of his alleged Caucasoid affinities:

Kennewick [Man] is clearly not a Caucasoid. Although one European group, Zalavar (1/25 = 4%) was included among the five nearest "neighbors" to Kennewick, the majority of nearest neighbors are from Polynesia (16/25 = 64%) and east Asia (24%). The Ainu, which we have described as "east Asian," occur as a nearest neighbor three times (12%), while Native Americans occur as neighbors just twice (8%). Thus Kennewick appears to have strongest morphological affinities with populations in Polynesia and southern Asia, and not with American Indians or Europeans in the reference samples.

They further concluded: "More importantly, it can be excluded from all late Holocene [post-Ice Age] human groups." Thus, based on the cranium, there is only minimal evidence of affiliation with present-day Native Americans, although there may be more affiliation with ancient ones.

As a graduate student with some expertise in computer tomography (Weiss, 1998), working in the same department as Professor Jerome Rose, who was part of the government team examining Kennewick Man, I was very fortunate to be asked by Professor Rose to examine the CT scans of Kennewick Man's thighbone. Examining CT scans can help assess bone strength and activity patterns. Thus, I compared the CT scans of Kennewick Man's thighbone with those from (a) Ice Age individuals who lived between 40,000 to 18,000 years ago and (b) post-Ice Age individuals from the last 10,000 years. My analysis suggested that Kennewick Man was transitional at the Ice Age/post-Ice Age boundary (Weiss, 2001b). He retained some Ice Age adaptations not found in the post-Ice Age Amerindians, including a large femoral (thighbone) head, which is not affected by activity patterns and generally implies a robust body type, with heavier body mass and stronger bones. Of course, Kennewick Man is only a single individual, and one with a hip injury at that, so any conclusions are necessarily limited.

If Kennewick Man had been reburied immediately, it would have been a major loss to research on the origins of the prehistoric peoples of America and would have fueled speculations about politically correct agendas denying that Caucasoids were early settlers. In this particular case, although independent scientists were denied access, a select and respected team of

scientists was chosen by the government to study Kennewick Man. Even so, the studies were not subject to the usual peer-review process of normal science.

Although the government team could not conclude that Kennewick Man was affiliated with modern Amerindians, on September 21, 2000, Bruce Babbitt, the U.S. Secretary of the Interior, administratively ordered Kennewick Man to be handed over to the coalition of tribes headed by the Umatillas. He stated that it was sufficient for the Umatilla Indians to have lived in the same region as had Kennewick Man, and for their oral traditions to state that they had always lived there. The anthropologists who filed the original suit against repatriating Kennewick Man were outraged (<http://www.friendsofpast.org>). They argued that Babbitt's decision had bypassed the normal process and ignored the findings from the government's own chosen team of scientists. Babbitt's ruling could mean that independent scientists would never gain access to Kennewick Man. Thus, a new round of litigation was set in motion. In August 2002, Federal District Court Magistrate John Jelderts ruled that "the Department of Interior had improperly applied NAGPRA to Kennewick Man and the plaintiff scientists could proceed with their studies" (<http://www.phyanth.org/newsletter/summer03.pdf>). The fate of Kennewick Man has yet to be determined. The next step will involve the United States District Court of Appeals for the Ninth Circuit. They will try to sort out the legal arguments and make a final decision on Kennewick Man.

Anthropology and Reburials

Kennewick Man, however, is only one of many skeletons in danger of being lost to science. Other skeletal remains have been reburied, even though they might have led to a greater understanding of human origins, of the peopling of the Americas, the pathologies of past populations, the ancestry of past peoples, or the activity patterns of past cultures. By reburying skeletons, valuable scientific evidence is lost, as is the possibility to study them further as newer and better techniques come along (e.g., those based on DNA extraction, CT scans, and MRI imaging). The repatriation of skeletal remains that have no clear cultural affiliation to any modern Native Americans receive the most attention, but all reburial is potentially harmful to science.

Most anthropologists do not seem opposed to the reburial of *affiliated remains*, that is, those that can be shown to have a cultural or geographical link to a modern Native population. For example, the American Association of Physical Anthropologists (AAPA) has taken an official position that is generally sympathetic to repatriation (AAPA, 2000b). In principle, however, they remain opposed to the reburial of *nonaffiliated remains* (such as Kennewick Man):

The AAPA supports the rights of Native Americans to claim human remains and funerary objects in

cases where the modern group is culturally affiliated with the remains in question... Where cultural affiliation exists, repatriation claims must be honored; but where cultural affiliation is absent, repatriation claims have no moral foundation. (AAPA, 2000a)

Other anthropologists argue that reburial is good for science. Rose, Green, and Green (1996), for example, put forth the theory that reburial eliminates gaps in knowledge of specific times and geographic areas; requires osteological analyses to be more comprehensive than before, increasing the use of new methodologies; improves curation facilities; and finally, creates a more ethical and fair science. Klesert and Powell (1993) suggested that NAGPRA would result in a more uniform set of standards for the study of human subjects. The 1994 book *Standards for Data Collection from Human Skeletal Remains* was published in part as a reaction to the passing of NAGPRA and provides uniform procedures for examining skeletons (Haas et al., 1994).

Still other anthropologists point out that European-American skeletons have been reburied and, thus, Native Americans have the right to rebury their ancestors. The same anthropologists, however, are also concerned about the claim some Native Americans make that they need only their oral histories to understand their past and, thus, skeletons should not be studied at all (Ubelaker and Grant, 1989). Rose, Green, and Green (1996) optimistically state that Native Americans may change their minds about needing only their oral histories and, furthermore, anthropologists may actually learn something from Native Americans.

Whereas the AAPA's mainstream judgment that reburial is good for anthropology has some pragmatic merits, the case can also be made that the reburial of remains detracts from the ability of anthropologists to scientifically study humankind. In fact, the ideology surrounding reburial threatens freedom of scientific inquiry. Once bones have been returned, they can no longer be studied without the permission of the Amerindian tribes that hold the rights to the bones, which is rarely forthcoming, especially after they have been reburied. This means that when new technologies arise, the material will no longer be available.

Reburial Culture

The ideology supporting the reburial of evidence has led to a cycle of anger by activists and fear by scientists. Scientists fear that the collections they are working on will be reclaimed, the casts they have carefully constructed will be destroyed, and the artifacts they are examining will be taken away. Imagine spending years on a project, with more to go, wondering whether at any time

legal action might be taken to confiscate the materials being used? Consider having dedicated a large part of one's life to unearthing the materials that are now being examined. Even casts and other important works—such as videotapes, photos, and excavation records—are in increasing danger of confiscation. Some scientists have expressed fear that their federal grants would be in jeopardy if they objected too openly to current policies. Under such circumstances, most scientists do not even begin “high-risk” projects. Finds that could threaten Native American origin beliefs are especially likely to be targeted. Defendants could become embroiled for years in expensive lawsuits that neither they nor their institutions can afford.

The ideology of repatriation and reburial is escalating and spreading around the world. In the United States, Native Americans and other interest groups are not satisfied with current legislation. A recently passed California bill (AB 978) allows any Native American group, federally recognized or not, to require museums to hand over materials not covered under present rules, such as newly made artifacts, replicas and casts, and written reports. Bill AB 978 allows as much weight to be given to Native Americans' “oral histories” and “tribal testimonies” as to forensic, geological, or other scientific evidence when determining affiliation. Dr. M. Steven Shackley, Director of the Archaeological Laboratory at the Phoebe Hearst Museum of Anthropology in Berkeley, California, described the bill as “designed to empty the museums at the whim of Indian groups in California” (Shackley, 2001).

The culture of reburial has spread outside of North America. Israel passed a law in 1995 mandating that human remains must be handed over to the Ministry of Religious Affairs and not classified as “antiquities.” Consequently, Hebrew University handed over numerous ancient skeletons from their research collection for reburial (Watzman, 2000). Australia has passed legislation to allow Aborigines to claim prehistoric skeletons from museum collections. When skeletons are handed over, the Aborigines bury them at sea in order to ensure that scientists will never study them again (Commonwealth Consolidated Acts, 2003). The politics of bone gathering in Africa are notorious (Kalb, 2000), and one shudders to imagine what might happen if activists could convince modern Africans to claim early human skeletons as their ancestors, so that they too could be reburied.

Burying the Evidence

In his book *The New Know-Nothings*, Morton Hunt (1999) reported on the extent of repatriation and reburial of Amerindian bones and archaeological artifacts. Among his findings:

- The Buhl Burial, the skeleton of a woman more than 10,000 years old found in Idaho together with grave goods—one of the oldest remains yet found in North America, and valuable evidence of the origins of the peopling of the continent—has been repatriated by the Shoshone-Bannock tribe and reburied without being adequately studied.
- Another of the earliest specimens, the nearly 8,000-year-old Hourglass Cave skeleton from the Colorado Rockies, has been reclaimed and reburied by the Southern Utes.
- A third very early specimen, a 9,400-year-old mummy from Spirit Cave in Nevada, has been claimed, though not yet reburied, by the Northern Paiute. Fortunately, the Nevada Bureau of Land Management has preliminarily determined that the remains are not affiliated with modern tribes. At present, however, scientists are not allowed to study the remains.
- The Hopi tribe in Arizona has demanded a complete moratorium on access by researchers to field notes, photographs, sound and video recordings, and other archival materials about their tribes held at museums, research libraries, and universities.
- In the 1980s, the American Museum of Natural History had an estimated 20,000 or more human remains of all races, and the Smithsonian some 35,000 sets of human remains—about 18,000 of them Native Americans—but Native Americans armed with NAGPRA and various state reburial laws are emptying such museums of bones and grave goods.

Not surprisingly, some anthropologists and archaeologists are aghast at the prospect of the permanent loss of access to so much knowledge. Michael O'Brien, an anthropologist at the University of Missouri-Columbia, has said that returning bones is like burning books (Hunt, 1999:326). Amy Dansie and Donald Tuohy of the Nevada State Museum wrote in the 1997 issue of the *Anthropology Newsletter*, "despite the general assumption that science is free to inquire where it will, science is no longer free in the realm of human prehistory" (1997:11).

Since the 1990 passage of NAGPRA, 874 museums and federal agencies holding over 5,000 Native American remains and 200,000 associated funerary objects—most of them not yet studied by modern methods—have had to draw up inventories of their collections and share them with "lineal descendants, Indian tribes, and Native Hawaiian organizations" by publishing notices of the inventories in the *Federal Register* (Hunt, 1999). As a result, during the past few years many tribal officials obtained printouts of the inventories, and scores of tribes have filed repatriation demands with the museums and agencies.

Native Americans alone would not have had the political power to create or enforce NAGPRA. In getting it enacted, they received help from some very unlikely allies,

including agencies of the government, Christian fundamentalists, and liberal activists. Support from the U.S. Army Corps of Engineers and the U.S. Department of the Interior apparently arose partly out of concern for access to land and water rights considered essential for the development of hydroelectric power projects, dams, and toxic waste dumps (Preston, 1997). Support from Christian fundamentalists may have come because NAGPRA might interfere with research on human origins via evolution. Support from liberal activists was consistent with their emphasis on minority and aboriginal rights. An alliance composed of right-wing creationists, liberal activists, the Army, and a cabinet department certainly supports the notion that politics often makes for strange bedfellows. It was this unusual alliance of liberal activists, conservative creationists, and government agencies that apparently helped pass NAGPRA.

It is especially disturbing that NAGPRA does not require establishment of a genuine biological connection between the skeletal remains and a contemporary tribe in order for repatriation to occur. The only requirement is that the claim of "cultural affiliation" must be established, and NAGPRA does not even require that in certain cases. For example, NAGPRA section 25 U.S.C. 3002(a) states that "if cultural affiliation cannot be reasonably ascertained and if the objects were discovered on Federal land... recognized by ... the Indian Claims Commission or the United States Court of Claims as the aboriginal land of some Indian tribe," then the objects can be given to the Indian tribe that is recognized as aboriginally occupying the area in which the remains were found (http://www.cr.nps.gov/local-law/FHPL_nagpra.pdf). Of course, this ignores the clear evidence that humans have been a highly nomadic and colonizing species and, thus, the bones found in one place do not necessarily belong to the peoples living there at a later time.

Kennewick Man and other skeletal remains can provide rich clues to the peopling of the Americas. Some people, however, wish to bury evidence regarding the prehistory of the Americas to prop up myths, such as the Umatilla tribe's creation myth, or the myth of the peaceful peopling of the Americas. Kennewick Man has enlivened debate about the peopling of the Americas and focused attention on ways to reconstruct lifestyles and behavior patterns from the bones of individuals. Perhaps of equal importance, however, the conflict over Kennewick Man remains a potent example of contemporary threats to freedom of scientific inquiry posed by politically motivated decision-making.

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