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Collecting an Empire: Stolen Heritage of Indigenous Australians

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Collecting an Empire: Stolen Heritage of Indigenous Australians

Written by

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A thesis submitted in conformity with the requirements for the
Master's Degree in Art Business
Sotheby's Institute of Art

2023

15,128 words

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Introduction

As one of the world's oldest living cultures, Australia's First Nation people, the Aboriginals and Torres Strait Islanders, have a rich heritage and cultural identity shaped by over 65,000 years of history linked to the land, tradition, and community values.¹

The exploitation of Indigenous cultural heritage is a lasting legacy of colonialism with countless cultural heritage artifacts and human remains having been forcibly removed from Aboriginal communities without consent or compensation over the centuries. Cultural heritage artifacts are not simply objects but rather hold an integral role in the Indigenous people's spiritual and cultural lives. Often landing in Western museums, many of those within the British Empire,² these artifacts have been displayed without acknowledgment of their rightful owners, stripped of the context of their original cultural and social significance. Deprived of their cultural heritage and having endured many other injustices at the hands of colonial powers, Australia's First Nation people have faced the gradual loss of their cultural identity and traditional way of life.

Cultural heritage repatriation endeavors to restore stolen property to traditional owners and in doing so acknowledges the injustices committed in the past. The repatriation of cultural heritage property is a complicated issue, not only raising questions of proper moral and ethical practices but also raising complex legal and

¹ Hill, *First People Then and Now: Introducing Indigenous Australians*.

² Sculthorpe, Nugent, and Morphy, *Ancestors, Artefacts, Empire: Indigenous Australia in British and Irish Museums*.

logistical questions over ownership and access to cultural heritage. Requiring the collaboration of institutions, governments, Indigenous communities, and representative organizations, the process involved in repatriation can be lengthy and challenging.

Exploring the importance of the protection and preservation of Australian Aboriginal cultural heritage, this thesis seeks to examine a need for change in the way governments approach cultural heritage repatriation from a legal and ethical perspective. By analyzing binding and non-binding laws of the United Kingdom and Australia, this paper suggests the need for the improvement of legal frameworks and legislation currently in place regarding cultural heritage repatriation. It also identifies challenges Indigenous communities face in the quest to reclaim control over their cultural heritage, history, and identity. Examining contrasting case studies of repatriation, the impact legislation has on the results of cultural heritage property repatriation becomes apparent.

Emphasizing the importance of the Indigenous voice and historical knowledge, this paper discusses the significant improvement employment of Australia's First Nation people could achieve in a more moral and historically accurate representation of Aboriginal cultural heritage in the cultural sector.

Recognizing the vital role cultural heritage plays in preserving cultural identity and tradition, objects stolen from Indigenous communities must be returned. The repatriation of Australian Aboriginal cultural heritage property is a sure step forward in ensuring that Aboriginal culture's knowledge, history, and identity are not lost and will allow the rich heritage of Australia's First Nation people to be preserved for many generations to come.

Chapter One:

Terra Nullius and Colonial Collecting

Cultural heritage collecting is an issue often associated with the era of colonialism and the exploitation of Indigenous peoples around the world. From the 16th to 20th century, European powers colonized many parts of the world resulting in the removal of cultural artifacts, art, and human remains from the existing native communities.³ Often artifacts were forcibly or violently removed without the consent of their original owners. Generally acquired by explorers or anthropologists, the objects were taken back to their home countries as souvenirs of colonial conquest.

Demoralization of a people comes not only from threats to life and livelihood but from the loss of one's culture and heritage. To have real power over people and to maintain that power a populace must be so broken as to have no hope for a future after occupation. This can occur when people are stripped of their cultural sense of belonging, their ancestry, their normal way of life, and their memories of the past. It is a scenario that has been played out time and time again over the centuries. Take away or destroy a people's national heritage and they lose a feeling of their communal identity and ultimately their reason for fighting against foreign rule. Many Indigenous communities around the world have faced this fate and are now seeking the restoration of their cultural heritage. The repatriation of such artifacts is of critical importance to the concept of decolonization, addressing the injustices of colonial rule and acknowledging Indigenous peoples right to have control over their own cultural heritage and history.

³ Collison, Bell, and Neel, *Indigenous Repatriation Handbook*.

What gave colonizers the right to remove Indigenous people's cultural heritage and identity? A significant declaration and moment in Australia's colonial history, was given in 1770 by Captain James Cook. Upon landing on the shores of Australia, Cook announced the land to be Terra Nullius. Terra Nullius is a term that refers to a land being empty, devoid of any legitimate human civilization. Despite having seen the Indigenous population and the settled nature of their existence, the explorer claimed the land for the British Empire.⁴ This declaration allowed the British to take land and resources from the Indigenous people without consent and with complete disregard for the tens of thousands of years of their existence upon Australian soil.

The legacy of Terra Nullius has echoed throughout the centuries and has had a lasting impact on Australian history and the treatment of its First Nation people.⁵ Its legacy is also deeply connected to demands for Constitutional recognition of Indigenous Australians. In 1901, well over one hundred years after the fated landing of the ship Endeavor in Botany Bay, Australia's Constitution was written. Failing to acknowledge the Indigenous population, the Constitution only refers to Aboriginal and Torres Strait Islander people in two sections. One section was implemented allowing the federal government the power to make special legislation for any 'race' it deems necessary, and a secondary reference stated that 'aboriginal natives shall not be counted' in the population of the country.⁶ The references regarding Indigenous people were finally removed in favor of a more respectful approach to the Indigenous

⁴ Robert, *Paved with Good Intentions: Terra Nullius, Aboriginal Land and Settler-Colonial Law*.

⁵ Rademaker and Rowse, *Indigenous Self-Determination Australia*.

⁶ Davis, *Everything You Need to Know about the Referendum to Recognise Indigenous Australians*.

population in a 1967 referendum, yet Australia's First Nation people were still not equally recognized within the Constitution.⁷

Now 253 years on from Captain Cook's declaration of Terra Nullius, Australia's First Nation people, those who have in fact lived on Australian soil for over 65,000 years, are one of the few living Indigenous cultures not to be recognized in their own country's Constitution.⁸ The government's failure to acknowledge the unique place Indigenous Australians hold in the nation's history has contributed to the discrimination faced by Indigenous communities, including the loss of cultural heritage, traditional lands, and sacred sites. Constitutional recognition should be seen as a way to respect Australia's First Nation people, affording them an equal representation as citizens of Australia. This would provide a platform and government support with which to claim back stolen cultural artifacts, art and human remains, which in turn would assist in helping to restore their cultural identity, history, and heritage.

Australian Aboriginals, A First Nation people

With a history dating back over 65,000 years the Indigenous peoples of Australia, the Aboriginals and Torres Strait Islanders, were the first people to live on the continent.⁹ The Aboriginal Australians are widely acknowledged as one of the oldest civilizations in human history¹⁰ and their culture is rich in language and spiritual beliefs. Historically, the concept of familial ties was central to the Indigenous people's culture, and an extended family network was an important aspect of how the

⁷ Davis.

⁸ Davis.

⁹ Hill, *First People Then and Now: Introducing Indigenous Australians*.

¹⁰ Broome, *Aboriginal Australians, A History since 1788*.

native communities thrived in the sometimes harsh conditions of the land.¹¹ Multiple generations would live together in family units, sharing responsibilities to ensure the survival of the community as a whole. Many of the Indigenous communities had advanced and complex belief systems on social responsibilities and interfamilial relationships. These beliefs dictated who could marry into the community, which tasks and rituals would be undertaken and by whom, and how resources were shared.¹² Children were also an integral part of the family unit, raised not only by their biological parents but also by other adults and elders within the community. This concept of collective responsibility for the upbringing of the younger members of the family led to strong ties being developed within the entire community network.¹³

The Aboriginal and Torres Strait Islanders culture is founded upon a deep and spiritual connection to the land upon which they live. The land and its ecosystems are viewed by the Aboriginals as a living entity with great respect held for all varying forms of life.¹⁴ It can be said that the Aboriginals were one of the first nations to utilize the concept of a shared economy, developing great knowledge and practices of sustainability and land management. These practices are also deeply connected with the Aboriginal people's spirituality. With a belief system founded upon the idea of ancestral spirits who inhabit the land around them, spirits who roam the various terrains of the continent from the rainforests to the deserts, the seas to the lakes. Just as the Christian faith implies that God created the earth and everything upon it, the Aboriginal and Torres Strait Islanders believe the same of their ancestral spirits.

These people saw the land and everything upon it as gifts from their ancestors and had

¹¹ Broome.

¹² Hill, *First People Then and Now: Introducing Indigenous Australians*.

¹³ Broome, *Aboriginal Australians, A History since 1788*.

¹⁴ Broome.

a great respect and belief in the interconnectedness of all elements of life.¹⁵

Traditionally they do not believe in ownership over material objects. The Indigenous Australians believed strongly in the concept of sharing, that all things are there to be shared and utilized to the benefit of the entire community. Even in contemporary culture many Indigenous communities continue to utilize the shared economic system that has been so integral to their traditional values of cooperation and exchange.¹⁶

Today, some communities have established collective ventures, owned, and operated by the whole community such as forestry and fisheries enterprises. The efforts allow for an equal distribution of the proceeds and resources these operations provide benefiting the entire community.¹⁷

Sharing has always been integral to societal behavior within the Indigenous communities. Trade was also an extremely important element of Aboriginal culture and with each nation having its own language and differing cultural ideals, trade was integral to the development of bonds and marriages between the different communities.¹⁸

Another component of Australian Indigenous culture is the passing of information through stories. Storytelling has a rich history within the culture, stories were passed from generation to generation imparting important knowledge and values through the telling of myths, legends, and the histories of those who came before. These stories are a vital component of the Indigenous people's cultural identity.¹⁹ The native people

¹⁵ Hill, *First People Then and Now: Introducing Indigenous Australians*.

¹⁶ Broome, *Aboriginal Australians, A History since 1788*.

¹⁷ Carter, Pearce, and Jacobson, *Giving Back, Research and Reciprocity in Indigenous Settings*.

¹⁸ Hill, *First People Then and Now: Introducing Indigenous Australians*.

¹⁹ Broome, *Aboriginal Australians, A History since 1788*.

also taught the histories and traditions with the use of art and music. Visual art and performance through dance often held important spiritual and cultural teachings.

Aboriginal cultural identity is complex and shaped by a multifaceted range of elements. Ancestry, spirituality, the spoken word, and a strong sense of community and family bonds have developed the Aboriginal culture over the centuries. Cultural identity is connected to that sense of belonging to the community and the feelings of duty and responsibility that stem from belonging.

Unfortunately, contemporary Indigenous cultural identity has also been shaped by historical legacy and the social experiences of colonization. Experiences of dispossession and forced removal of ancestral human remains and cultural heritage objects along with a general loss of their traditional way of life have resulted in a struggle in retaining cultural identity.²⁰

At the time of the arrival of Europeans on the continent in the 18th century, the Indigenous communities of Australia were flourishing with over 250 communities²¹ scattered across the country and approximately 500 dialects spoken.²² The European settlers brought new diseases, weapons, and technologies to the land, eventually deposing the native people of their traditional lands and way of life. The Indigenous nations faced the new realities of modern civilization and the difficulties that came along with it.²³

²⁰ Broome.

²¹ Butler and Bond, *Sorry*.

²² Broome, *Aboriginal Australians, A History since 1788*.

²³ Egan, *Power and Dysfunction, The New South Wales Board for Protection of Aborigines 1883-1940*.

The loss of their cultural heritage property throughout colonial rule has had a deep impact on the identity and self-worth of Indigenous people. The objects often hold profound cultural, spiritual, and historical meaning and the loss has led to feelings of disconnection and cultural disillusion. The objects are deeply-rooted in Indigenous history and are integral components in the passing on of knowledge and the sharing of stories of the ancestral past.

Lasting colonial legacy including the loss of traditional lands, and cultural heritage, tribe wars, and injustices committed through the Stolen Generation (a dark period of Australia's history that will be discussed in Chapter 3) the cultural identity of Australia's First Nation people has been detrimentally affected to this day. To see the return of their cultural heritage property would be a great stride forward in restoring the dignity and identity of this 65,000 year old civilization. Ensuring that the oldest living culture on this earth continues to exist and thrive with pride and a knowledge of the importance of their historical past.

Chapter Two:

Repatriation Case Studies

Renowned for a sweeping collection of art and antiquities, the British Museum's collection of artifacts from all corners of the globe continues to call into question the ethical implications surrounding colonial collecting. The museum's colonial-era collection includes objects, art, and natural specimens including human remains from Asia, Oceania, Africa, and the Americas which were generally acquired during the colonial conquest of Indigenous communities²⁴ who had a minimal choice but to part with their cultural heritage.

The acquisition of such objects was often executed in ways seen as unethical by today's standards with colonial powers profiteering from their control over a people less equipped to resist the economic, political, and military might of the British Empire. The display of such acquisitions in a current museum context eternalizes the harmful ideologies of racism and colonial philosophy.

In recent years, the British Museum has felt rising tension regarding its colonial-era collection.²⁵ With calls increasing to address these concerns and re-examine how cultural heritage is displayed and handled, the museum has taken numerous steps to show its commitment to change. In 2018, the British Museum publicly announced a project aimed at increasing research into the provenance of its collection, with a focus on any artifacts acquired during the days of colonial rule.²⁶ The museum hopes to

²⁴ Hicks, *The British Museum*.

²⁵ Hicks.

²⁶ "Art, Antiquity and Law."

achieve greater transparency about the various origins of its collection and identify situations whereby objects had been acquired through unethical means.²⁷

One of the most momentous projects undertaken by the British Museum was the establishment of the Benin Dialogue Group. Created in 2007, the group which consists of various cultural institutions and stakeholders, is a collaborative effort to work with the Nigerian government on the future of the Benin Bronzes.²⁸ The name Benin Bronzes refers to hundreds of bronze sculptures and artifacts looted from the royal city of Benin during a raid by British soldiers in 1897. The bronzes were later sold off to museums and private collectors around the world as trophies and collectors' items. This period represented the height of colonial conquest.²⁹ The Benin Dialogue Group has been working towards the development of a framework for the establishment and eventual repatriation of these works of cultural and historical significance back to Nigeria. The British Museum is also working with its Nigerian partners to explore methods to promote these important works' historic and educational value. On the 25th of October 2021, the British Museum hosted one of the more recent meetings of the Benin Dialogue Group in London.³⁰

The Benin Bronzes are only one example of colonial-era acquired objects held within the British Museum's hallowed halls and raise many questions about the ethics of displaying cultural heritage artifacts stolen or acquired from other nations. While many scholars agree that the artifacts were taken without the consent of First Nation communities and that their often, violent, removal is a form of cultural theft, some

²⁷ "Art, Antiquity and Law."

²⁸ "Art, Antiquity and Law."

²⁹ Hicks, *The British Museum*.

³⁰ "Press Statement of the Meeting of the Benin Dialogue Group (2021)."

argue that the British Museum's colonial-era collection is part of a greater global cultural heritage. The argument supports the ideal of the 'Universal' Institution³¹ and the concept that the objects held within such museums belong to all humanity, and that all people should have the opportunity to enjoy these artifacts within the context of a global museum. Many feel that removing and repatriating such works of cultural heritage would be a loss to the museum.

Regardless of which stance cultural institutions will take regarding decisions on repatriation, the museum sector has an important role to play in the future conservation, protection, and study of cultural heritage and the acknowledgment of the historical injustices of the colonial past, promoting further cultural understanding and global recognition regarding collections and how objects have been acquired and from whom.

The Gweagal Shield

Cultural heritage repatriation involves the restoration of objects of cultural and historical importance to their traditional place of origin and to the people who created them. It has become a topic of much political, moral, and ethical significance in recent years with many governments and indigenous communities demanding the return of cultural heritage objects from universal institutions and private collections around the world. The following case study of the Gweagal Shield illustrates the complicated issues encompassing cultural heritage repatriation.

³¹ Robertson, *Who Owns History?: Elgin's Loot and the Case for Returning Plundered Treasure*.

The Gweagal Shield dates to the late 1700s and consists of bark and wood from red mangroves. The shield was created by the Gweagal people, the traditional custodians of the area of land known today as Sydney in the New South Wales state of Eastern Australia. The shield would have been used for practical as well as ceremonial purposes and features traces of a white paint that researchers have identified as white kaolin clay, likely to have been part of a marking or symbol distinctive to the Gweagal clan.³²

The story as described from the perspective of Captain James Cook and Joseph Banks through journals of the first exploration of the Australian coastline in 1770 and of correlating accounts passed through generations of the Gweagal people, paint the picture of a violent encounter with indigenous warriors upon the ship's crew landing at the place now known as Botany Bay.³³ (See Figure 1.)

"Saw, as we came in on both points of the bay, several of the natives and a few huts... as we approached the shore they all made off except two men who seemed resolved to oppose our landing. As soon as I saw this I ordered the boats to lay upon their oars in order to speak to them, but this was to little purpose for neither us nor Tupia could understand one word they said . . . I thought they beckoned to us to come ashore, but in this we were mistaken, for as soon as we put the boat in they again came to oppose us, upon which I fired a musket between the two, which had no other effect than to make them retire back where bundles of their darts lay. And one of them took up a stone and threw it at us, which caused my firing a second musket load with small shot,

³² MacGregor, "Australian Bark Shield."

³³ Sculthorpe and Nugent, "A Shield Loaded with History: Encounters, Objects and Exhibitions."

and although some of the shot struck the man, yet it had no other effect than to make him lay hold of a shield, or target, to defend himself."³⁴ *Captain James Cook*

The story continues through an account from Joseph Banks, the Endeavor's Botanist...

"... a man who attempted to oppose our landing came down to the beach with a shield made of the bark of a tree. This he left behind when he ran away, and we found upon taking it up that it plainly had been pierced through with a single pointed lance near the centre."³⁵ (See Figure 2.)

Accounts of the Gweagal incident identify the shield displayed in the Enlightenment Gallery of The British Museum³⁶ as a shield that the warrior, Cooma, carried with him on the beach of Botany Bay that day as he faced down Captain Cook and the Endeavor's crew.³⁷ The shield has a hole in its middle as described by Banks and traces of white paint that were recorded by the expedition's artists.³⁸ It is long and narrow measuring approximately three feet (90 cm) high and about a foot (30 cm) wide. The shield is reddish-brown in color and is roughly carved from mangrove bark.³⁹ (See Figure 3.)

The Gweagal Shield has become a topic of controversy and outrage with many Indigenous groups, communities, and scholars demanding its return to Australia and more specifically to the Gweagal people. The shield represents a key moment in

³⁴ MacGregor, "Australian Bark Shield."

³⁵ MacGregor.

³⁶ Sculthorpe and Nugent, "A Shield Loaded with History: Encounters, Objects and Exhibitions."

³⁷ Thomas, *Artifacts of Encounter, Cook's Voyages, Colonial Collecting and Museum Histories*.

³⁸ MacGregor, "Australian Bark Shield."

³⁹ MacGregor.

history for the Aboriginal community, a moment in time that changed the course of the lives of First Nation people forever. It is an irreplaceable object of cultural heritage and belongs to its original people and not behind the glass display of a foreign museum. The legacy of the first encounter between Australia's First Nation people and the colonial explorers, holds a lasting place in the history of colonial rule in Australia. The encounter marked the beginning of the end of the Aboriginal Australians' traditional way of life and cultural values. The incident itself remains a powerful symbol of the suppression of the Indigenous communities in the face of colonialism and so to then, the objects that were stolen in the aftermath.

One such claim for repatriation is that of Gweagal community member Rodney Kelly who is the 6th generation ancestor of the Gweagal warrior, Cooma, to whom, he claims, the shield belonged. Kelly first approached the British Museum in 2016 after an exhibition in late 2015 at Canberra's National Museum of Australia in which the Gweagal Shield appeared on temporary loan from the British Museum.⁴⁰ His request for the shield's repatriation was denied, however the museum stated its willingness to consider future temporary loans of the Gweagal Shield⁴¹ but that unconditional repatriation would be impossible on the grounds of certain government legislations, which will be introduced in Chapter Three.

Since the initial rejection, Rodney Kelly has visited the British Museum on multiple occasions, publicly demonstrating on the behalf of his native community for the return of the shield and other such artifacts of spiritual and historical significance to

⁴⁰ Sculthorpe and Nugent, "A Shield Loaded with History: Encounters, Objects and Exhibitions."

⁴¹ Sculthorpe and Nugent.

the Australian Aboriginal people.⁴² (See Figure 4.) He has worked closely with the Gweagal Elders council and other indigenous communities throughout Australia to gain support for the Gweagal Shields' return. There is no official proof that the shield came to the British Museum via a donation from the Lords of the British Admiralty in 1771, however, scholars and researchers have agreed that it is plausible.⁴³ Kelly's request has gained momentum over the years attracting international attention and resulting in much support for Rodney Kelly's repatriation request.

Despite the British Museum's unwillingness to repatriate, it has acknowledged that the Gweagal Shield holds great cultural and historical importance to Australia and its indigenous communities. Officially the oldest known example of such objects, the shield has come to represent the long shadow of British colonization and the consequences that era held for the country's native people.⁴⁴ The debate over the Gweagal Shield highlights broader issues surrounding cultural heritage repatriation and the ongoing legacy of colonialism. It broaches the critical conversations that must be had about the lingering legacy of colonial supremacy and the role that museums and institutions can play in reconciliation and decolonization.

The Manchester Museum

In 2019 the Manchester Museum received a request for repatriation from the Indigenous community of Aranda. The Aranda people are an Indigenous clan and traditional custodians of a land area in central Australia, principally in the Northern and Southern Territories. Representing the interests of the community was the

⁴² Sculthorpe and Nugent.

⁴³ Thomas, *Artifacts of Encounter, Cook's Voyages, Colonial Collecting and Museum Histories*.

⁴⁴ Sculthorpe and Nugent, "A Shield Loaded with History: Encounters, Objects and Exhibitions."

Australian Institute of Aboriginal and Torres Strait Islander Studies which approached the UK based museum to demand the return of objects holding cultural and historical importance to the native community.⁴⁵ The collection of 43 artifacts including spears, shields, and boomerangs may have been originally acquired by Spencer St. John, a British hobby anthropologist who was a government representative working in the Australian Northern Territory in the late 19th century.⁴⁶

Working as a British colonial officer, St. John was tasked with maintaining control over the native people living on the Aranda lands, negotiating with the community groups, and learning about their way of life and traditional customs. During this period, St. John collected many samples of artifacts from the Aranda people and documented his discoveries in a book entitled "Manners and Customs of the Aboriginal Natives of South Australia" which was then published in 1880.⁴⁷ A portion of Spencer St. John's collection of Aboriginal artifacts was eventually acquired by the Manchester Museum in the early 20th century when they were purchased from St. John's descendants.⁴⁸

It was not an unusual practice for cultural artifacts to be taken by colonial government workers and collectors without the consent of the Aboriginal communities they were responsible for overseeing. The native people were seen as an inferior race and their traditions and languages were readily dismissed as primitive and barbaric. This was a time in which there was little respect or recognition for Aboriginal culture and history.

⁴⁵ Johnston et al., "Return of Cultural Heritage Project: Repatriation of Aranda Cultural Heritage Material from Illinois State Museum and Manchester Museum."

⁴⁶ Bird, "Out of Sight, Out of Mind: Rediscovering Spencer St. John's Land of the Bungalow People."

⁴⁷ Bird.

⁴⁸ Bird.

Cultural heritage objects were obtained from the communities as trophies and curiosities to be sold off to Western museums and collectors.

Prior to the 2019 anniversary of the landing of the ship Endeavor and recognizing the need for cultural heritage repatriation and the financial burden repatriation efforts can put on Indigenous communities, the Australian Government provided funding to the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) for the Return of Cultural Heritage Project. This project involved identifying over 100,000 objects of Aboriginal and Torres Strait cultural significance held in many overseas institutions and contacting the institutions for potential repatriation. Only 45 institutions expressed a desire to respond to repatriation requests, and the Manchester Museum was among them.⁴⁹

The Manchester Museum conducted extensive research and consultation with the Aranda people and AIATSIS to ensure that the repatriation process was conducted in a culturally appropriate and respectful manner. This would have included discussions on how the artifacts would be housed and cared for upon their return to Australia, and the importance of their accessibility to the Aranda community and also to the general public for both educational and cultural purposes.

Following the further request from AIATSIS, these efforts were expedited to complete the repatriation of 43 Aboriginal objects in time for the 250th landing anniversary.⁵⁰ This marked the museum's first case of Aboriginal heritage repatriation. The museum's director, Esme Ward, saw this as an opportunity to

⁴⁹ Johnston, "Curator: The Museum Journal."

⁵⁰ Feilden, "Manchester Museum Makes Moves Towards Repatriation and Diversity."

develop an understanding between cultures and foster global connectedness.

Aboriginal culture is one of the oldest civilizations on Earth⁵¹, and the objects connected to it hold spiritual and meaningful links to their ancestral past. Repatriating these objects back to their traditional homes can help future generations understand the history that came before them and preserve their cultural heritage.⁵²

The Manchester Museum signed a Memorandum of Understanding with AIATSIS to collaborate on the preservation and care of their Aboriginal cultural collections and educate future generations on the ethical and social issues surrounding decolonization and repatriation.⁵³ Unlike the British Museum, which has an Aboriginal-made shield on public display, the repatriated objects by the Manchester Museum were kept in storage due to cultural sensitivity. Now, they can be better appreciated and used as tools for education and as a memorial to Australia's native people.⁵⁴

Repatriation can be seen as more justifiable in today's era of reconciliation and forgiveness, particularly when cultural artifacts that were taken during colonization and British rule remain in storage without being displayed or appreciated by the public. By returning these objects to their native cultures, we can take steps toward correcting the injustices of the past.

The Aranda people had long been concerned about the loss of their cultural artifacts and the impact of colonial-era collection practices on their heritage and traditions. The repatriation success was seen as an important step towards addressing historical injustices suffered by native people and communities in the era of colonial

⁵¹ Hill, *First People Then and Now: Introducing Indigenous Australians*.

⁵² Feilden, "Manchester Museum Makes Moves Towards Repatriation and Diversity."

⁵³ Johnston, "Curator: The Museum Journal."

⁵⁴ Feilden, "Manchester Museum Makes Moves Towards Repatriation and Diversity."

supremacy. The return in turn demonstrated the growing recognition within the museum and public sector of the importance of returning cultural artifacts to their traditional owners.

The Manchester Museum's decision to unconditionally return aboriginal cultural heritage artifacts was widely celebrated by Indigenous rights groups and organizations worldwide working to promote cultural heritage preservation and protection. It set a precedent for other museums around the world, still struggling with the legacy of colonial acquisitions.

The repatriation of Aboriginal heritage artifacts by the Manchester Museum serves as an important study into the ongoing requirement for institutions to decolonize cultural heritage collections and to work towards greater acknowledgement of the rights of Indigenous people to hold control over their own history and cultural heritage.

Natural History Museum: Repatriation of Human Remains

In recent years there has been a clear shift in the thinking on the moral and ethical obligations of institutions worldwide when it comes to repatriation. In comparison to European nations like Germany and France, the United Kingdom has been slow to make decisions on cultural heritage repatriation claims. When it comes to the return of human remains, however, one London-based museum has truly set a precedent.⁵⁵

Following the Australian Institute of Aboriginal and Torres Strait Islander Studies' 2018 report, which revealed the substantial number of Aboriginal human remains and cultural heritage artifacts held in institutions worldwide, the Manchester Museum

⁵⁵ Herman, *Restitution, The Return of Cultural Artefacts*.

acted by repatriating cultural heritage objects.⁵⁶ Similarly, the Natural History Museum in London agreed to initiate the process of repatriating human remains that had been held in their museum's possession for over a century.

In 2007, the Natural History Museum, working in close collaboration with Indigenous community representatives to ensure a respectful return in accordance with cultural traditions, repatriated 17 human remains to their original lands and communities.⁵⁷ The remains included skulls, bones, and miscellaneous tissue samples that had been inappropriately taken from Indigenous communities throughout the Torres Strait Islands.⁵⁸ It was a lengthy and complex process with the Natural History Museum consulting Elders and community leaders across the continent to identify individual remains and ensure the most appropriate approach to repatriation.

Acquired by anthropologists and collectors in Australia and the Torres Strait Islands during the colonial era, Indigenous human remains were for the most part taken without the knowledge or consent of the native communities to whom the remains belonged. The remains were then sold off to western museums for the sake of study, display, and DNA testing.⁵⁹ While this is important work and can lead to greater knowledge of our homo-sapiens' past and can assist in the possible prevention of human diseases, it was now generally acknowledged that any testing or study on

⁵⁶ Johnston, "Curator: The Museum Journal."

⁵⁷ Cox, *Restoring The Chain of Memory, T.G.H. Strehlow and the Repatriation of Australian Indigenous Knowledge*.

⁵⁸ Cox.

⁵⁹ Broome, *Aboriginal Australians, A History since 1788*.

human remains must be conducted firstly with the permission of the deceased person's families or communities.⁶⁰

In 1982, the British government approved the Human Tissue Act. The legislation set out regulations for the legal use, collection, and storage of human tissues and remains. The regulations did not, however, establish provisions for repatriation in the situation when remains had been disturbed or removed without the consent of a donor or the deceased person's community.⁶¹

With many regions and communities making up the history of the Indigenous people of Australia, there are also varying beliefs and cultural differences when it comes to practices regarding ancestral remains. The general belief across all Indigenous people is that the remains of their ancestors hold spiritual and cultural significance, that the soul or spirit of the dead continues to linger, and that remains should be respected and cherished. Often communities maintain a strong connection to the remains of their ancestors and practice ancestral worship, seeking guidance and blessings from the remains of their elders. Other communities bury their deceased in specific ceremonial traditions according to long-standing beliefs.⁶² Most important to recognize is that the practices of the Indigenous people are deeply rooted in thousands of years of cultural heritage and can certainly vary from the religious beliefs of Western cultures.

Furthermore, the collection and trading of Indigenous human remains, and cultural heritage objects is often associated with colonial exploration and the exploitation of first nation peoples, whereby European museums and collectors used their positions

⁶⁰ Smith, *Archaeological Theory and the Politics of Cultural Heritage*.

⁶¹ Johnson, "The Human Tissue Act 1982."

⁶² Hill, *First People Then and Now: Introducing Indigenous Australians*.

of power to full advantage, removing sacred objects and heritage from Indigenous communities without consent, often violently.⁶³ Recognizing a chance to make right the injustices that were enacted on Indigenous people throughout the colonial past, the Natural History Museum lobbied the British government on the necessity of readdressing existing legislation on human tissue repatriation, and in 2004 were successful in achieving the requested change with the British Government amending the 1982 Human Tissue Act to allow for the possibility of repatriation.⁶⁴ In a report, published in 2020, the museum acknowledged its past role in the collection and study of Indigenous human remains. The museum stated its willingness to work alongside communities and stakeholders to repatriate ancestral remains where possible and appropriate.⁶⁵

The process of repatriating ancestral remains to the Torres Strait Island communities was not without challenges. Repatriation is always a lengthy process, and, in this case, all remains needed to be correctly identified. This required complex and time-consuming provenance research to be sure that remains were being repatriated to the communities and regions from where they had originally been acquired.⁶⁶ It was also necessary that the museum worked in collaboration with community elders and museums to ensure that the repatriation was conducted respectfully and sensitively in keeping with the traditional beliefs of the Torres Strait Islanders. Repatriation in general can prove to be an expensive process on the side of both parties. Extensive funds are required for the conservation, transport, and ongoing research relating to the

⁶³ Herman, *Restitution, The Return of Cultural Artefacts*.

⁶⁴ Trope, *Accomplishing NAGPRA, Perspectives on the Intent, Impact, and Future of the Native American Graves Protection and Repatriation Act*.

⁶⁵ Smith, "The Repatriation of Human Remains: A Contemporary Anthropological Perspective."

⁶⁶ Collison, Bell, and Neel, *Indigenous Repatriation Handbook*.

repatriation efforts.⁶⁷ The museum, in this instance, had first to secure funding and further resources to assist and support the repatriation project. This raises an important issue on how funds for repatriation claims, or lack thereof, can be an obstacle for Indigenous communities. This issue will be addressed in chapter four.

Despite the challenges, the Natural History Museums' commitment to the project and its respectful and sensitive engagement and collaboration with community leaders and representatives culminated in a successful repatriation. The repatriation of Indigenous remains from the Natural History Museum highlights the importance of ongoing dialogue and collaboration between museums, scientific institutions, and Indigenous communities, as well as the need for legislation and policies that recognize and protect the rights and interests of Indigenous people in relation to their cultural heritage and human remains.

⁶⁷Johnston, "Curator: The Museum Journal."

Chapter 3:

Ethics and Law regarding Cultural Heritage Repatriation

Cultural heritage repatriation is a complex and controversial issue. The United Kingdom has come into particular focus in recent years due to the existence of multiple institutions and museums holding vast collections of cultural objects obtained during colonial era occupation and exploitation. Recent calls for repatriation have prompted debates around the legal and ethical complications created by existing government legislation. The United Kingdom has a complex legal structure which regulates the management and ownership of cultural heritage objects housed in the country's national museums and institutions. Institutions and museums are legally governed by these laws when making any decisions regarding repatriation or deaccessioning.

Legislation is put in place to provide a legal framework for museums to access requests for repatriation and enable decisions to be made about the possible return of cultural heritage objects. This chapter will examine how various UK laws and legislation affect decision-making regarding the repatriation of cultural heritage objects and the related ethical considerations, establishing a greater understanding of the restriction legislation places on institutions and the possibility for change within this area in the future.

From a legislative point of view, binding and non-binding laws can both have impactful roles in the repatriation and preservation of Indigenous cultural heritage. Laws that have been made in parliament and are enforced as such are referred to as binding laws. In the case of Aboriginal heritage repatriation these include laws that regulate the sale and export of cultural property, or the power of institutions over the

maintenance and deaccessioning of cultural heritage artifacts. Non-binding laws, in contrast, are laws that do not have legal standing and can not necessarily be enforced to the same degree as a binding law. Non-binding laws can provide guidelines for proper conduct and ethical practices. In the context of Aboriginal cultural heritage this may include guidance on appropriate management of cultural heritage artifacts or the establishment of frameworks for negotiation and the handling of repatriation requests. Both binding and non-binding laws have an important role to play in repatriation efforts and examples of each will be discussed the following pages

The British Museum Act 1963

Established in 1963 by United Kingdom Parliament, the British Museum Act was set in place to create a legal framework for the protection, ownership, and control over the British Museum's vast collection of art and cultural heritage objects.⁶⁸ The Act put in place a Board of Trustees, responsible for the museum's general management and decisions regarding acquisitions. It also established the British Museum as a body corporate, essentially making the museum a legal entity with the possibility to sue or be sued in turn.⁶⁹

The key component of the legally binding 1963 Act in relation to repatriation, is the provision that the collection of the museum must be kept and maintained, with limited chance for repatriation or deaccession, theoretically ensuring that the entire collection would be preserved intact for all future generations.⁷⁰ It is certainly an important legislation that has indeed preserved the immense collection of the British Museum

⁶⁸ England, *British Museum Act 1963*.

⁶⁹ Robertson, *Who Owns History?: Elgin's Loot and the Case for Returning Plundered Treasure*.

⁷⁰ England, *British Museum Act 1963*.

and ensured the continued protection and existence of arguably, one of the world's greatest cultural heritage collections. It has also become a controversial piece of legislation and the topic of much debate in regard to the Act's relevance 60 years on from its first implementation.

Except in the case that an item has been deemed a copy or unfit for display, the British Museum is legally restricted from making any changes to its existing collection.⁷¹ This means that any claims for repatriation of cultural heritage from other nations can be rejected based on the 1963 Act's jurisdiction. From an ethical standpoint, this absolute refusal to acknowledge repatriation requests calls many issues into debate. Having been accused of maintaining a colonialist mentality, the objectionable display of a vast number of objects legitimately known to have been acquired through unethical means during colonial rule shows the museum's inflexibility to adjust to modern times and requests for the decolonization of cultural institutions worldwide. The museum's collection policies seem to maintain the traditionally established ideals that Britain as a ruling empire had the indisputable right to procure and hold cultural heritage artifacts from subordinate nations. A view now recognized worldwide as being sensationally outdated and culturally insensitive.⁷²

Previously criticized for a lack of transparency in its acknowledgment of how artifacts of its collection had come to rest in the British Museum, there have been great steps forward on the museum's part in addressing holes in the provenance research of much of its colonial-era collection. Sharon Macdonald, anthropologist and museum studies

⁷¹ England.

⁷² Hicks, *The British Museum*.

scholar, said of the Act; "The controversies surrounding the British Museum Act highlight the need for a more nuanced and responsive approach to cultural heritage management and governance." Macdonald argues for the necessity of a more flexible approach when it comes to the repatriation of cultural heritage objects from museums such as the British Museum.⁷³ The British Museum Act has been widely criticized for its restrictive and outdated nature, and there is indeed a growing need for a more modern and responsive approach when it comes to repatriation legislation. New legislation is required which reflects societies changing attitude toward diversity, racism and how indigenous cultures are now seen within the context of modern society. Museums could lead the way in these changing attitudes by being more open to cooperation with Indigenous communities and foreign governments when it comes to claims of repatriation. Legislation must also be malleable to allow these collaborations to function. As cultural heritage conservation expert, Neville Agnew, says "The British Museum Act is an important example of how legislation can shape the governance and practices of cultural institutions."⁷⁴ This is true not only of the British Museum, but also of numerous other cultural institutions in the United Kingdom governed by stringent legislation.

The 1963 British Museum Act reflects an outdated view on the way a cultural institution is managed and seen from a cultural context. Far from reflecting changing views on colonialism and the need for the decolonization of our cultural institutions, the British Museum Act's focus on preserving the museum's existing collection at all costs maintains an elitist and old-fashioned representation of cultural heritage. This legislation must be updated if cultural institutions will have any future chance to take

⁷³ Macdonald, *Museum Matters: Heritage and the Public Purpose of Museums*.

⁷⁴ Lavine and Karp, *Exhibiting Cultures: The Poetics and Politics of Museum Display*.

a path to a more equitable and inclusive approach to cultural heritage management, allowing communities and Indigenous people the means to regain control over the cultural identity and history lost upon the removal of their cultural heritage property.

UNESCO Conventions

The United Nations Educational, Scientific and Cultural Organization, UNESCO, was established by the United Nations in 1945 to facilitate international collaboration within the realms of education, science, and culture. A key focus of UNESCO is the protection of cultural heritage and the furtherance of cultural diversity. Having developed numerous guidelines and conventions regarding cultural heritage repatriation, the organization has been a leading supporter in the fight for the return of cultural objects to their nations of origin, particularly those artifacts acquired during the colonial era.⁷⁵

The 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property has played an instrumental role in preventing the unlawful trading of cultural property and incorporates stipulations for the repatriation of cultural artifacts to their origins.⁷⁶ UNESCO has also set out various guidelines such as the 2018 Recommendation on the Protection and Promotion of Museums and Collections, which educates and assist institutions in the management of cultural heritage collections and issues corresponding to repatriation initiatives.⁷⁷

⁷⁵ Robertson, *Who Owns History?: Elgin's Loot and the Case for Returning Plundered Treasure*.

⁷⁶ Robertson.

⁷⁷ Robertson.

Recent years have seen a growing recognition and respect in Australia for its First Nation people and their historic traditions and culture. This recognition has also been seen in a growing awareness of the necessity of protecting and preserving Indigenous cultural heritage artifacts. UNESCO has played a vital role in supporting and encouraging this process.⁷⁸

A notable example of UNESCO's engagement in heritage repatriation in Australia was the return of the remains of Mungo Man to the native Indigenous community in New South Wales. The ancestral remains of Mungo Man are the oldest known human remains found in Australia, dating back 42,000 years. Excavated from the shores of Lake Mungo in the region of Willandra Lakes in 1970, the human remains had been held in various Australian institutions for decades until in 2017 and after numerous years of campaigning by Indigenous groups supported by UNESCO, the ancestral remains of Mungo Man were finally repatriated to the traditional owners of the Willandra Lakes region.⁷⁹ The repatriation of Mungo Man was a monumental stride forward in the acknowledgment of the unquestionable rights of Australia's First Nation people.

UNESCO has also supported other ventures in Australia regarding cultural heritage repatriation including the establishment of the Australian Indigenous Languages Collection in cooperation with the Australian Institute of Aboriginal and Torres Strait Islander Studies. Incorporating a broad range of artifacts and recordings of Indigenous languages, the collection was created to preserve the many languages of the various Indigenous communities and to promote the cultural heritage and history of these

⁷⁸ Langfield, Logan, and Craith, *Cultural Diversity, Heritage and Human Rights*.

⁷⁹ Broome, *Aboriginal Australians, A History since 1788*.

communities.⁸⁰ Many of the traditional languages have been lost to time through the colonial era displacement of communities and the loss of the Indigenous population's traditional way of life. UNESCO's ongoing support within this field is helping to save what languages remain, recording the voices of community elders before they too will be lost to time.⁸¹

To date, there have been only a few cases of cultural heritage repatriation from UK museums to the Indigenous Australians. Though UNESCO has not always been directly linked to these repatriation stories, the non-binding guidelines and conventions set out by UNESCO may have influenced institutional efforts in these repatriation cases.

In 2016, utilizing the 2004 Human Tissue Act, the Manchester Museum was able to decide to repatriate Indigenous human remains to their original Ngarrindjeri people in Southern Australia.⁸² Following an initial request from the Ngarrindjeri committee, the repatriation was then facilitated by the Australian Government's Indigenous Repatriation Program which supports First Nation communities in the complex process of repatriation claims.⁸³

In a similar repatriation case in 2018, the Pitt Rivers Museum of the University of Oxford initiated the return of artifacts taken in the late 19th century⁸⁴ from their

⁸⁰ Johnston, "Curator: The Museum Journal."

⁸¹ Johnston.

⁸² Sculthorpe, Nugent, and Morphy, *Ancestors, Artefacts, Empire: Indigenous Australia in British and Irish Museums*.

⁸³ Kohn, "Manchester Museum to Repatriate Aboriginal Remains."

⁸⁴ Sculthorpe, Nugent, and Morphy, *Ancestors, Artefacts, Empire: Indigenous Australia in British and Irish Museums*.

indigenous owners, the traditional custodians of the Lake Condah region of Victoria. The effort was supported by the Gunditjmara Aboriginal Cooperative.⁸⁵

While UNESCO was not directly involved in either of these repatriation cases, the conventions and guidelines on cultural heritage repatriation play a role in raising awareness of the importance of the protection of cultural heritage and the ties cultural heritage property holds to the Indigenous communities they came from. Promoting a diverse and sustainable approach to cultural heritage management, UNESCO has assisted in molding international practices and moral codes, educating museums and institutions worldwide on the ethical ramifications of colonial collecting, and working amiably towards a more transparent and collaborative future in the museum sector.

UNESCO has also been instrumental in its support for acknowledging, on a national level, the atrocities and pain inflicted on the Australian Indigenous community by the Australian government since the landing of James Cook. Acknowledging not only the theft of cultural heritage artifacts and human ancestral remains, but also acts of genocide and the forced separation of over 100,000 Aboriginal and Torres Strait Islander children from their families with the intent that all past connections to Country, traditions, language, and family ties would be eradicated.⁸⁶

The Stolen Generation

Leaving a dark stain on Australia's past, the Stolen Generation refers to a period in the late 1800s which continued right up until the 1970s relating to the removal of Indigenous children from their families and communities.⁸⁷ In this dark chapter in the

⁸⁵ "Pitt Rivers Museum Returns Aboriginal Artefacts to Australia."

⁸⁶ Egan, *Power and Dysfunction, The New South Wales Board for Protection of Aborigines 1883-1940*.

⁸⁷ Broome, *Aboriginal Australians, A History since 1788*.

nation's history, the Australian government justified the forcible removal of Aboriginal and Torres Strait Islander children as a way to assimilate the children into white society. The hope was that by removing the children from their families and communities and placing them in catholic missions and institutions, far removed from their traditional communities, the government could control how Indigenous children were brought up, training them in the more 'civilized' European way of life. Teaching the children to be farm hands and house servants the government was also providing a low-paid workforce for society's well-to-do European settlers as they set up their new lives in the newly establish Australian colonies.⁸⁸

Placed in strict institutions often run by the church, the children variably suffered emotional, physical, and sexual abuse. They were stripped of their dignity, their cultural identity, and languages. Often taking the children away from their families at a very young age, the children invariably forgot where they had come from and in turn, the parents were generally given no information about the location of their children.⁸⁹ The exact number of children affected by the Stolen Generation is not known, official records were generally poorly kept or destroyed as the government's aim was that the children should never again be reunited with their ancestral communities. It is estimated that tens of thousands of indigenous children may have been affected over several decades by this brutal policy.⁹⁰

A national inquiry into the policy was initiated in 1997. After a period of intense research, the 'Bringing Them Home' report announced their belief that between one in three Aboriginal and Torres Strait Islander children were forcibly removed from

⁸⁸ Sivertsen, *Decolonizing Futures, Collaborations for New Indigenous Horizons*.

⁸⁹ Broome, *Aboriginal Australians, A History since 1788*.

⁹⁰ Butler and Bond, *Sorry*.

their homes in the period between 1910 and 1970.⁹¹ It is important to recognize that the effects of the Stolen Generation apply not only to the children removed but also to the communities and families left behind. The impact of this period in Australia's history is felt to this day. The pain of this period is intergenerational with the trauma of the experience being passed down through generations of First Nation people. There has been a consequential affect on mental health throughout the Aboriginal communities with economic and social prejudice resulting in low education standards and substance abuse.⁹² The 'Stolen Generation' children were denied access to an education in the traditions of their own communities and remained further uneducated in the European sense with the Australian government believing Indigenous people were more suited to menial and low-paid physical work than any employment which may have required an academic education. This lack of education has filtered through generations of indigenous Australians, the impact of which is still felt today with Indigenous Australians generally experiencing the highest rates of poverty, and unemployment in the country.⁹³ Although Australia's homeless rate is low in comparison to other countries, Aboriginals make up the bulk of Australia's homeless.⁹⁴

The loss of cultural identity, language, and dislocation deprived Indigenous children of a traditional upbringing and community involvement. The deep-rooted trauma of their experiences created loss of self-worth and confidence, feelings of shame, and an inability to reconnect with traditional ancestral culture and community. A cycle of disadvantage and prejudice has contributed to the standing of Australian Aboriginals

⁹¹ Butler and Bond.

⁹² Butler and Bond.

⁹³ Broome, *Aboriginal Australians, A History since 1788*.

⁹⁴ Broome.

within today's society with racism and discrimination continuing to impact Australia's First Nation people.⁹⁵

After years of demands for a government apology for the harm inflicted during the Stolen Generation, a formal apology was given in 2008.⁹⁶ The newly appointed Prime Minister, Kevin Rudd, made a speech on the 13th of February in Australian Parliament acknowledging the pain and suffering caused by the policy of forced removals, offering an apology to the generations of Indigenous Australians affected by the Stolen Generation. Criticized by some of the indigenous community for being so late coming and not going far enough in addressing ongoing impacts,⁹⁷ the apology was nevertheless a momentous step towards healing past wounds and paving a way to achieving a more inclusive future.⁹⁸

The formal apology also initiated an opportunity for institutions and government-run organizations to take up the mantle of reconciliation.⁹⁹ As important cultural representatives, museums hold an integral position when it comes to impacting public opinion and education. A First Nation woman and director of the Australian Museum, Laura McBride, said in 2021 "Reconciliation can only start with truth-telling,". She indicates that reconciliation cannot take place without first acknowledging hard truths and injustices of the past. McBride argues that as public sources of information, museums have a fundamental role in truth-telling and that museums can determine which history is told and how. She says that 'full agency' is needed when making sure that the true and full history of First Nation people is told by museums and

⁹⁵ Sivertsen, *Decolonizing Futures, Collaborations for New Indigenous Horizons*.

⁹⁶ Broome, *Aboriginal Australians, A History since 1788*.

⁹⁷ Butler and Bond, *Sorry*.

⁹⁸ Broome, *Aboriginal Australians, A History since 1788*.

⁹⁹ Butler and Bond, *Sorry*.

institutions, as well as by the media and educational institutions. Within the museum sector, McBride says that the most harmful actions have been the atrocious past of the theft of Indigenous cultural artifacts and Ancestral remains.¹⁰⁰ The displays have historically portrayed an ill-guided and elitist representation of the history of First Nations people. It is the role of institutions and employees such as McBride to enforce change within the sector and encourage a fairer and more transparent representation of Australia's First Nation people.

Native American Graves Protection and Repatriation Act

The impact of the colonial era on the Australian First Nation people is by no means an isolated experience. It is an experience that has been shared by many Indigenous communities around the world.¹⁰¹ The treatment of the Native American Indians and the Australian Aboriginals is the legacy of a despondent past of displacement and cultural suppression. Both Indigenous groups were forcibly removed from their ancestral lands at the hands of colonizers and experienced a loss of their cultural identity, traditional way of life, and the removal of important sacred and cultural heritage objects. Policies such as the 1830 Indian Removal Act, allowed for the seizure of land from the Native Americans, and a boarding school system was implemented to forcibly assimilate Indigenous children into Euro-American culture, removing them from their families and banning spiritual practices or the use of native languages.¹⁰² Not dis-similarly, the Australian Aboriginals faced government policies such as the Aborigines Protection Act of 1909 that sought to extinguish the spirituality and native ancestral traditions of the Indigenous people, and the Stolen

¹⁰⁰ Harwood, "The Role of Australian Museums in Reconciliation."

¹⁰¹ Butler and Bond, *Sorry*.

¹⁰² Cottrell, "American Indian Quarterly."

Generation policy which allowed the removal of Indigenous children to institutions where they were forbidden to speak in their native tongue and subjected to tyranny and persecution.¹⁰³

In 1990, an important piece of United States federal law was established. This new law enabled Native American communities to reclaim their heritage and take initiative in the active promotion of Native American culture and traditions. The Native American Graves Protection and Repatriation Act, NAGPRA, was created to address the rights of the Native Americans and reconcile injustices committed in the past. NAGPRA was set in place to offer lawful protection to Native American grave sites and legally protect cultural artifacts from being looted or acquired without the prior consent of the traditional tribes or families with whom they are culturally connected.¹⁰⁴ The law also requires that federally funded institutions set in place better practices for inventory research and repatriation.¹⁰⁵ Certain artifacts of Native American cultural importance, such as human remains, sacred funeral objects, and items of ancestral patrimony were repatriated to their traditional owners. Tribes and individuals were finally provided with a legitimate process in which to request the repatriation of artifacts. NAGPRA also set guidelines in place for the proper processes of repatriation.¹⁰⁶

Since the implementation of NAGPRA in 1990, over 60,000 cultural heritage objects and human remains have been repatriated to their traditional owners from museums

¹⁰³ Broome, *Aboriginal Australians, A History since 1788*.

¹⁰⁴ Trope, *Accomplishing NAGPRA, Perspectives on the Intent, Impact, and Future of the Native American Graves Protection and Repatriation Act*.

¹⁰⁵ Cottrell, "American Indian Quarterly."

¹⁰⁶ Carter, Pearce, and Jacobson, *Giving Back, Research and Reciprocity in Indigenous Settings*.

and universities throughout the United States.¹⁰⁷ This success has given back respect and control to Indigenous communities and allowed meaningful reconnection to cultural heritage and ancestral spirituality. Penalties have been put in place for the illegal trafficking of Native American cultural artifacts, making it difficult for traffickers to profit from any trade of cultural heritage, in turn establishing a greater awareness and respect for the importance of Native American heritage.¹⁰⁸ Despite these successes, the effectiveness of NAGPRA has been a topic of debate since its implementation. The law does not set in place any requirement of the return of cultural heritage artifacts held in private hands and many Native Americans insist that harsher penalties should be established for the punishment of cultural heritage trading.¹⁰⁹ They argue that the law doesn't go far enough in demanding repatriation when private collectors can maintain notable collections of Native American cultural heritage artifacts. While there is room for improvement within the structure of the 1990 Native American Graves Protection and Repatriation Act, the act has had a genuine and positive influence on the lives of many Native American tribes and communities. The law has helped to establish awareness of the cultural significance of Native American traditions and the importance of the repatriation of heritage artifacts and human remains.

The repatriation of human remains, and cultural heritage is a serious and relevant issue for many Indigenous communities affected by colonial suppression. The Australian Aboriginals have similarly suffered at the hands of colonizers and faced the loss of their traditions and cultural heritage since the 19th century.¹¹⁰ Beginning

¹⁰⁷ Trope, *Accomplishing NAGPRA, Perspectives on the Intent, Impact, and Future of the Native American Graves Protection and Repatriation Act*.

¹⁰⁸ Trope.

¹⁰⁹ Smith, *Archaeological Theory and the Politics of Cultural Heritage*.

¹¹⁰ Broome, *Aboriginal Australians, A History since 1788*.

with the end of the Stolen Generation and its relevant policies, Aboriginal communities have begun to demand the return of their ancestral heritage.¹¹¹ The Australian and State governments have put various legislations in place to assist in repatriation efforts, what is lacking however, is a specific law that governs repatriation at a national level.¹¹² With each Australian State and Territory having its own government and law-making system, legislation on the repatriation of cultural heritage varies from state to state. The implementation of a law like NAGPRA could have major positive repercussions for Australian repatriation requests. Particularly when dealing with international repatriation cases, a united Australian federal legislation on repatriation and cultural heritage preservation could encourage international institutions and governments on the merits of repatriation to Australian Indigenous communities, reassured in the fact that returned cultural heritage artifacts would be legally protected at a federal level.

Non-legal government programs such as the Indigenous Repatriation Program have been implemented to assist in repatriation efforts. This particular program has successfully repatriated over 4000 human remains and cultural artifacts since its beginning in 1989.¹¹³ Despite the success of government-instigated programs such as the Indigenous Repatriation Program, none could go as far in repatriation efforts as the implementation of clear and structured federal legislation such as NAGPRA.

Currently, Aboriginal heritage repatriation in Australia is governed by varying state and territory legislation across the country. Every jurisdiction has its own specific laws and programs in place which have been implemented to reflect unique cultural

¹¹¹ Smith, *Archaeological Theory and the Politics of Cultural Heritage*.

¹¹² Rademaker and Rowse, *Indigenous Self-Determination Australia*.

¹¹³ "Indigenous Repatriation, Domestic Repatriation."

and historical circumstances of each region.¹¹⁴ Certainly, one can recognize that there are some benefits of each region having its own legislation on heritage repatriation. With a more localized approach, each region can more specifically meet the needs of local aboriginal communities allowing for a more tailored approach to the circumstances of the specific region and the issues presented. It allows for a flexible and diverse approach, ensuring policies remain relevant and can be more easily adjusted to reflect the changing and complex issues relating to repatriation. Despite certain unique benefits of varying state legislation, many pitfalls can also be detrimental to the repatriation effort. A limited scope due to varied legislation may lead to inconsistencies in the repatriation process, particularly cross-country, whereby some jurisdictions may not have the same level of protection for cultural heritage as another region leaving some artifacts unprotected by lapses and inconsistent rulings on repatriation claims. This, along with a lack of resources to fully implement legislations may result in delays or incomplete returns. Without a strong national law in place, museums and institutions may be more resistant when it comes to claims for repatriation and create concerns for where repatriated artifacts could come to rest without national funding and control over the implementation of proper display facilities.

A national law would ensure uniformity regarding decisions on repatriation. It would subject all museums, institutions, and individuals to the same rules and regulations when dealing with Indigenous heritage objects. A national law would create consistency across all states and territories, and an efficiency in dealing with Indigenous cultural heritage. The implementation of a federal law could build much

¹¹⁴ Rademaker and Rowse, *Indigenous Self-Determination Australia*.

needed trust between Australian Indigenous communities and the Australian government. While there are positives and negatives to the varying legislation currently in place, surely the establishment of nationally implemented law would outweigh any state legislation and create a stronger argument for repatriation of cultural heritage objects.

With thousands of Aboriginal cultural heritage objects still held in overseas collections¹¹⁵ yet to be returned to their rightful owners, it is so important that the Australian government fronts a strong campaign for the repatriation of the heritage and history of its First Nation people. The implementation of a law in Australia, such as the Native American Graves Protection and Repatriation Act could establish the groundwork for addressing this most significant issue and in turn, nurture greater respect for Aboriginal cultural heritage within the country and abroad.

NAZI Loot Restitution vs Cultural Heritage Repatriation from a Legal and Ethical Perspective

Nazi loot restitution refers to a process whereby artwork and various objects of cultural value acquired by the Nazi regime during World War Two is legally returned (restituted) to the heirs of the original owners.¹¹⁶ Personal property, often stolen or acquired under duress was taken from Jewish families and minority groups oppressed by the Nazi government to be eventually sold or distributed among the leaders or supporters of the regime. The restitution process involves much research and effort, firstly proving an items provenance by tracing the ownership through history and

¹¹⁵ Cox, *Restoring The Chain of Memory, T.G.H. Strehlow and the Repatriation of Australian Indigenous Knowledge*.

¹¹⁶ Gahton and Troelenberg, *Collecting and Empires, An Historical and Global Perspective*.

finally returning the items to their rightful owners or decedents. With many precedents having been set in past court decisions, the legal restitution process has become a relatively straightforward process with clear legislation having been put in place to deal with such requests. Claimants will often be in the possession of undisputable proof of ownership or a clear paper trail that can trace the ownership of an item through the years. Helpful, in this instance, is the German's record-keeping system, registering all acquisitions and their origins in meticulous detail.

Jews and minority groups faced great adversity and oppression at the hands of the genocidal policies of the Third Reich, involving mass deportations, forced labor in concentration camps, and ultimately the systematic extermination of millions of Jews in the gas chambers of Auschwitz and other such death camps.¹¹⁷

The oppression of Australia's First Nation indigenous population has, in contrast, a much longer history involving systematic discrimination, dispossession, and racism. The Australian Indigenous communities faced forced assimilation policies, widespread abuse by the colonial government, and the loss of their lands, traditions, and cultural heritage, all of which hold a legacy affecting Australia's Indigenous people to this very day.¹¹⁸ Representing very distinct historical contexts and varying experiences of persecution, it is impossible and inappropriate to directly compare the suppression of Aboriginal Australians under colonial rule to that of the Jewish community under the Nazi regime.

Having said this, it is possible to compare the contrasting legal processes and ethical considerations surrounding the restitution of Jewish Nazi loot and the repatriation of

¹¹⁷ Gahton and Troelenberg.

¹¹⁸ Egan, *Power and Dysfunction, The New South Wales Board for Protection of Aborigines 1883-1940*.

Indigenous cultural heritage objects. While there are strong and clear legal processes and precedents set in place for Nazi loot restitution,¹¹⁹ the same can not be said of legislation for the repatriation of cultural heritage. Involving more complex legal issues, claims for the repatriation of Aboriginal cultural heritage have been mostly made without any formal documentation. Proving the provenance or indeed, the exact region or community that an object originated from, is a problematic and lengthy process, with unjustly acquired Indigenous objects having been dispersed throughout the world to various institutions and private collections over an extended period of history. The rediscovery and research into the provenance of these ancestral objects is a costly endeavor, often a financial impossibility for smaller Indigenous communities, let alone the eventual transport and display costs if the repatriation claim is successful.¹²⁰

Cultural heritage objects are explicitly linked to Indigenous history. Representing deeply rooted traditions and a way of life, these objects are a part of the Australian Aboriginal's identity, traditional community ideals, and cultural expression. Cultural heritage artifacts taken during the colonial era are an essential asset when it comes to preserving the cultural knowledge of Australia's First Nation people and educating future generations on their ancestral history. The objects often hold great symbolic cultural and spiritual importance. With complicated political and ethical issues involved, dealing with ongoing legacies of colonialism and racism, particularly in the museum sector, repatriation efforts are often rendered an impossibility and would first

¹¹⁹ O'Donnel, *A Tragic Fate, Law and Ethics in the Battle Over Nazi-Looted Art*.

¹²⁰ Johnston, "Curator: The Museum Journal."

require momentous changes to existing legal policies and institutional practices to be successful.

The loss of Aboriginal cultural heritage is part of a long history of oppression taking place over centuries of colonial rule while Nazi loot and Jewish persecution are linked to a single regime over a specific period. The restitution of Nazi loot is primarily focused on the return of stolen property to an individual owner, heir, or family group while cultural heritage repatriation generally involves the return of artifacts to an entire community. Where the restitution of Nazi loot is a specific and focused process based on proof of ownership and law, generally not requiring any collaboration with the broader community, the return of Aboriginal cultural heritage property to a community can be more complicated venture. Engagement with the entire community is often required in the repatriation process. The knowledge of Aboriginal Elders and community representatives can be paramount when dealing with deeply spiritual and sacred artifacts. One main challenge to the repatriation of Aboriginal cultural heritage is the era in which it was taken. With artifacts often acquired centuries ago, there is an obvious lack of documental evidence making it sometimes impossible to trace provenance or establish rightful ownership. Proving the exact community and region an object was taken from can be painstaking work.

Nazi loot restitution is important work, seeking to provide legal justice to a people affected by the crimes of the Nazi regime. Is it correct though that it should be easier to legislate than the repatriation of cultural heritage artifacts to Indigenous Australians, a living culture that to this day still fights for true recognition within Australia's history and for the ability to teach its young people about the traditions of their ancestors? It is important that the historical and ongoing injustices faced by

Indigenous communities are acknowledged and this begins with the return of their cultural heritage and recognition of ownership over their own identity and history. The repatriation of sacred artifacts and cultural heritage objects is crucial for Indigenous communities to maintain and build upon their cultural identity and connection to Country, in a way that the return of stolen artwork or items of commercial value to affected Jewish families is not. Although both processes are important when restoring dignity and addressing past injustices, can it truly be said that the return of cultural heritage to the Indigenous Australians is less significant, and why then do legal processes not reflect the importance of both?

While both Nazi-looted art and Indigenous cultural heritage objects are important, they represent varying aspects of historical and cultural significance and expression. Both must be acknowledged and respected for their importance to human history. Both processes should be pursued with an equal commitment to justice for the affected communities or families involved, and the legal processes should reflect the equality of the importance of this work. Although Indigenous cultural heritage repatriation can be a challenging and complicated legal process, institutions can no longer afford to hide behind government legislation, especially in the United Kingdom, where outdated laws such as the 1963 British Museum Act make the repatriation of cultural heritage impossible in most circumstances. While Nazi loot restitution is essential to right the injustices of a European regime, it should not be pursued at the expense of efforts to repatriate cultural heritage objects taken from Indigenous communities by the British Empire.

Governments and institutions must recognize the importance of this work, acknowledging the necessity of changes to existing legislation and policies. Further

engagement with Indigenous communities and representative organizations could assist in this effort, opening meaningful and ongoing dialogue and consultation to analyze and address the specific needs and concerns of communities regarding repatriation efforts, while working towards institutional and legislative change that supports and reflects the importance of Indigenous cultural heritage preservation and also breaking traditions of colonial oppression and mistreatment.

Chapter 4:

Preservation of Cultural Heritage: Facilities and Ethical Display

Despite the often dubious ways cultural heritage artifacts have been acquired and have come to rest in museums and institutions over the centuries, it is important to recognize the role that these organizations have played in protecting and preserving such objects. Cultural heritage objects are a credible source of knowledge of the past and provide great insight and understanding into the accomplishments of different nations throughout their histories. The expertise and resources of established museums have ensured that, over time, these objects have been properly preserved for the enjoyment and education of present and future generations. In many cases, these cultural treasures of the world's history would not have survived to this day without the interference of colonial collectors and the institutions who have maintained the artifacts over time, and while this is true, does it justify the museums continued possession of cultural heritage objects when the countries of their origins may now have the facilities and means required to display and preserve their own cultural heritage?

Preservation is one of the key elements of a museum's work when it comes to cultural heritage objects. Many artifacts are old and fragile and can be easily damaged or begin to deteriorate when exposed to natural elements. Grand universal museums such as the British Museum and the Natural History Museum have established dedicated teams and resources to deal with the preservation of cultural heritage artifacts and have, over time, developed special techniques and systems for the cleaning, restoration, and general preservation of such objects. By putting funding into these efforts, institutions have ensured that the artifacts have survived to this day. A strong

argument against cultural heritage repatriation has historically revolved around the idea that the countries or communities the objects originated from did not have the facilities or funding necessary for the upkeep and preservation of these objects of ‘world’ history and that the Universal museum had the means to not only preserve the artifacts but could also provide greater accessibility to the greater global public.¹²¹

While these well-funded institutions certainly have the resources and locations to provide greater public viewing opportunities, several negative elements of displaying cultural heritage objects out of their original context can not be overlooked.

When objects of cultural heritage are removed from their original context, they lose their intended purpose, whether spiritual, practical, or social. When displayed in a museum this loss of original context can make it problematic or impossible for the general public to fully appreciate the object or comprehend its original significance. When viewed, in contrast, by its rightful owners in an original context the object can be fully appreciated for its purpose and meaning.

The display of cultural heritage objects in the context of a foreign museum can often lead to the appropriation of the object and its historical meaning. Without representation from its original creators, the history and meaning of the object are retold through the lens of the dominant culture, leading to an often incomplete or one-sided understanding of an object’s historical significance. Without a broader view of an object’s significance from both sides of history, the nations from which the object originated can face denigration, further enforcing colonialist ideals. While the preservation of cultural heritage objects is necessary, it is equally important that

¹²¹ Robertson, *Who Owns History?: Elgin’s Loot and the Case for Returning Plundered Treasure*.

objects are ethically and respectfully displayed in a manner that does not reinforce the ideals of past colonial injustices.

Advertising and using cultural heritage objects in special exhibitions can also be seen as a form of colonial exploitation. When a museum creates or tours an exhibition featuring cultural heritage objects, particularly those artifacts known to have been acquired in the colonialist era, the museum is effectively profiting from a belittled community's tragic past for monetary gain and prestige. Many of these objects were often forcibly acquired without the consent of the communities from which they came and were used to ordain the superiority of the colonizing nation. The use of these items in special exhibitions can be a distressing reminder of the exploitation many communities faced at the hands of colonizers.

Museums with colonial era collections have a moral responsibility to Indigenous communities who have experienced oppression and the loss of their cultural heritage in the centuries past. It is the role of the modern museum to promote discussion, understanding, and reconciliation between different world cultures and communities. While they have maintained and preserved cultural heritage objects until this point, it is crucial that they now acknowledge a generally changing view that all cultures, nations, and people are equal and should all possess equal rights to their own cultural heritage and history. Downtrodden communities must be given equal rights and respect to tell their own story with the help of cultural heritage artifacts. With many governments of Indigenous nations now providing funding and resources for the establishment of state-of-the-art facilities to house and display cultural heritage, it is paramount that Universal museums acknowledge that it is no longer (in many cases) a valid argument that they should maintain their ownership over cultural heritage

objects purely because other nations cannot preserve and conserve them. It is time for these objects to go home, to be displayed and appreciated in an original context and by the cultures who brought them into existence. The great colonial museums of the day may have preserved and looked after cultural heritage objects so that they still exist to this today, but they would have never existed at all without the communities who created them.

The Protection of Cultural Heritage, Past, Present, and Future

The repatriation of cultural heritage objects is a necessary step on the path to correcting injustices of the past and working towards a more culturally inclusive and understanding world. It is not solely about the return of stolen objects to their original owners but also about the establishment of laws and moral codes for the protection of cultural heritage in the future.

The collection of contemporary Indigenous art is an ever-growing global industry, an industry that often prioritizes the accumulation of profit over the acknowledgment of cultural heritage. The creation of indigenous art is not only a form of expression, but often a representation of cultural identity, storytelling, and a connection to ancestral and spiritual traditions. Flooding the market with cheaply acquired or fake Indigenous art, not only harms the market and the individual artists but commodifies also cultural heritage of Indigenous communities.

Many Indigenous artists lack the finances or knowledge to protect their intellectual property rights and are often defenseless against exploitation without legal protection. Without protection artists lose control over the re-sale or copy of their work and are

often poorly compensated, in an ongoing and malicious cycle reminiscent of colonial-era exploitation of Indigenous communities.

The sale and copying of Native American art is regulated by several laws, of which the Indian Arts and Crafts Act (IACA) of 1990¹²² is the most significant. If a product has not been made by the hands of a Native American artist or if the materials are not officially of Native American origin, the Act makes it illegal to sell the products as Native American-made. In the hopes of perturbing dealers from making fraudulent dealings in fake Native American art, the false marketing or selling of such works attracts heavy penalties. The 1990 passing of the IACA also coincided with the establishment of the Indian Arts and Crafts Board. The Board was created to enforce the Act and to advocate for the economic progression of the Native American art market as well as to support and educate the artists working within it.¹²³ Working together with the artists, the Board has established regulated quality standards for Native American art and has implemented a certification system to assist consumers in verifying genuine Native American-created goods. Since the implementation of the Act, there have been ever-increasing efforts to educate the public on the importance of ethical purchasing practices when it comes to Native American-made products and the impact that the sale of fake works can have on Native American artists and communities, economically and socially.¹²⁴

There are similar, legally non-binding, regulations in place in Australia for the protection of Aboriginal art and products and the artists who create them. The 2010 Indigenous Art Code was implemented as a voluntary code of conduct within the

¹²² "Indian Arts and Craft Act of 1990."

¹²³ "Indian Arts and Craft Act of 1990."

¹²⁴ "The Indian Arts and Craft Act of 1990."

market. It is a nationally recognized system of guidelines for the moral and fair trade of Indigenous products within the country. Implemented to establish fair pay for Indigenous artists, the code addresses ethical standards for the behavior of buyers and sellers of Indigenous art, standards which acknowledge the proper respect required when dealing with Indigenous cultural heritage. These standards of conduct include the regulation of fair compensation for artists and the need for a transparent and accurate depiction of artwork and materials used in their creation. The code is also only a guideline for transactions within the country and does nothing to regulate the overseas sale of Indigenous art.¹²⁵

Established 20 years after the Indian Arts and Crafts Act, and being a non-legally binding regulation, one can see that again Australia has fallen behind the United States in recognizing the importance of respecting Indigenous artists and the work they are creating for the present and future of Indigenous cultural heritage in Australia.¹²⁶ This lack of legal protection for the market of Indigenous-made products is reminiscent of the country's need for the implementation of federal legislation governing the repatriation of Indigenous cultural heritage. The connection between the fight for the return of cultural heritage objects stolen from the Indigenous people in the colonial era and this current lack of protection for cultural heritage works being produced today cannot be overlooked. It is of great importance that the Australian government acknowledges the significance of this lack of legislation generally and acts to protect the rights of its First Nation people. The government must work together with Indigenous communities and elders to establish effective legal frameworks that protect and preserve Indigenous cultural heritage and art of the past,

¹²⁵ "The Indian Arts and Craft Act of 1990."

¹²⁶ Rademaker and Rowse, *Indigenous Self-Determination Australia*.

present, and future. The establishment of federal legislation, such as the 1990 Indian Arts and Crafts Act, would greatly aid in supporting the Indigenous artistic community and prevent the further theft of cultural heritage or exploitation of those creating it.

Repatriation and Employment Opportunities

The process of repatriation requires the specialist attention of experts within the cultural sector, including historians and archivists, conservators, and curators. It also requires collaboration with Indigenous community leaders to gain traditional knowledge of objects' spiritual and cultural importance to their ancestral owners.¹²⁷

Repatriation is a complicated process, not only from an ethical and legal standpoint but also from the amount of collaboration and research that is required in achieving a successful outcome. Successful repatriation is the culmination of a lengthy process of specialist work and research from all involved parties, including the development of a respectful and understanding relationship with the recipient community and often their representative organization.¹²⁸

The cultural sector plays an indisputable role in the preservation and protection of cultural heritage and diversity, the repatriation of cultural heritage can be seen as a process that creates a range of new employment opportunities within the sector. The development of new opportunities would ensure that there are enough specialists in the sector equipped with the skills necessary to carry this important work into the future. Increased employment can also have broader economic and social benefits,

¹²⁷ Collison, Bell, and Neel, *Indigenous Repatriation Handbook*.

¹²⁸ Collison, Bell, and Neel.

encouraging the development of the cultural identity of communities and supporting tourism and various other industries that relate to cultural heritage.

New employment opportunities could help to increase Indigenous representation within the cultural sector. In the cultural sector, deficient representation of the Indigenous voice has historically played a role in the inaccurate recounting of the Aboriginal Australian's narrative and cultural past in mainstream historical records and has resulted in insufficient acknowledgment of the invaluable contribution Indigenous heritage and people have made to Australia's cultural landscape.

The importance of representing the Indigenous Australian voice in cultural institutions cannot be overstated. Australia's First Nation people have a right to see their history accurately represented from an Indigenous point of view and to see their cultural heritage objects are understood in a way that only they can explain. The further inclusion of Aboriginal Australians within the cultural sector would assist in addressing the ongoing legacy of colonialism and the long shadow it has cast upon Australia's Indigenous communities. The employment of more First Nations people would safeguard the accurate representation of Indigenous cultural heritage for future generations and ensure a more inclusive and diverse representation of Australian society within the cultural sector.

Whether academically qualified to Western standards or not, Australian Aboriginals are best placed to be the stewards of their cultural heritage artifacts. Their understanding and historical knowledge passed through the generations are likely to be superior to any book of learning scholars possess.

The return of cultural heritage objects to the original owners can often reinvigorate cultural identity and pride. A sense of dignity is restored to the community. When Aboriginal people are allowed opportunities to take on leadership roles in the management and display of their own ancestral objects and history, barriers can be broken down and new cultural relationships can be built upon the foundations of respect, trust, and understanding. The Aboriginal people bring a wealth of knowledge to Australia's cultural sector that can no longer be disregarded.¹²⁹ They can provide valuable and unique insights into the history and interpretation of cultural heritage that can in turn assist in the ongoing care and management of such objects.

The employment of First Nations people can lead to broader positive impacts within the Indigenous communities. In a legacy of colonial times, many Aboriginal communities are still plagued with problems relating to drug and alcohol abuse, feelings of unworthiness, poor access to health care, and high unemployment and suicide rates.¹³⁰ Traditionally Australia's First Nation people had strong community values and connections.¹³¹ The employment of members of the community could enhance community engagement, involving them in more cultural events and activities. An increased representation within Australia's workforce, in general, would also lead to greater feelings of diversity and inclusion. There would be more opportunities for the development of new skills and education which may lead to better social and economic situations within Indigenous communities.

As with the fight for the return of Indigenous cultural heritage, there is still a long way to go to ensure that the Indigenous Australian voice is properly represented in

¹²⁹ Collison, Bell, and Neel.

¹³⁰ Broome, *Aboriginal Australians, A History since 1788*.

¹³¹ Hill, *First People Then and Now: Introducing Indigenous Australians*.

Australia's cultural sector, as well as attaining recognition for the past injustices that have led to this underrepresentation. The return of cultural heritage can directly assist in correcting this imbalance. The return of cultural heritage is important for restoring a sense of identity and dignity and can positively impact social and economic issues on a broader scale. Increased employment opportunities are one of the positive impacts of cultural heritage repatriation which may in turn bring stability and traditional values back to these communities, encouraging younger people on the importance of their heritage, and renewing a sense of belonging and self-worth.

Conclusion:

Moving Forward

It is a trait of human evolution that we tend more often to be afraid of what may be lost through action rather than excited over what may be gained. Museums and institutions must begin to recognize all that can be gained through the process of cultural heritage repatriation rather than being afraid of change. With the chance to restore the cultural identity of Australia's First Nation people, developing lasting bonds of friendship, exchange, and respect, cultural heritage repatriation can repair deep wounds left by the legacy of colonialism. Shaped by ethical, legal, and social circumstances, cultural heritage repatriation and the decolonization of cultural institutions is an ever-developing issue that is becoming more prominent in cultural debates. Repatriation is an important step in atoning for injustices committed in the colonial era, and as a way to promote historical awareness and understanding, moving towards a more diverse and racially accepting society.

In a recent development, Trinity College Cambridge has announced the planned repatriation of the Gweagal Spears. The four spears have been in the Trinity College's collection since 1771¹³² after they, along with the Gweagal Shield were taken from the Aboriginal Dharawal Nation and the Gweagal people by the crew of the HMS Endeavor.¹³³ The spears were gifted to the college by the ship's sponsor, Lord Sandwich.¹³⁴

¹³² Thomas, *Artifacts of Encounter, Cook's Voyages, Colonial Collecting and Museum Histories*.

¹³³ Thomas.

¹³⁴ Thomas.

The Gweagal Spears and Shield both hold great cultural significance to their rightful owners, the Dharawal custodians, and Australia's First Nation people more generally. The four spears were among 40 taken from the Gweagal people during Lieutenant Cook's first encounter with the Aborigines at Botany Bay.¹³⁵ Of the 40 spears that were taken 253 years ago, only these four examples remain.¹³⁶ (See Figure 5.)

Dr. Shayne Williams, a respected Dharawal Elder, said that the spears have 'immeasurable value as powerful, tangible connections between our forbears and ourselves'. He called the spears 'our national treasure' and praised the Trinity Colleges' decision to permanently return the priceless artifacts to their rightful owners where they can be 'utilized for cultural education by the community in the future'.¹³⁷

On the 2nd of March 2023, Trinity College officially confirmed the decision to permanently repatriate the Gweagal Spears to their rightful owners. The Master of Trinity College, Dame Sally Davies, announced that seeking repatriation was 'the rightful decision' and that the college is committed to 'addressing the complex legacies of the British Empire'.¹³⁸ Utilizing sections 105 and 106 of the United Kingdom's 2011 Charity Act, Cambridge University colleges and museums can seek the approval of the UK Charity Commission to de-accession pieces from their collection in the case that such a decision would be in the interests of charity or response to a morally compelling claim.¹³⁹ A previous request for the repatriation of the spears was refused in 2017 due to concerns over the display facilities available

¹³⁵ Thomas.

¹³⁶ Sculthorpe, Nugent, and Morphy, *Ancestors, Artefacts, Empire: Indigenous Australia in British and Irish Museums*.

¹³⁷ Pearson, "'National Treasure' Comes Home: Gweagal Spears Taken by Cook to Return Permanently to Traditional Owners."

¹³⁸ Pearson.

¹³⁹ Herman, "Museums, Restitution and the New Charities Act (2022)."

and a lack of support from an Australian institution for the ongoing maintenance of the artifacts.¹⁴⁰ This is a theme long associated with repatriation cases, whereby an institution will be reluctant to return cultural objects unless facilities in the receiving nation or community are proven to be appropriate for the protection and preservation of the returned object.¹⁴¹ After a final decision from the Charity Commission and ongoing collaboration with the Dharawal community, the spears are due to be repatriated and displayed in a newly constructed Visitor Centre in the area of Kurnell, Sydney.¹⁴²

The decision to repatriate the Gweagal Spears is an extremely important development that sets a precedent for current and future repatriation requests. This decision increases pressure on other institutions to return cultural heritage artifacts to their traditional owners. Although the decision over the Gweagal Spears is a positive one, the Gweagal Shield will, in contrast, remain in the collection of the British Museum.

Australia's Indigenous people have been subjected to centuries of suffering at the hands of colonizers and the withholding of cultural heritage property is a continuous example of colonial oppression. The Gweagal Spears and Shield are examples of unique cultural heritage objects whose return to their rightful owners would assist in the education of younger generations and the development of cultural identity. The withholding of the Gweagal Shield, acquired by the British Museum long before there were legal or ethical concerns over cultural heritage theft, incites questions over ownership. After the decision to repatriate the Gweagal Spears, can the British

¹⁴⁰ Pearson, "National Treasure' Comes Home: Gweagal Spears Taken by Cook to Return Permanently to Traditional Owners."

¹⁴¹ Robertson, *Who Owns History?: Elgin's Loot and the Case for Returning Plundered Treasure*.

¹⁴² Pearson, "National Treasure' Comes Home: Gweagal Spears Taken by Cook to Return Permanently to Traditional Owners."

Museum truly justify the Gweagal Shield remaining in its collection, or should the ethical and moral injustices derived from its acquisition invalidate the museum's entitlement to it? No matter how the British Museum trustees may feel on the matter, there is currently no possibility for the Gweagal Shield to be legally deaccessioned. Until the outdated 1963 British Museum Act is reviewed, the Gweagal Shield and many other colonial acquired cultural heritage objects will remain in the museum's vast collection.

Study of the Gweagal Shield has also highlighted the many things that can be learnt about Indigenous history and their way of life through the analysis of cultural heritage objects. As Neil MacGregor reports in his audio series on world heritage objects, "The Indigenous Gweagal community traded and exchanged goods over great distances, as the shield itself can tell us. The red mangrove wood that it's made from grew around two hundred miles (320 km) north of Sydney, so to source this wood the people at Botany Bay must have been trading with other indigenous Australians from much further afield".¹⁴³ The traces of white kaolin clay on the shield represent the markings that distinguished one clan from another and the way in which the shield was formed belies the hand of a skilled maker with years of experience. "At the back of the shield is a handle, made out of flexible green mangrove wood, that has dried to a firm shape for a good grip. Whoever made this shield knew exactly which woods were fittest for purpose".¹⁴⁴ This example of knowledge gained from an object predating colonial conquest, shows how important these objects are in recovering a cultural history that has been largely lost. The information shows us that Australia's First Nation people were part of an enterprising and social civilization. A long

¹⁴³ MacGregor, "Australian Bark Shield."

¹⁴⁴ MacGregor.

established culture, and a people of trade and settlement. The land of Australia was not, therefore, Terra Nullius as Cook had declared all those years ago.

The experience of Australian Aboriginals is by no means isolated. There have been many Indigenous cultures around the world that have faced similar trials and loss of cultural identity and heritage. Laws such as America's Native American Graves Protection and Repatriation Act are examples of how binding law has been used to great effect in the preservation and protection of Indigenous cultural heritage. The Australian government should be looking at examples such as the NAGPRA legislation as a possible way to implement a national policy that supersedes varying State and Territory policies, resulting in a unified legal approach to the protection of Indigenous cultural heritage and repatriation.

When we look at the case of London's Natural History Museums' 2004 success in lobbying the British parliament for a change in the Human Tissue Act, allowing for the repatriation of Torres Strait Islander human remains, we glimpse what institutions can achieve with a mind set on meeting the challenges of the repatriation process. The collaboration and success of the National History Museums' repatriation efforts allowed unjustly acquired ancestral remains to be laid to rest, upholding the spiritual traditions of the Torres Strait Islanders. How could such a basic human right have been prevented for so many years by outdated legislation. The ability to bury one's deceased has been a right respected even in times of Western warfare particularly by the British, where ceasefires been utilized to give the opportunity for opposing armies to collect their dead. How can it have taken until 2004 for Indigenous communities to be afforded the same basic right to bury their ancestors.

Perhaps if more Australian institutions and museums could put pressure on the Australian parliament for changes in legislation as the Natural History Museum did in 2004, more effective legal and ethical practices on repatriation and cultural heritage preservation could be established. An increased Indigenous voice in Australia's cultural sector could further this push for legislative change while at the same time creating more employment opportunities for Indigenous Australians. Utilizing the knowledge of Australian Aboriginals within the cultural sector can improve Australian citizens awareness of this alternative view of the country's colonial past. An increased understanding of the colonial legacy could lead to a united push from all Australians for the preservation of Indigenous heritage.

The continued absence of Australia's First Nation people in the Australian Constitution sustains the 254 year legacy of Terra Nullius and withholds the recognition and respect Indigenous Australians deserve as the traditional custodians of the land. Impairing efforts towards reconciliation and perpetuating the marginalization of Indigenous communities, the lack of Constitutional representation harms not only the cultural identity of Indigenous Australians but also limits their ability to fight for the return of their cultural heritage property. Only by acknowledging and reconciling with the country's turbulent colonial past can all Australians move forward with a shared vision for the future.

Appendices:

Illustrations

Figure 1. Captain Cook's Landing at Botany Bay, 1770



Figure 2. Indigenous Warriors Carrying Gweagal Shield and Spears

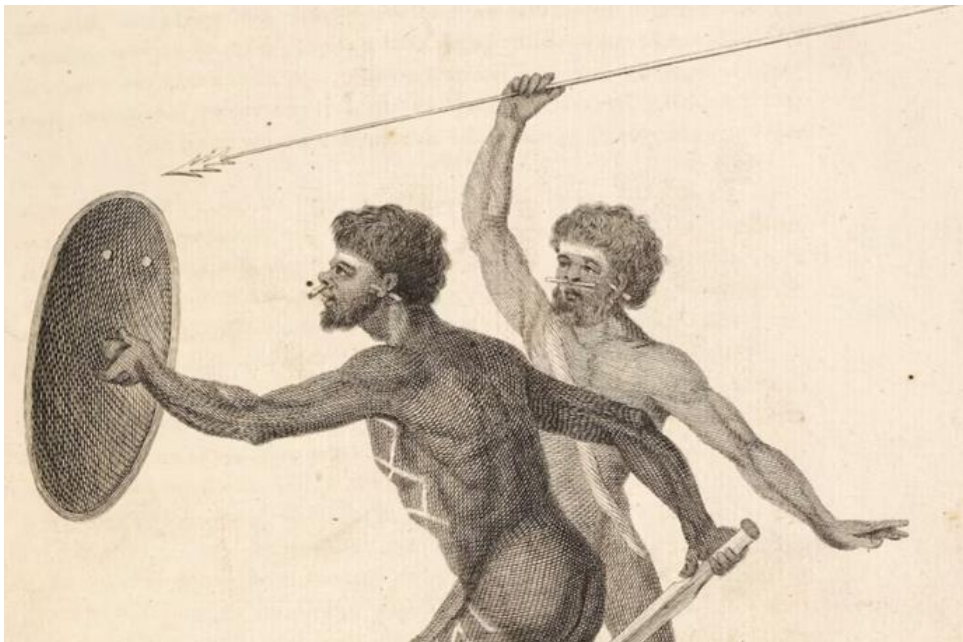


Figure 3. Gweagal Shield



Figure 4. Rodney Kelly viewing his ancestor's shield at the British Museum.



Figure 5. The last 4 of the 40 Gweagal fishing spears taken by Captain Cook in 1770.



Bibliography

- “Art, Antiquity and Law.” *Institute of Art and Law* 23, no. 4 (2018): 347–48.
- “Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS).” AIATSIS, 2021. <https://aiatsis.gov.au/explore/articles/indigenous-australians>.
- Summer, Alan. “Allan Summer on Repatriation.” *Aboriginal Way*, n.d.
- Banks, Sir Joseph. *The Endeavour Journals of Sir Joseph Banks*, 2010.
- Bird, G. “Out of Sight, Out of Mind: Rediscovering Spencer St. John’ Land of the Bungalow People.” In *Journal of the Anthropological Society of South Australia*, 116–27, 2017.
- Broome, Richard. *Aboriginal Australians, A History since 1788*. 5th ed. Allen & Unwin, 2019.
- Burt, Ben. *The Museum of Mankind: Man and Boy in the British Museum Ethnography Department*. Berghahn Books, 2019.
- Butler, Brian, and John Bond. *Sorry and Beyond, Healing the Stolen Generation*. Aboriginal Studies Press, 2021.
- Carter, Jennifer, Tristan Pearce, and Chris Jacobson. *Giving Back, Research and Reciprocity in Indigenous Settings*. Edited by R.D.K. Herman. Oregon State University Press, 2018.
- Chambers, Neil. *Joseph Banks and the British Museum*. Routledge, 2015.
- Clark, M. *Sources of Australian History*. Oxford University Press, 1957.
- Collison, Jisgang Nika, Lucy Bell, and Lou-ann Neel, eds. *Indigenous Repatriation Handbook*. Royal BC Museum, 2019.
- Cook, Sir James, and Phillips Edwards. *The Journals of Captain Cook*. Penguin, 2003.
- Cook, James. “Journey of the H.M.S. Endeavour 1768-1771.” Manuscript. Australia, 1771 1768. <https://nla.gov.au/nla.obj-228958440/view>.
- Connolly, Anthony J., ed. *Cultural Heritage Rights*. Ashgate Publishing Limited, 2015.
- Cottrell, Courtney. “American Indian Quarterly.” *University of Nebraska Press* 44 (2020).
- Cox, James L. *Restoring The Chain of Memory, T.G.H. Strehlow and the Repatriation of Australian Indigenous Knowledge*. Equinox Publishing LTD., 2018.
- Curtis, Neil. “Universal Museums, Museum Objects and Repatriation: The Tangled Stories of Things’, Museums Management and Curatorship.” *Museums, Management and Curatorship* 21 (2006): 117–27.
- Davis, Megan. *Everything You Need to Know about the Referendum to Recognise Indigenous Australians*. New South, 2015.
- Vine, Deloria, and Clifford M. Lytle. *The Nations Within: The Past and Future of American Indian Sovereignty*. University of Texas Press, 2018.
- Deloria, P, and C.M. Lytle. *The Nations Within: The Past and Future of American Indian Sovereignty*, 2018.
- Durbach, Andrea, and Lucas Lixinski, eds. *Heritage, Culture and Rights; Challenging Legal Discourses*. Hart Publishing, 2017.
- Egan, Richard. *Power and Dysfunction, The New South Wales Board for Protection of Aborigines 1883-1940*. Australian National University Press, n.d.
- England. *British Museum Act 1963*. Laws and Statutes. VIII. Chronological Series. Elizabeth II. London, 1963.
- Feilden, Eloise. “Manchester Museum Makes Moves Towards Repatriation and Diversity.” *Museums Association, Museum Journal*, January 4, 2021.

- <https://www.museumsassociation.org/museums-journal/news/2021/04/manchester-museum-makes-moves-towards-repatriation-and-diversity/>.
- Gahton, Maia Wellington, and Eva-Maria Troelenberg, eds. *Collecting and Empires, An Historical and Global Perspective*. Vol. 4. Collectors and Dealers. Harvey Miller Publishers, 2019.
- Harwood, Tristen. “The Role of Australian Museums in Reconciliation.” *The New York Time Style Magazine: Australia*, August 15, 2021.
<https://taustralia.com.au/the-role-of-australian-museums-in-reconciliation/#>.
- Harvey, Blane. *Indigenous Knowledges, Sustainable Development and the Environment: Implications for Research, Education and Capacity Building*. McGill University, 2009.
- Henderson, J, and M Stacey. “Indigenous Knowledge and Its Role in Sustainable Development.” *World Indigenous Nations Higher Education Consortium Journal* 1, no. 1 (n.d.): 5–17.
- Hauser-Schäublin, Brigitta, and Lyndel V. Prott. *Cultural Property and Contested Ownership: The Trafficking of Artefacts and the Quest for Restitution*. Routledge, 2016.
- Herman, Alexander. “Museums, Restitution and the New Charities Act (2022).” *Art, Antiquity & Law Journal* 27, no. 3 (August 2022): 193–211.
———. *Restitution, The Return of Cultural Artefacts*. Lund Humphries, n.d.
- Hicks, Dan. *The Brutish Museum*. Pluto Pages, 2020.
- Hill, Marji. *First People Then and Now: Introducing Indigenous Australians*. Prison Tree Press, 2017.
- “Indian Arts and Craft Act of 1990.” US Government Publishing Office, 1990.
<https://www.govinfo.gov/content/pkg/STATUTE-104/pdf/STATUTE-104-Pg4662.pdf>.
- “Indigenous Art Code (2010).” Indigenous Art Code, 2010.
- “Indigenous Repatriation, Domestic Repatriation.” Australian Government, n.d.
Accessed April 20, 2023.
- Johnson, E. “The Human Tissue Act 1982.” *Journal of Clinical Pathology* 62, no. 7 (n.d.): 539–41.
- Johnston, Iain G. “Curator: The Museum Journal.” *The Museum Journal* 64, no. 4 (2021).
- Johnston, Iain G, Jason Lyons, Christopher Simpson, and Shaun Angeles. “Return of Cultural Heritage Project: Repatriation of Aranda Cultural Heritage Material from Illinois State Museum and Manchester Museum.” AIATSIS, n.d.
- Kenyon, Andrew. *Art Antiquity and Law*. Vol. 1. Institute of Art and Law, n.d.
- King, Thomas. *The Truth about Stories: A Native Narrative*. University of Minnesota Press, n.d.
- Kohn, T. “Manchester Museum to Repatriate Aboriginal Remains.” *The Art Newspaper*, 2016, 278 edition.
- Langfield, Michele, William Logan, and Mairead Nic Craith, eds. *Cultural Diversity, Heritage and Human Rights*. Routledge, 2010.
- Lavine, Steven D., and Ivan Karp, eds. *Exhibiting Cultures: The Poetics and Politics of Museum Display*. Washington: Smithsonian Institution Press, 2004.
- Macdonald, Sharon. *Museum Matters: Heritage and the Public Purpose of Museums*. Wiley-Blackwell, 2018.
- MacGregor, Neil. “Australian Bark Shield.” *A History of the World in 100 Objects*, n.d. <https://www.bbc.co.uk/programmes/b00v3x6v>.

- Mairesse, F. *The Universal Museum: A Comparative Study of National Museums 1750-2010*. Peter Lang, n.d.
- “Merriam-Webster Dictionary.” Merriam-Webster Incorporated, 2023.
<https://www.merriam-webster.com/dictionary/repatriation>.
- O’Donnell, Nicholas M. *A Tragic Fate, Law and Ethics in the Battle Over Nazi-Looted Art*. American Bar Association, 2017.
- “Oxford English Dictionary.” Oxford University Press, n.d.
<https://www.oed.com/view/Entry/165158>.
- Pearson, Elizabeth. “‘National Treasure’ Comes Home: Gweagal Spears Taken by Cook to Return Permanently to Traditional Owners.” *Institute of Art and Law* (blog), March 19, 2023.
- “Press Statement of the Meeting of the Benin Dialogue Group (2021).” Museum am Rothenbaum Kulturen und Kunste der Welt, November 2021.
- Rademaker, Laura, and Tim Rowse, eds. *Indigenous Self-Determination Australia*. Australian National University Press, 2020.
- Robert, Hannah. *Paved with Good Intentions: Terra Nullius, Aboriginal Land and Settler-Colonial Law*. Ultimo, n.d.
- Robertson, Geoffrey. *Who Owns History? Elgin’s Loot and the Case for Returning Plundered Treasure*. Random House Australia, 2019.
- Sculthorpe, Gaye, and Maria Nugent. “A Shield Loaded with History: Encounters, Objects and Exhibitions,” *Australian Historical Studies*, 49, no. 1 (2018): 28–43.
- Sculthorpe, Gaye, Maria Nugent, and Howard Morphy, eds. *Ancestors, Artefacts, Empire: Indigenous Australia in British and Irish Museums*. British Museum Press, 2021.
- Vincent Smith, Kevin. “1770: The Endeavour Lists Forgotten Words from Botany Bay.” *Australian Quarterly* 75, No. 1 (February 2003): 32–37, 40.
- Sivertsen, Nina. *Decolonizing Futures, Collaborations for New Indigenous Horizons*. Edited by Hiroshi Maruyama. Uppsala Universität, 2022.
- Schuhmacher, Jacques. Interview with Jacques Schuhmacher of the Victoria and Albert Museum, London, March 29, 2023.
- Smith, C. “The Repatriation of Human Remains: A Contemporary Anthropological Perspective” 27, no. 1 (2021): 186–203.
- Smith, Laurajane. *Archaeological Theory and the Politics of Cultural Heritage*. Routledge, 2004.
- Smith, L.T. *Decolonizing Methodologies: Research and Indigenous Peoples*, 2012. *The Guardian*. “Pitt Rivers Museum Returns Aboriginal Artefacts to Australia.” March 14, 2018.
- “The Indian Arts and Craft Act of 1990.” U.S. Department of the Interior, n.d.
<https://www.doi.gov/iacb/act>.
- Thomas, Nicholas. *Artifacts of Encounter, Cook’s Voyages, Colonial Collecting and Museum Histories*. Edited by Nicholas Thomas, Julie Adams, Billie Lythberg, Maia Nuku, and Amiria Salmond. Otago University Press, 2016.
- Trope, Jack F. *Accomplishing NAGPRA, Perspectives on the Intent, Impact, and Future of the Native American Graves Protection and Repatriation Act*. Edited by Sangita Chari and Jaime M.N. Lavallee. Oregon State University Press, 2013.
- Turnbull, Paul. *The Long Way Home*. Museums and Collections. Berghahn Books, 2010.

- Tythacott, Louise, and Kostas Arvanitis. *Museums and Restitution: New Practices, New Approaches*. Routledge, 2016.
- Ward, Esme. "The Tide of Change: Open Letter From Our Director Esme Ward," n.d. <https://www.museum.manchester.ac.uk/about/thetideofchange/>.
- Watson, Judy. *Skuldugery*, 2020.
- UNESCO. "United Nations Educational, Scientific and Cultural Organization (UNESCO). Convention for the Safeguarding of the Intangible Cultural Heritage." UNESCO, 2003.

Glossary of Terms

Cultural Heritage:

The definition of cultural heritage can vary depending on the context however, for this paper, cultural heritage refers to the tangible and intangible artifacts, sites, practices, and traditions that have value and significance to a particular Indigenous community. Cultural heritage can include a range of objects and phenomena, such as human remains, artworks, musical traditions, language, folklore, and cultural practices.¹⁴⁵

Repatriation:

Repatriation is the act of returning a person, or object to their country of origin or community. Repatriation can also refer to the return of artifacts or cultural objects that have been taken from their rightful owners, either through theft or looting. In this context, repatriation means restoring cultural heritage to its rightful community or nation.¹⁴⁶

Restitution:

Restitution is the act of restoring or returning something that has been taken away or forcibly removed. Restitution refers to the act of compensating someone who has been wronged or deprived of their property. Restitution is often used as a means of restoring justice and addressing wrongdoing, especially in cases where criminal or civil liability has been established.¹⁴⁷ In the case of this paper, Restitution specifically refers to the return of stolen objects to a singular person or small family group.

First Nation People:

The term "First Nation" recognizes the historical and cultural significance of Indigenous groups, who were the first to inhabit a land mass, and acknowledges their unique status as sovereign nations with rights and responsibilities.¹⁴⁸ This paper refers both to the First Nation people of Australia and the First Nation people of Canada and the United States.

Indigenous Australians:

Indigenous Australians refers to the original inhabitants of Australia and their descendants.¹⁴⁹ This paper utilizes the term to include both the Australian Aboriginals and Torres Strait Islander people.

Aboriginals:

Aboriginal refers to the Indigenous peoples of Australia who are the original inhabitants of the continent and their descendants.¹⁵⁰

¹⁴⁵ UNESCO, "United Nations Educational, Scientific and Cultural Organization (UNESCO). Convention for the Safeguarding of the Intangible Cultural Heritage."

¹⁴⁶ "Merriam-Webster Dictionary."

¹⁴⁷ "Oxford English Dictionary."

¹⁴⁸ King, *The Truth about Stories: A Native Narrative*.

¹⁴⁹ "Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS)."

¹⁵⁰ "Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS)."

Torres Strait Islanders:

Torres Strait Islander refers to the Indigenous peoples of the Torres Strait Islands originally located between Australia and Papua New Guinea. Torres Strait Islanders have their own distinct cultures, languages, and traditions separate to those of the Australian Aboriginals and are a seafaring folk.¹⁵¹

Elders:

In an Indigenous sense, elders are respected members of a community or group who have traditional knowledge, and memory of traditional cultural practices, and language. They play an important role in guiding their community and passing on their cultural heritage to future generations. Elders are seen as keepers of tradition, their wisdom and guidance is valued and sought after within the community.¹⁵²

Country:

In the Indigenous sense, "Country" refers to more than just a physical place or land, but to a complex system that includes people, animals, plants, and other living beings, as well as spiritual entities and ancestors. Country embodies a sense of belonging, identity, and spirituality. The term is central to Indigenous cultures.¹⁵³

Native American Indians:

Native American Indians refers to the Indigenous peoples of the Americas before the arrival of European colonizers.¹⁵⁴

Universal Museum:

A Universal Museum is a museum that aims to collect, preserve, and display objects and artifacts from world cultures and civilizations. The context of the Universal Museum is founded in the belief that cultural heritage belongs to all, and that access to cultural objects should be universal.¹⁵⁵

¹⁵¹ "Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS)."

¹⁵² Henderson and Stacey, "Indigenous Knowledge and Its Role in Sustainable Development."

¹⁵³ Smith, *Decolonizing Methodologies: Research and Indigenous Peoples*.

¹⁵⁴ Deloria and Lytle, *The Nations Within: The Past and Future of American Indian Sovereignty*.

¹⁵⁵ Mairesse, *The Universal Museum: A Comparative Study of National Museums 1750-2010*.