The Return of the Ahayu:da

Lessons for Repatriation from Zuni Pueblo and the Smithsonian Institution

by William L. Merrill, Edmund J. Ladd, and T. J. Ferguson

In 1987, the Smithsonian Institution returned two Ahayu:da (twin gods or war gods) to the Zuni of western New Mexico. Negotiations leading to this repatriation extended over nine years. During this period, a number of issues regarding the proper curation of Zuni objects at the Smithsonian were raised, many of which were resolved while others were tabled to be addressed in the future. A detailed history of these negotiations is presented and then analyzed from the distinct perspectives of each of the authors, who played central roles in the negotiations as a Smithsonian curator, a Zuni anthropologist, and a consulting anthropologist hired by the Pueblo of Zuni. This case study offers insights into the complexities of the repatriation process and valuable lessons for museums and tribes as they begin discussing the return of cultural property legislated by the Native American Graves Protection and Repatriation Act of 1990.


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In a gentle rain at dusk, the a:pilha:shiwí (bow priests) installed two wooden images of the twin gods, Ahayu:da, in a shrine on a mesa overlooking Zuni Pueblo. As they sprinkled sacred prayer meal over the Ahayu:da, the priests instructed them to protect the A:shiwi (Zuni people) from harm and use their powers to bring fertility and good things to all the peoples of the world. The year was 1987, and the ceremony was the repetition of an ancient ritual conducted each December, at the winter solstice. The month was March, however, and unlike the new Ahayu:da created and placed in shrines every year these two were a century old. They had been removed in the 1880s from the Zuni Indian Reservation in western New Mexico by Frank Hamilton Cushing and James Stevenson and eventually placed in the collections of the Smithsonian Institution. In 1978 the Zuni Tribe began an effort to recover these and other Ahayu:da, and for nine years they engaged in negotiations with the Smithsonian Institution to attain that goal. When the bow priests placed the Ahayu:da in a shrine on the Zuni Indian Reservation, these gods were finally restored to the purpose for which they were created in Zuni culture and society. The repatriated Ahay-
u:da now serve as sentinels for the Zuni people and as heralds of a new era in the relations between American Indians and museums.

During the past 30 years, the relationship between American Indians and museums has undergone a radical reformulation. From being simply the providers of objects for museum collections and the subjects of their exhibits, American Indian people have begun to play an increasingly prominent role in planning museum exhibits and public programs, and a number of tribes have established their own museums [Brascoupe 1980; Clifford 1988:189–251; 1991]. A major expression of this process came in 1989, when the United States Congress established the National Museum of the American Indian as part of the Smithsonian Institution. The last available space on the Mall that stretches between the U.S. Capitol and the Lincoln Memorial was designated as the site of the new museum, and a prominent Cheyenne attorney, W. Richard West, Jr., was selected as its first director.

The expanding participation of American Indians in formal museum activities has been paralleled by a dramatic increase in the number of requests by American Indians for the return of objects from museum collections. Reflecting the increased awareness of American Indian people of the content of museum collections across the country, these requests have generated considerable discussion about the legal and moral justification for museum collections and the basis upon which native peoples can legitimately lay claim to them. This discussion has taken place not only in the United States but also around the world—in Australia, New Zealand, and Canada, for example—where native groups have pressured national governments and museums to return collections to them [Frisbie 1987:341; Hubert 1989; Mahuika 1991; Richardson 1989; Ubelaker and Grant 1989:279–80].

In the United States, an early perspective on these issues found legislative form in the American Indian Religious Freedom Act of 1978 [Public Law 95-341]. The act established as a “policy” of the U.S. government the protection of the religious freedom of American Indians, Eskimos [Inuits], Aleuts, and Native Hawaiians, “including but not limited to access to sites, use and possession of sacred objects, and the freedom to worship through ceremonies and traditional rites.” Indian tribes have often cited this act as the legal basis for their requests for the repatriation of museum collections. It has proven to be a very ineffective tool, however, because it lacks enforcement power and has been interpreted in several court decisions to provide Indians no more protection than that afforded all American citizens by the First Amendment to the U.S. Constitution [Ubelaker and Grant 1989:266–67; Ferguson 1983; Childs 1980; Echo-Hawk 1986; O’Brien 1991].

A movement to create legislation that would mandate the return of museum collections to American Indian tribes was initiated in the late 1980s [Echo-Hawk 1986, Trope and Echo-Hawk 1992]. The initial focus of this legislation was the large collections of American Indian human remains and burial goods housed in museums across the country, most recovered by archaeologists and physical anthropologists from prehistoric archaeological sites. The National Congress of American Indians, the Native American Rights Fund, and other national Indian organizations mounted a very effective campaign to secure for tribes the right to have their ancestral remains reburied if they chose to do so. This campaign elicited strong support in several state legislatures as well as in Congress [Ubelaker and Grant 1989]. Archaeologists and physical anthropologists lamented the potential loss of the material but organized no formal effort to stop the legislation. Public reaction was largely in support of the American Indian position.

In addition to reburial legislation enacted by several states [Yalung and Wala 1992], Congress enacted two laws in 1989 and 1990 requiring repatriation. The National Museum of the American Indian Act [Public Law 101-185] of November 1989 requires the Smithsonian to inventory the human remains and funerary objects in its collections and to initiate repatriation procedures upon the request of any individual or tribe “culturally affiliated” with the materials. The Native American Graves Protection and Repatriation Act [Public Law 101-601, hereafter NAGPRA], of November 16, 1990, requires federal agencies and museums other than the Smithsonian that receive federal funds to inventory not only human remains and grave goods but also “sacred objects” and “communally owned cultural patrimony” as defined by the law and to provide this information to Indian tribes and Native Hawaiian organizations. Repatriation of these materials to lineal descendants, tribes that demonstrate ownership, or tribes with a cultural affiliation is mandated if those parties request it.

The principal justification for this legislation was the conviction that, unless forced to do so, museums would not be responsive to American Indian requests for the return of such objects to them. Nonetheless, prior to the passage of this legislation, a number of American Indian tribes, including the Iroquois, Hopi, San Felipe, Zia, Cochiti, Blackfoot, Navajo, and Zuni, had secured the return of objects from museum collections [Fenton 1989; Frisbie 1987:337–54]. Of these efforts, the most comprehensive has been the Pueblo of Zuni’s program to regain possession of its Ahayu:da.

Known popularly as “war gods,” the Ahayu:da are twin gods who serve primarily as protectors of the Zuni people. They also have an influence over the weather and prosperity in general and function as patrons of gaming and sports. They were created in time immemorial by the Sun Father, the ultimate giver of life, to lead the Zunis and help them overcome obstacles in their migration to the Middle Place at Zuni Pueblo. Each year in ceremonies at the winter solstice the leaders of the Deer clan create an image of the elder brother, Uuyuyewi, in sculptural form, while the leaders of the Bear clan create an image of the younger brother, Ma’a:sewi. These images, carved from cylindrical pieces of cottonwood or
pine about 50 to 75 cm long, feature a stylized face, torso, and hands. Bundles of prayer sticks and other offerings are attached around its base (fig. 1). Ahayu:da are also created in special ceremonies conducted when new bow priests are initiated.

The images of Ahayu:da are entrusted to the bow priests (also called war chiefs), who place them at one of a number of shrines on the mesas surrounding Zuni Pueblo (Cushing 1896:417–25; Parsons 1918, 1924; Stevenson 1904:34–50, 576–608). The new Ahayu:da replaces an existing one that is now placed on a pile of “retired” images to remain an integral part of the shrine, gradually disintegrating and returning to the earth (fig. 2). The bow priests instruct the Ahayu:da to protect the Zuni world from its enemies and to use their potentially malevolent powers for beneficial purposes. Once the Ahayu:da are installed at a shrine, no one has the authority to remove them. Zuni religious leaders believe that to do so unleashes their great powers, resulting in wanton destruction and mayhem (Hustito 1991; Ferguson and Eriacho 1990:6–7). The recovery of Ahayu:da wrongfully removed from the Zuni Indian Reservation is thus of grave concern to Zuni religious leaders.

To restore harmony to the world, Zuni religious leaders initiated a project to recover all stolen Ahayu:da that could be found and reinstall them at shrines on the reservation. By the end of 1992, the Pueblo of Zuni had secured the return of 69 Ahayu:da: 54 from museums, 10 from private collections, 3 from private art galleries, and 2 from public auctions (table 1). These 69 examples represent all the Ahayu:da in the United States then known by the tribe to have been held outside the Pueblo of Zuni. A few Ahayu:da remain in collections outside the United States.

The Zunis’ pursuit of the return of the Ahayu:da began in 1978, when Zuni representatives contacted first the Denver Art Museum and then the Smithsonian Institution about the Ahayu:da in their collections. While the Denver Art Museum returned the three Ahayu:da in its collection to the Pueblo of Zuni within two years, it took the Smithsonian nine years to repatriate the two Ahayu:da in its collection. Despite their length, the negotiations between the Smithsonian Institution and the Pueblo of Zuni were characterized throughout by careful deliberation, cooperation, and a concerted effort by each party to understand the perspectives of the other. Both the Pueblo of Zuni and the Smithsonian Institution were pleased with the negotiations and with their outcome.

Here we describe what took place during the nine years of these negotiations. This history is important for the insights it provides into the complexities of the repatriation process. Without knowledge of what transpired and why, the length of the negotiations may be misinterpreted as either obstruction by the museum or a lack of dedication on the part of the tribe. Neither of these is the case. The Smithsonian Institution and the Zuni Tribe learned many valuable lessons that may be of use to others who will be involved in the great number of repatriation requests that are anticipated in the next decade. We are convinced that the negotiations between the Smithsonian and the Zuni Tribe provide a positive model that, with some modifications, should be emulated by other tribes and museums.

Our knowledge of the negotiations is based on the roles we played as some of the principal participants in the process. Ferguson, an archaeologist, was director of the Zuni Archaeology Program from 1977 to 1981 and acting director in 1984–85 while employed by the Zuni Tribe as an expert witness on tribal land claims. In these capacities, he served as a principal liaison between the Pueblo of Zuni and the Smithsonian Institution during the initial negotiation period and later as a consultant to the Pueblo of Zuni on repatriation and related matters. Ladd, an anthropologist and member of the Zuni Tribe, worked with the religious and political leaders of the Pueblo of Zuni in formulating the requests and offi-
cial statements submitted to the Smithsonian Institution. Merrill, an ethnologist and, since 1980, curator of the Smithsonian Institution collections of which the Ahayu:da were a part, was responsible for evaluating the Zuni request, preparing the Smithsonian Institution’s responses, and documenting the collections in question.

We begin our presentation with a history of the negotiations and follow this with our individual perspectives on the events. In the process, we analyze why the negotiations were successful, note the mistakes that were made, and offer our views on how the process could have been improved. We conclude by evaluating the applicability of this case to the repatriation of Native American religious objects in general.

Historical Overview

Prelude

The relationship between the Pueblo of Zuni and the Smithsonian Institution goes back more than 100 years. In 1846, the same year that the United States asserted political control over what later became the territory of New Mexico, Congress accepted a bequest from the

2. The majority of the information upon which this historical overview is based has been drawn from unpublished letters, memoranda, and reports in the files of William L. Merrill and T. J. Ferguson. These materials are listed in chronological order at the end of the article, but only published materials are cited in the text.
TABLE 1
Ahayu:da Repatriated to the Pueblo of Zuni

<table>
<thead>
<tr>
<th>Year</th>
<th>Institution or Collection</th>
<th>Number</th>
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</thead>
<tbody>
<tr>
<td>1978</td>
<td>Sotheby Parke-Bernet, Inc.</td>
<td>1</td>
</tr>
<tr>
<td>1980</td>
<td>Denver Art Museum</td>
<td>3</td>
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<tr>
<td>1980</td>
<td>Wheelwright Museum</td>
<td>2</td>
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<tr>
<td>1980</td>
<td>Museum of New Mexico</td>
<td>4</td>
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<tr>
<td>1981</td>
<td>Millicent Rogers Museum</td>
<td>1</td>
</tr>
<tr>
<td>1981</td>
<td>University of Iowa Museum of Art</td>
<td>1</td>
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<tr>
<td>1982</td>
<td>Research Collection, Tucson, Arizona</td>
<td>1</td>
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<tr>
<td>1985</td>
<td>Tulsa Zoological Society</td>
<td>1</td>
</tr>
<tr>
<td>1987</td>
<td>Smithsonian Institution</td>
<td>2</td>
</tr>
<tr>
<td>1987</td>
<td>Morningstar Gallery, Santa Fe</td>
<td>2</td>
</tr>
<tr>
<td>1988</td>
<td>Sotheby Parke-Bernet, Inc., Warhol Collection auction</td>
<td>1</td>
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<tr>
<td>1988</td>
<td>Beloit College, Logan Museum of Anthropology</td>
<td>3</td>
</tr>
<tr>
<td>1988</td>
<td>Milwaukee Public Museum</td>
<td>2</td>
</tr>
<tr>
<td>1989</td>
<td>Southwest Museum</td>
<td>2</td>
</tr>
<tr>
<td>1990</td>
<td>Redrock State Park, Gallup</td>
<td>2</td>
</tr>
<tr>
<td>1990</td>
<td>Winnipeg Art Gallery, Winnipeg, Canada</td>
<td>1</td>
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<tr>
<td>1990</td>
<td>American Museum of Natural History</td>
<td>1</td>
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<tr>
<td>1990</td>
<td>Museum of the American Indian, Hege Foundation</td>
<td>2</td>
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<tr>
<td>1990</td>
<td>Hudson Museum, University of Maine</td>
<td>1</td>
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<tr>
<td>1990</td>
<td>Alvin Abrams/First Philadelphia Corporation collection</td>
<td>1</td>
</tr>
<tr>
<td>1990</td>
<td>Lowie Museum of Anthropology, University of California, Berkeley</td>
<td>1</td>
</tr>
<tr>
<td>1990</td>
<td>Private collection, San Francisco</td>
<td>1</td>
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<tr>
<td>1990</td>
<td>Taylor Museum, Colorado Springs Fine Arts Center</td>
<td>1</td>
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<tr>
<td>1990</td>
<td>Arizona State Museum, University of Arizona</td>
<td>1</td>
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<tr>
<td>1990</td>
<td>University Museum, University of Pennsylvania</td>
<td>1</td>
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<tr>
<td>1990</td>
<td>Pauline Kivea, private collection, Santa Fe</td>
<td>1</td>
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<tr>
<td>1990</td>
<td>Courtenay Sale Ross and Steven J. Ross collection, New York</td>
<td>1</td>
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<tr>
<td>1991</td>
<td>Ramona Morris collection, Woodside, California</td>
<td>1</td>
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<tr>
<td>1991</td>
<td>Rick Dillingham collection, Santa Fe</td>
<td>1</td>
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<tr>
<td>1991</td>
<td>Nelson-Atkins Museum of Art, Kansas City, Missouri</td>
<td>1</td>
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<tr>
<td>1991</td>
<td>Brooklyn Museum</td>
<td>3</td>
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<tr>
<td>1991</td>
<td>Denver Museum of Natural History</td>
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<tr>
<td>1991</td>
<td>San Diego Museum of Man</td>
<td>1</td>
</tr>
<tr>
<td>1991</td>
<td>Lois Flury collection, Seattle</td>
<td>2</td>
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<tr>
<td>1991</td>
<td>North Carolina Museum of Art, Raleigh</td>
<td>1</td>
</tr>
<tr>
<td>1992</td>
<td>Anonymous private collector (sent to tribal building)</td>
<td>1</td>
</tr>
<tr>
<td>1992</td>
<td>Chicago Art Institute</td>
<td>1</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>69</td>
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</tbody>
</table>

English scientist James Smithson and chartered the Smithsonian Institution as a trust organization dedicated to "the increase and diffusion of knowledge among men." A little over three decades later, in 1879, the first Smithsonian Institution expedition arrived at Zuni, led by James Stevenson and including among its members Stevenson's wife, Matilda Coxe Stevenson, and the novice anthropologist Frank Hamilton Cushing (Judd 1879:56–63; Hinsley 1981:190–207; Parezo 1985).

The main purpose of the expedition was to collect ethnographic materials, primarily ceramics, that could be used to interpret the relationship between the prehistoric and historic pueblo populations of the American Southwest [Stevenson 1883; Hardin 1989:142–50]. When the expedition returned east, Cushing remained at Zuni, where he conducted research for four years. After the death of her husband in 1888, Matilda Stevenson continued research at Zuni on her own. Because of personal differences, Matilda Stevenson and Cushing worked independently. They produced the first modern ethnographic descriptions of the Zuni and amassed numerous collections of Zuni objects for the Smithsonian Institution [Cushing 1883, 1890, 1901, 1920, Stevenson 1887, 1904, 1915]. Combined with objects acquired from other collectors, the Smithsonian's anthropological collections came to include over 10,000 Zuni items. These are currently housed in the National Museum of Natural History.

Since their arrival at the Smithsonian Institution, most Zuni objects have remained in storage. The ceramics in the Zuni collection have been the subject of important anthropological research [Bunzel 1929; Hardin 1983, 1989], and over the years some material has been incorporated into public exhibitions. The Smithsonian prepared exhibits on the Zunis for several world fairs and included exhibits on Zuni themes in permanent installations at the Smithsonian museums in Washington. Around the turn of the century one of these exhibits
portrayed an altar of the Ahayu:da as it appears during the ceremony in which the Ahayu:da are created (fig. 3); the same basic arrangement is used when the Ahayu:da are installed at outdoor shrines [Stevenson 1904: pl. 21; Culin 1907: pl. 2]. In 1935, when the last major renovation of the Smithsonian Institution’s permanent exhibits on American Indians was completed, three large exhibit cases were devoted to the Zuni. One, focused on Zuni pottery production, showed a Zuni woman in the process of decorating a clay jar. Another used buildings at Zuni as they appeared in the late 19th century to explain the distinctive Pueblo architectural style. The third, labeled “Ancestral Gods Come to Life as Masked Dancers in Zuni Ceremonies,” presented a brief discussion of Zuni religion, illustrated by the display of five kokko [kachina] masks and other ceremonial objects (fig. 4).

This display of Zuni masks became the subject of the first discussion between representatives of the Pueblo of Zuni and the Smithsonian Institution on how the museum should use the Zuni objects in its collections. Although Zuni masks had been part of the museum’s public exhibits from at least the 1920s and probably even earlier, the Zunis had apparently not been aware of them and had not expressed any concern until 1970. During a visit to Washington in late October of that year, Robert E. Lewis, governor of the Pueblo of Zuni, requested a meeting with Smithsonian Institution anthropologists to discuss the exhibit of Zuni masks. Claude Wood, a member of the staff of Senator Clinton P. Anderson of New Mexico, a Smithsonian Institution regent, conveyed the request to the Smithsonian Institution’s Under Secretary James Bradley, who in turn asked Sidney R. Galler, the Smithsonian Institution’s assistant secretary for science, to arrange the meeting. On October 29, Governor Lewis and Pesancio Lasiloo, an employee of the Pueblo of Zuni, met with William C. Sturtevant, one of two curators of the North American ethnology collections, and Samuel L. Stanley, a specialist on contemporary American Indian affairs and program coordinator of the Smithsonian Institution’s Center for the Study of Man.

By all accounts, the meeting was quite cordial, characterized by an open exchange of perspectives. Governor Lewis indicated that Zuni visitors to Washington had informed Zuni religious leaders that the masks were on exhibit and that the Zuni people were disturbed by this. The masks, he explained, were sacred and associated with the Shalako, an important blessing ceremony held every winter. He pointed out that the masks should never be seen by uninitiated people, who could be endangered by viewing them. Zuni’s religious leaders had asked him to go to Washington to attempt to retrieve the masks. In exchange for the masks, Lewis offered a “wagonload” of inoffensive objects, such as jewelry and everyday tools, or items recovered from the archaeological excavations scheduled to begin in 1972 at the prehistoric Zuni settlement of Hawikku and other nearby ruins.3

Sturtevant noted that at least some of the masks had never been used and had been made by Zuni people specifically for Matilda Coxe Stevenson to take back to Washington [Stevenson 1898; 1904:243 n. a]. Lewis replied that these considerations were irrelevant from the Zuni perspective, citing a case from the 1950s involving a group of Boy Scouts in La Junta, Colorado. The Scouts called themselves Koshare [a Pueblo term for a sacred clown] and reproduced Shalako masks for use in their “mock” Indian dances. When the Zuni religious leaders learned of their activities, they lodged a complaint with the Commissioner of Indian Affairs and threatened to close their sacred dances to all non-Indians. After a meeting and other communications with the Scouts, the Zunis persuaded them to turn over the masks to Zuni religious leaders [Gendron 1958].

Following their meeting, Lewis, Lasiloo, Sturtevant, and Stanley viewed the Zuni masks on display in the exhibit halls of the National Museum of Natural History, and Sturtevant assured the Zuni leaders that something would be done to correct the situation. Later that day, Sturtevant prepared a memorandum to George Phebus, supervisor of the Department of Anthropology’s collections management division, requesting that he close the Zuni mask exhibit and return the masks to

3. These excavations never took place.
storage. Before acting on Sturtevant’s request, Phebus met with Clifford Evans, then chairman of the department. Evans thought that Sturtevant’s request would probably be implemented in the future but only after the museum’s exhibits committee had approved it. He instructed Phebus to cover the exhibit with a curtain but not remove the masks and then informed the director of the museum, the botanist Richard S. Cowan, of the developments.

Cowan immediately and emphatically rejected Sturtevant’s request, ordering that the exhibit not be closed. He was primarily concerned that acceding to the Zunis’ wishes to remove the masks from public display would set the dangerous precedent of allowing groups from outside the museum to intervene in the museum’s exhibits program. Cowan did not want to take any action that might ultimately lead to the Smithsonian Institution’s having to acquiesce to the demands of creationists and other fundamentalist groups who wanted exhibits depicting biological evolution withdrawn from the museum. At the same time, he was concerned that Sturtevant had attempted to close an exhibit on his own initiative when control of the exhibits was the prerogative of the director, not the individual curator. Cowan said that he would approve revising but not eliminating the exhibit if a review indicated that a more respectful presentation was called for. Galler, Cowan’s immediate supervisor, supported his position. On November 9, 1970, Galler instructed Cowan, Evans, and Sturtevant to prepare a letter to Lewis, explaining that the Smithsonian Institution’s role as a public educational institution precluded its closing any of its exhibits.

This letter was never written, in large part because Sturtevant was adamant that the exhibit be closed. He argued that refusing to do so would “have serious consequences deleterious to our responsibilities to the nation and to posterity to preserve our collections, and damaging to our relations with Indian communities.” To move beyond this impasse, John C. Ewers—the other curator of North American ethnology in the Department of Anthropology and the person who had created the mask exhibit some 15 years earlier—suggested forming an ad hoc committee to review the issues and make a recommendation. With the blessing of Cowan and Evans, this committee met on December 4, 1970, with Ewers as its chair and Sturtevant and two archaeologists from the department, Waldo Wedel and William Fitzhugh, as its members.

In the meeting, Sturtevant’s perspective carried the day. On December 7, the committee submitted a state-
ment to Cowan recommending that the Zuni mask exhibit be closed immediately. They maintained that this course of action was necessary both to show respect for Zuni beliefs and to forestall future requests for the return of objects from the collections. They rejected Lewis’s request for the return of the masks, indicating that the Smithsonian Institution’s possession of them could be justified on legal, ethical, and scientific grounds. They also argued that this particular case should not serve as a precedent but rather that any similar request received by the museum in the future should be evaluated on its own merits. They suggested that an exhibit on the Zunis be prepared, with Zuni participation if possible, to replace the masks exhibit, and they submitted a draft response to Lewis that they recommended be signed by the Secretary, the highest official of the Smithsonian Institution, to indicate that his request had been taken very seriously.

After expressing his gratitude to the committee, Cowan disbanded it. A month later, he issued a new policy to the effect that all future requests for the return of objects from the collections or for modifications to the exhibits would be handled by the director of the museum. At the same time, he postponed making a final decision on the fate of the Zuni masks exhibit. Although the museum’s records on this matter are incomplete, the mask exhibit apparently remained open for several more months. Finally, in response to continued pressure from the Department of Anthropology, Cowan agreed that it could be curtailed over and the masks returned to storage. However, he waited until April 7, 1972, to send Lewis the letter prepared by the ad hoc committee. Believing that the matter was relevant primarily to the National Museum of Natural History rather than to the Smithsonian Institution as a whole and concerned that the museum’s control over decision making in such cases not be lost to the Secretariat of the Institution, Cowan sent the letter over his own signature rather than that of the Secretary.

Lewis responded to Cowan in late May, expressing his appreciation that the exhibit case had been closed. He acknowledged that the masks were copies made by Zu- nis for Stevenson but reiterated that they should nonetheless not be displayed publicly. He also expressed an interest in working with the Smithsonian Institution to prepare an exhibit on Zuni culture but suggested that the theme of the exhibit not be Zuni religion. He mentioned that the Smithsonian Institution might consider working with Edmund Ladd, a Zuni anthropologist, on planning the exhibit. There is no record that anyone at the Smithsonian Institution responded to his letter or pursued the possibility of creating an exhibit together, although the subject of a cooperative exhibit appeared again a few years later as negotiations for the return of the Ahayu:da got under way,

ORGANIZATION OF THE CAMPAIGN

Between 1972 and 1977, the Pueblo of Zuni did not contact any museums about the Zuni religious objects in their collections. In the latter year, the Zuni Bear clan leader Alonzo Hustito and his son Charles Hustito learned that the Denver Art Museum had an Ahayu:da on public display after seeing an illustration of it in a publication (Feder 1971: pl. 88; cf. Conn 1979:304). About the same time, the bow priests Victor Nihi and Dexter Cellicion discovered documents that surveyors from the U.S. Geological Survey had left decades before in a tin can at one of the Ahayu:da shrines. An investigation of these documents conducted by the Zuni Fish and Wildlife Department and the Bureau of Indian Affairs (BIA) led the Zunis to believe that some Ahayu:da images had been taken from the shrine in the early 20th century and placed in the Denver Art Museum [Martza 1991]. These events triggered a response from the Zuni religious and political officials that rapidly evolved into a full-blown campaign to recover all the Ahayu:da that had been taken from their shrines on the reservation.

By the mid-1970s, several of the religious leaders had concluded that the disturbing state of world affairs was caused in part by the Ahayu:da that had been stolen from the reservation because these images were not in their shrines where their potentially destructive powers could be controlled. To determine how to recover them, the leaders sought the assistance of the Indian Pueblo Legal Services [IPLS] and the tribally operated Zuni Archaeology Program, both recently established at the Pueblo of Zuni. C. Bryant Rogers, an attorney with the IPLS who was working at Zuni on a Reginal Heber Smith Community Lawyer Fellowship, initiated a comprehensive study of the legal options available to the tribe. His previous experience working for the Mississippi Band of Choctaw Indians, the Oglala Sioux Tribe, and the Boston Indian Center had convinced him that any actions taken by the Zuni Tribe to repatriate Ahayu:da should have the blessing of the tribal religious leaders, especially those entrusted with the care of the Ahayu:da.

Following the discovery of the Ahayu:da at the Denver Art Museum, community leaders, the staff of the Zuni Archaeology Program, and Rogers met on several occasions to determine a culturally appropriate means to act on the concerns expressed by the religious leaders. Some of the meetings were formal conferences held at various offices in the pueblo. Other meetings were informal discussions held at night in the homes of the participants. Alex Boone, Wilfred Eriacho, and Hayes Lewis, three prominent members of the Zuni Tribe, attended many of these meetings and provided helpful information on the protocol for contacting religious leaders. In Zuni culture, it is the religious leaders who should request meetings with the tribal council, using the bow priests as messengers, not vice versa. Involvement of the bow priests was thus advised because of their dual role as intermediaries between the religious leaders and the tribal council and as the caretakers of the Ahayu:da.

This initial series of meetings culminated in a long meeting held at the home of the Bear clan leader and attended by the leaders of the Deer clan, bow priests, and other interested religious groups as well as by attor-
neys from the IRLS and anthropologists from the Zuni Archaeology Program. This meeting was conducted almost entirely in the Zuni language. For more than two hours, the only word that the non-Indians at the meeting understood was “Cushy,” a reference to Cushing, who had been initiated as a Zuni bow priest. After much discussion, the religious leaders seemed to decide that none of the non-Indians at the meeting was attempting to be another “Cushy,” who had abused the trust the Zunis had placed in him. At the end of the meeting, Rogers indicated that he was unwilling to do anything on repatriation matters unless he had the full approval of the appropriate religious leaders. The meeting reassured the Zuni authorities that the non-Indians involved in the discussions about repatriation of Ahayu:da were motivated by a concern to assist the Zuni Tribe as directed by the religious leaders and not by some other, more personal agenda.

On January 26, 1978, after conferring with Rogers, Edison Laselute, the governor of the Pueblo of Zuni, wrote to Richard Conn, curator of primitive art at the Denver Art Museum, inquiring about the Ahayu:da in its collection. Laselute informed Conn that the image of the god was the property of the Zuni people, that it should not have been removed from its shrine, and that its public display was inappropriate. Conn responded on February 8, acknowledging that the Ahayu:da was on exhibit and indicating that the director of the museum, Thomas Maytham, would be happy to meet with representatives of the Pueblo of Zuni concerning its disposition. Conn also told Laselute that other people had contacted the museum about the image, including two other Zunis, a non-Zuni anthropology graduate student conducting fieldwork at Zuni Pueblo, and an “enthusiastic” Federal Bureau of Investigation agent who had threatened to come to Denver at once to confiscate it. To avoid the confusion that such uncoordinated activities might generate, the Zuni Tribal Council decided to implement a long-standing Zuni political precept that made it responsible for conducting formal negotiations with nontribal institutions and agencies.

In early April, the tribal council sent three representatives to meet with Maytham, Conn, and Hardin Holmes, an attorney serving as a member of the Denver Art Museum’s board of trustees. Believing that any Ahayu:da found off the reservation must have been stolen, the council chose Police Chief Gordon Peywa, Head Tribal Ranger Barton Martza, and Dexter Cellicion, one of the bow priests responsible for the Ahayu:da, as its representatives (Martza 1991). The IRLS arranged for Timothy LaFrance, an attorney with the Native American Rights Fund (NARF) in Boulder, Colorado, to serve as legal counsel to the Zuni delegation. Marilyn Youngbird, assistant on Indian affairs to the governor of Colorado, was invited to attend the meeting at the request of the Zuni Tribe. Neither the Denver Art Museum nor the Pueblo of Zuni had had any previous experience with repatriation requests, and each was unfamiliar with the perspectives and intentions of the other. Museum officials were circumspect and noncommittal, apparently concerned that if they returned the Ahayu:da they would violate their trust as a public institution and set a precedent that could result in the loss of much of their collection. The Zuni representatives, who had naively expected the museum to turn the Ahayu:da over to them immediately, felt that they had failed to convey their perspective effectively. Moreover, during the meeting LaFrance had hinted that the Pueblo of Zuni had legal grounds for recovering the Ahayu:da. The Zunis were concerned that this threat of litigation had alienated the museum’s representatives and created a confrontational atmosphere that they hoped to avoid in the future.

An agreement to meet again at a later time was the only direct product of the meeting. During the course of the discussions, however, Conn inquired why the Zunis had singled out the Denver Art Museum when other museums also had Ahayu:da in their collections. When the Zunis asked him what museums he was referring to, Conn mentioned the Brooklyn Museum and the Smithsonian Institution, among others. When the Zuni delegation returned to Zuni, it passed this information on to the Zuni Tribal Council and religious leaders, who decided that securing the return of Ahayu:da from the Smithsonian Institution’s National Museum of Natural History would provide an important precedent for other museums that the tribe intended to contact about repatriating these images. Laselute instructed T. J. Ferguson, director of the Zuni Archaeology Program, to contact the Smithsonian Institution to set up a meeting to discuss the return of the Ahayu:da in its collections.

On April 10, Ferguson called Vincent Wilcox, collections manager of the Smithsonian Institution’s Department of Anthropology, and told him that the Zunis wanted to discuss the possibility of Smithsonian Institution collaboration in the development of a museum at Zuni and the return of Zuni religious objects in the Smithsonian Institution collections. He emphasized that the Zunis wanted to avoid the confrontation that had characterized their recent meeting with the Denver Art Museum, which they attributed “to their own improper manner of approaching the issues.” A date for a meeting was set for Thursday, April 20, to coincide with the visit of a Zuni delegation to Washington to meet with congressional representatives.

In the early afternoon of April 20, the Zuni delegation arrived at the Smithsonian Institution’s National Museum of Natural History, an imposing granite building situated between the Mall and Constitution Avenue, where the Department of Anthropology is located. Its members included Governor Laselute, Lieutenant Governor Dorson Zunie, Councilman Chester Mahooty, and Alex Boone of the Zuni Tribe’s Advisory Committee. Ferguson accompanied the delegation as its liaison, and Timothy LaFrance of the NARF was present to provide legal representation. They met with the director of the museum, Porter Kier, the chair of the Department of Anthropology, William Fitzhugh, curator William Sturtevant, James Glenn of the National Anthropological Archives, the Smithsonian Institution’s Native American Museum Training Program Coordinator James Han-
son, and Marie Malaro of the Smithsonian Institution's General Counsel's Office.

The Smithsonian Institution's representatives had concerns similar to those the Zuni delegation had encountered at the Denver Art Museum two weeks earlier. While eager to work with the Pueblo of Zuni in planning a museum—Hanson had been hired by the Smithsonian Institution in 1976 to provide such assistance—they were reluctant to consider returning any objects from the collections. They indicated that the Smithsonian Institution had acquired the collections legally and that it had a trust responsibility to preserve these collections for all people; returning any objects would set a precedent that could jeopardize the collections as a whole. They added that they could not in good conscience turn over any objects without assurances that they would be afforded the care and security required by modern museum practices. They also pointed out that the museum had thousands of Zuni artifacts in addition to the two Ahayu:da and that they were concerned about how the entire collection should be curated.

In light of the Smithsonian Institution's position, LaFrance retreated from a demand for the immediate return of any religious items. Following its lead, he suggested that the museum and the Pueblo of Zuni cooperate to determine how the museum should curate the Zuni objects in its collections. In so doing, he exemplified the Puebloan ethic of avoiding open, contentious dispute. He asked the Smithsonian Institution to refrain from exhibiting any Zuni religious objects and to preserve them until the Pueblo of Zuni could create its own museum, at which time sensitive objects could be returned. LaFrance then interjected that some objects needed to be returned immediately to the Zuni religious societies responsible for their care. He suggested that the Smithsonian Institution's Zuni collection be inventoried item by item to identify these objects, but the Smithsonian officials rebuffed his suggestion.

The group then began to discuss how the Smithsonian Institution might assist the Zunis in preventing future thefts of religious objects from the reservation, proposing that Hanson work with the Zunis to notify the American Association of Museums about stolen Ahayu:da. The meeting concluded with the agreement that a delegation of Zuni religious leaders would return to Washington to examine the entire Zuni collection and prepare a set of guidelines for its proper curation. The Smithsonian Institution and Zuni representatives concurred that Edmund Ladd would be the most appropriate person to coordinate this visit, and the Smithsonian Institution agreed to cover the travel expenses of Ladd and one religious leader.

The next day, Fitzhugh instructed the department's collections management staff to prepare the Zuni collections for the upcoming visit by inventorying and cleaning the religious objects, storing them separately from the remainder of the collection, and updating the catalogue to include only items that currently were in the collection. He requested that Sturtevant contact Ladd to make sure that the Zunis in fact wanted their religious leaders to examine the collections and, if so, to begin making arrangements for the visit. At the same time, Sturtevant was to organize a collection of historic photographs of Zuni governors in the Department of Anthropology's National Anthropological Archives as a gift to the Pueblo of Zuni. Fitzhugh also suggested to Hanson that he meet with people from Zuni to discuss their plans for a museum. He hoped that the Pueblo of Zuni and the Smithsonian Institution could establish a program to work cooperatively on exhibits, collections acquisition and management, and the creation of a museum at Zuni.

Upon returning to the pueblo, the Zuni delegation informed the religious leaders of what had taken place at the Smithsonian Institution. Throughout the night of May 9, a large group of religious leaders met with Ladd to discuss the many complicated issues involved with curation and repatriation of sacred artifacts and to reach a consensus on the positions the Zuni Tribe should take. The session was recorded on tape and later transcribed in Zuni. The principal points were then translated into English by Wilfred Eriacho, the official tribal translator, and approved by the religious leaders. The resulting document, dated September 20, 1978, was entitled “Statement of Religious Leaders of the Pueblo of Zuni Concerning Sacred Zuni Religious Items/Artifacts.” It made six basic points: [1] All Zuni religious objects are important to the practice of Zuni religion. [2] Most such objects are created by the members of several different religious orders, each contributing specialized expertise. This creative process bestows a spiritual life on the formerly inanimate materials of which the religious objects are made. [3] Communally owned religious objects cannot be removed from Zuni land by any one for any purpose. The removal of individually owned religious objects is condemned but not prohibited. [4] The disruption of Zuni religion by the Spanish and U.S. governments and the removal of sacred objects from Zuni lands has created a spiritual imbalance in the world which has had “adverse effects.” To restore harmony, the objects must be returned to their proper place on Zuni lands. [5] The theft or removal of such objects from Zuni has been motivated in large part by the value that they have assumed in the museum and art worlds. [6] The Zunis request the assistance of museums and other relevant parties in securing the return of these objects to Zuni and preventing the future theft and sale of them.

A few hours after the meeting ended, Ferguson contacted Fitzhugh at the Smithsonian Institution and informed him that the religious leaders were not intent on forcing a return of the objects to the pueblo. They preferred to work with museums to reach an agreement on the disposition and care of Zuni religious objects in their collections as well as to secure their assistance in being informed about religious objects being sold at

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4. In the late 19th and early 20th centuries, in an effort to disseminate knowledge, the Smithsonian distributed some of its collections to museums around the world. These collections included a number of items from Zuni, mainly ceramics [Parezo 1982].
auctions and in planning a Zuni museum, for which they anticipated asking for materials on loan. They also wanted to pursue a dialogue with museums that they hoped would result in the voluntary return of religious objects. Despite these assurances, however, it is clear from the “Statement” of the religious leaders (the details of which Ferguson did not learn about until months later) that the return, voluntary or otherwise, of the Ahayu:da and other religious objects to the pueblo was a primary objective.

The next day, Laselute wrote Hanson in response to Hanson’s letter of May 3, accepting his offer to present a statement on behalf of the Zuni people at the upcoming annual meeting of the American Association of Museums [AAM]. He indicated that the Pueblo of Zuni wanted to convey to the members of the AAM the ethical problems associated with the purchase and display of Zuni religious objects. He also requested that they agree to remove all Zuni religious objects from display and to curate them in consultation with the Zunis, to negotiate the return of religious objects to the Zuni religious leaders; to refrain from buying, offering for sale, trading, or exchanging any Zuni religious object; and to inform the Zuni Tribal Council immediately when religious objects were offered for sale. Five months later, Hanson presented the Zuni statement during the AAM’s business meeting, but members were reluctant to take a position as an organization on issues that they felt were better handled by individual museums.

FORMALIZATION OF THE ZUNI APPROACH

On the basis of their experiences at the Denver Art Museum and the Smithsonian Institution, the political and religious leaders of the Pueblo of Zuni began formalizing a strategy that they felt would be effective in future dealings with museums. They agreed that working in a conciliatory fashion would be more appropriate to the religious nature of the matters at hand and more productive than lawsuits, which would be used only as a last resort. Underlying this approach was the Zuni ethic that in a dispute a good man goes to his adversary four times to seek resolution through reasonable negotiation before taking drastic action. The Zunis hoped that museums would agree to return the Ahayu:da once they were informed of their importance in Zuni culture.

The Zuni Tribal Council also decided that the pueblo’s efforts to recover religious objects had to be better coordinated. On May 30, 1978, the governor and tribal council issued a directive entitled “Coordination of Tribal Efforts to Secure Protection and Return of Objects of Traditional Religious Significance to the Zuni People.” The directive instructed anyone working for or on behalf of the tribe to contact the governor or Councilman Chester Mahooty before taking any action. These officials would in turn contact the religious leaders for their approval. The tribal council was thus to serve as the spokesman and liaison for religious leaders in dealing with nontribal members, but it was the religious leaders who maintained control over substantive decisions.

The directive also authorized several individuals and organizations to undertake actions on behalf of the tribe, revealing the multifaceted approach to repatriation that the pueblo had developed. The Zuni Police and Tribal Rangers were to increase their efforts to prevent thefts of religious objects on the reservation. The FBI was asked to investigate possible criminal violations associated with Ahayu:da stolen within the previous five years and currently in the possession of private individuals. The U.S. Fish and Wildlife Service was to explore the possibility of recovering Ahayu:da on the grounds that some of the feathers attached to them came from birds protected by federal legislation. Barton Martza was to continue working on the recovery of the Ahayu:da from the Denver Art Museum, receiving legal counsel from the NARF. Rogers of the Zuni branch of the IMLS was to provide legal advice on this request and other repatriation issues. Ferguson was to focus on coordinating negotiations between the pueblo and museums, particularly the Smithsonian Institution, and on locating Ahayu:da in other museums. He was also to investigate high-technology security measures that the tribe could adopt to protect its religious objects and to determine how to arrange for the National Park Service to reassign Ladd to assist the tribe in their negotiations with museums.

By the time this directive was issued, Ferguson and Barbara Mills, another archaeologist with the Zuni Archaeology Program, had departed for the East Coast to study museum collections for several tribal research projects. As an adjunct to this research, Ferguson began to develop a list of museums with Ahayu:da in their collections. In late May and early June, he photographed and took notes on Ahayu:da in the American Museum of Natural History, the Brooklyn Museum, and the Museum of the American Indian in New York.5 Ferguson and Mills then traveled to Washington, where, on June 26, Ferguson met at the National Museum of Natural History with Director Kier, the acting chairman of the Department of Anthropology Herman Viola, and Sturtevant to discuss the upcoming visit of Zuni religious leaders to the collections. Ferguson indicated that the religious leaders wanted to discuss the return of religious objects from the collections and to enlist the Smithsonian Institution’s aid in stopping the theft of religious objects from the reservation for sale in the art market. The Smithsonian Institution officials responded that they were willing to assist the tribe in stopping the thefts but asked the tribe to provide them with specific suggestions of what it would like the Smithsonian to do. At the same time, they stated that they did not plan to return any objects to the Zuni and that they did not want to discuss this issue during the visit of the religious leaders, feeling that it had been resolved during the April meeting. Rather, they envisioned the visit as involving a thorough examination of the Smithsonian Institution’s Zuni collections by the religious leaders, who, after consulting with other Zuni religious leaders,

5. In subsequent years many anthropologists and other museum professionals with knowledge of Ahayu:da in museums and elsewhere contributed to this list.
would provide the museum with a specific set of curation guidelines for the collection.

Upon returning to Zuni, Ferguson summarized the meeting in a memorandum to Laselute, Mahooty, and the Zuni religious leaders. He suggested that the pueblo conform to the Smithsonian Institution’s wishes for the religious leaders’ visit but recommended that these leaders prepare a position paper outlining their perspectives on religious objects held in museum collections. They could present the position paper to museum officials during their visit and request that the discussions continue at a future date. Because of the Smithsonian Institution’s stature, Ferguson emphasized that it was to Zunis’ advantage to maintain good relations and reiterated his belief that through patient negotiations a mutually satisfactory agreement would be reached.

On September 23, 1978, a Zuni delegation flew from Albuquerque to Washington, accompanied by Ferguson. The members of the delegation included Allen Kallestewa, head of the Deer clan and maker of the elder brother Ahayudá:damukis), also served as head (komosona) of the masked dancers; Alonzo Hustito, head of the Bear clan and maker of the younger brother Ahayudá:damukis; and Chester Mahooty, who besides being a member of the Zuni Tribal Council was an official in the ritual Newkwe or Galaxy Fraternity. Ladd had arrived in Washington the previous day from his National Park Service post in Hawaii and met the delegation at the airport. Earlier in the month, the National Park Service had approved his temporary reassignment to assist the Zunis in their negotiations with the Smithsonian Institution.

The following Monday, the delegation spent the day examining the Smithsonian Institution’s Zuni artifactual and archival collections, blessing many of the sacred objects they encountered. Ladd recorded the comments of the religious leaders on audio tape, and Ferguson took photographs of the collections and storage conditions as directed by the religious leaders. The next day, the delegation met with representatives of the Smithsonian Institution’s Department of Anthropology: the chairman William Fitzhugh, North American curators William Sturtevant, John Ewers, and Bruce Smith, and the collections manager Vincent Wilcox. James Hanson also attended the meeting (fig. 5).

The Zunis presented the Smithsonian Institution representatives with three documents. One was the “Statement of Religious Leaders” summarized above, and another was a resolution [M70-78-991] drafted by Rogers and passed by the Zuni Tribal Council on September 23 adopting this statement as official tribal policy and requesting that all museums and ‘other third parties’ work with the Pueblo of Zuni to implement the position of the religious leaders. This resolution also reiterated the council’s position that Zuni religious leaders had final control over tribal policy concerning the disposition of sacred artifacts and officially authorized the Zuni delegation visiting the Smithsonian Institution to negotiate with the museum.

In contrast to these two documents, the third was addressed specifically to the Smithsonian Institution. Dated September 21, 1978, it was titled “Request to the National Museum of Natural History, Smithsonian Institution, for Assistance in Securing Achievement of Goals Identified in the ‘Statement of Religious Leaders of the Pueblo of Zuni Concerning Sacred Zuni Religious Items/Artifacts,’ Dated 20 September 1978.” This document made nine specific requests of the Smithsonian Institution. The first was that the Smithsonian Institution adopt the following four points as part of its formal museum policy: (1) to remove all sacred Zuni religious artifacts from public display immediately and to store and curate these items properly after discussion with the Pueblo of Zuni; (2) to discuss and negotiate with the religious council of Zuni the return of certain religious items to the members of the religious societies who created these things for the benefit of all people and who were responsible for their care and maintenance; (3) not to buy or offer for sale, trade, or exchange any Zuni religious objects; and (4) to inform the Zuni Tribal Council immediately if any such objects were offered it for purchase or if it learned of a pending sale to another party. The Zunis emphasized that they were not demanding the return of items, only requesting that negotiations about them begin. In addition, the Smithsonian Institution was asked to assist the tribe in dealing with other museums and professional organizations on these issues; to share its knowledge of the art and collector’s market to prepare the Zunis to deal with this market directly; to assist them in implementing the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property; to conform in its policies and actions to the American Indian Religious Freedom Act, to work with Congress to develop legislation that would protect Zuni sacred places and objects; to develop programs and exhibits to educate the public about Zuni religion in the hope that with greater public understanding thefts of religious objects would cease (the Zunis offered their assistance in planning these educational activities); to assist in developing a tribal museum at Zuni; and to be willing to continue the dialogue and provide technical and informational assistance to Zuni as needed.

Since the Smithsonian Institution representatives needed time to study these documents, the discussions remained general, focusing for the most part on the very complicated issue of how to determine whether a particular object is sacred or not. Ladd indicated that in one sense almost all Zuni objects are sacred, a proposition that some Smithsonian staff members regarded as too broad and vague. He added that the Zuni perspective on the sacredness of cultural material probably should be modified and that the problem was currently the subject of much discussion at Zuni. The Smithsonian representatives agreed to work with the Zunis in preventing thefts and the sale of their religious objects as well as in developing joint educational projects. The consensus was that the report to be prepared by the religious leaders on the basis of their examination of the collections would provide a foundation for future discussions on the Smithsonian Institution’s Zuni collections.
On Wednesday, the Zuni delegation, including Ferguson and Ladd, met with Kier, Associate Director James Mello, Fitzhugh, Sturtevant, and Ewers. The work accomplished during the previous two days was summarized, and the Smithsonian Institution reiterated its intention to assist the Zunis in the ways outlined in the documents they had presented. That afternoon the delegation returned to Zuni.

During the following weeks, several meetings were held at Zuni to discuss the visit. On October 25, Ferguson wrote Kier, indicating that the Zunis were encouraged by the Smithsonian Institution’s concern and willingness to cooperate. He requested that Kier provide a written response to the document requesting the assistance of the National Museum of Natural History, indicating that the Zunis hoped to present this response to the other museums they intended to approach on the issue of proper disposition of Zuni religious objects in their collections. Ferguson’s view, shared by many at Zuni, continued to be that if the Smithsonian Institution could be persuaded to cooperate with them and, particularly, if it returned Zuni religious objects from its collections, many other museums would follow suit.

Upon receiving Ferguson’s letter, Smithsonian Institution staff members began discussing how to respond to the Zunis’ request. They wanted to convey to the Zunis their willingness to cooperate and to continue the discussions on the religious objects without agreeing to return any specific items. On January 26, 1979, Kier sent Ferguson a letter in which he made five points: (1) that the Smithsonian Institution would not engage in the removal of religious items from Zuni lands and would notify Zuni tribal officials if such objects were offered to the Smithsonian Institution or if it learned of any being offered to other museums or private individuals; (2) that the Smithsonian had no Zuni religious items on public display at the time and would consult with Zuni tribal officials before incorporating any such items into an ex-
hibit; (3) that the Smithsonian would like to work with the Zunis to determine how best to exhibit concepts of Zuni religion and awaited the recommendations of Zuni religious leaders on the proper storage and other curatorial procedures for these items; (4) that the Smithsonian was willing to assist the Zunis in establishing a museum at Zuni and arranging contacts with other museums and anthropologists; and (5) that the Smithsonian wished to continue discussions with the Zunis to determine mutually acceptable ways in which objects vital to ongoing Zuni religion could be made available to them.

Before Kier sent this official response, Sturtevant and Hanson notified the Zunis of two pending auctions that were offering Zuni religious articles for sale. The first, scheduled for September 9–10, 1978, in Santa Fe, involved the sale of an altar that Zuni religious leaders identified as belonging to the Zuni Ko/lowisi society as well as a prehistoric Anasazi mummy that reportedly had been taken from a cliff dwelling in Dove Springs, Arizona, on the Navajo Indian Reservation. Rogers, retained by the Zuni Tribal Council, was able to arrange for an anonymous buyer to purchase the altar and then turn it over to the Zunis. Together with Ferguson, he persuaded the district attorney of Santa Fe County to declare the mummy an unclaimed human body that could not be sold. Eventually the mummy was placed in the Indian Health Service hospital morgue on the Zuni Indian Reservation. The Zunis, who had never claimed that the mummy was of Zuni ancestry, contacted the Navajo Nation to determine what they should do with it. The two tribes agreed that it would be buried in a cemetery in Gallup, New Mexico (Ferguson 1982).

The second auction involved an Ahayu:da that was to be sold in New York at Sotheby Parke-Bernet (Johnson 1979:29). On October 9, six Zuni bow priests and the Deer and Bear clan leaders sent a letter to John L. Marion, chairman of Sotheby’s, explaining the significance of the Ahayu:da and requesting that it be removed from the sale and returned to the Zunis because it had been stolen. Through the auspices of the IPLS and the Maytag Foundation, a New York law firm was retained to develop legal theory that applied to the recovery of Ahayu:da as communally owned property. Marion responded favorably to the Zunis’ concerns and removed the Ahayu:da from sale, a standard procedure for Sotheby’s in the case of a third-party dispute concerning ownership (Greenfield 1982:201). Sotheby’s also agreed to cooperate with the Zuni Tribe to prevent the sale or theft of its communally owned religious objects. By this time, the Pueblo of Zuni had contacted the U.S. attorneys in New Mexico and New York, requesting that they determine whether the Ahayu:da could be returned to Zuni Pueblo on the grounds that it had been stolen from federal trust lands and pointing out that, under Federal Statute 18 U.S.C. §1163, it was a federal crime to possess stolen tribal property. The U.S. attorneys agreed that the communally owned Ahayu:da were tribal property and directed the FBI to confiscate the Ahayu:da as contraband.

In mid-October, Triloki Nath Pandey, an anthropologist conducting field research at Zuni, agreed to travel to New York on behalf of the tribe to certify for the FBI that the Ahayu:da was authentic. On October 19, after receiving instructions from Zuni religious leaders, Pandey flew from Albuquerque to New York, his travel expenses paid by the Maytag Foundation. He retrieved the Ahayu:da from the FBI and also visited the Museum of the American Indian, where he was shown a photograph of an Ahayu:da that was described as being in the private collection of its former director, Frederick Dockstader (Dockstader 1961:174). The next day, Pandey returned to New Mexico and deposited the Ahayu:da with the assistant U.S. attorney in Albuquerque, where it was placed in a vault and held as evidence until it was determined whether the confiscation would be legally contested.

A few days later, the attorney for the Los Angeles doctor who had consigned the Ahayu:da for auction at Sotheby’s contacted Americans for Indian Opportunity (AIO), a national organization established by LaDonna Harris to promote the interests of American Indians. The attorney indicated that his client had not realized the significance of the Ahayu:da until the controversy had arisen and, after reading the Zunis’ letter to Sotheby’s, wanted to return it to the Zuni Tribe with no legal contest. The doctor, who desired to remain anonymous, hoped to donate the Ahayu:da to the nonprofit AIO so that he could claim a tax deduction and then have AIO transfer the Ahayu:da to the Pueblo of Zuni. The Zuni Tribe and AIO accepted his proposal but wanted no direct role in assigning a monetary value to the Ahayu:da because doing so might be interpreted as an acknowledgment that Ahayu:da could be bought and sold and might lead to further thefts. Rogers made sure that the documents accompanying the donation of the Ahayu:da to AIO clearly established that the donor’s “interest” in the image was less than title, in keeping with the Zunis’ legal theory that only the Zuni Tribe could have title to an Ahayu:da. On January 3, 1979, Alonzo Hustito and Victor Niihi, accompanied by Ma-hooty, Ferguson, and Rogers, received the Ahayu:da from the U.S. attorney in a presentation ceremony held at the Albuquerque office of AIO. The return was hosted by LaDonna Harris, president of AIO, and Regis Pecos, the AIO staffer who had worked out the details of the arrangement. Out of respect for the sacredness of the Ahayu:da, AIO never had the image in its possession, and it was passed directly from the U.S. attorney to Zuni religious leaders. The Zunis returned home that afternoon with the first Ahayu:da to be repatriated to the tribe and placed the image at an open shrine on the reservation.

By this time, three principles had emerged as the basis for a Zuni claim for recovery of Ahayu:da: (1) They are sacred artifacts whose presence at Zuni is needed for spiritual purposes in the long-standing and ongoing Zuni religion. (2) To the degree that they can be regarded as property at all, they are owned communally by the tribe. (3) Once placed at their shrine they cannot legally be removed. Thus any Ahayu:da not at its shrine on the Zuni Indian Reservation has been stolen and is subject to New York on behalf of the tribe to certify for the FBI that the Ahayu:da was authentic. On October 19, after receiving instructions from Zuni religious leaders, Pandey flew from Albuquerque to New York, his travel expenses paid by the Maytag Foundation. He retrieved the Ahayu:da from the FBI and also visited the Museum of the American Indian, where he was shown a photograph of an Ahayu:da that was described as being in the private collection of its former director, Frederick Dockstader (Dockstader 1961:174). The next day, Pandey returned to New Mexico and deposited the Ahayu:da with the assistant U.S. attorney in Albuquerque, where it was placed in a vault and held as evidence until it was determined whether the confiscation would be legally contested.

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to recovery pursuant to 18 U.S.C. § 1163. It should be noted that this statute is applicable only to a narrow category of tribal religious objects which, like the Ahayu:da, cannot under any circumstances be lawfully removed or possessed by any individual. In their negotiations for the return of Ahayu:da, the Zunis consistently noted this restricted applicability, both to indicate that it would not support a wholesale demand for the return of tribal items in museum collections and to stress the unique importance of the Ahayu:da.

Although some FBI agents offered to confiscate Ahayu:da from museum collections around the country and return them to Zuni, as had been done at Sotheby’s, the Zuni Tribe chose a different approach. Bolstered by the knowledge that a powerful legal theory supported their view that no one but the Zuni Tribe could have title to an Ahayu:da, Zuni leaders decided to pursue the recovery of the images in a culturally appropriate manner by phrasing their requests in nonconfrontational terms and relying on moral and religious arguments to persuade others to comply with their requests. They were convinced that the only acceptable response to a request for an Ahayu:da was its return, but they continued to view legal action as a last resort.

CONTINUING THE CAMPAIGN

As the Zunis were retrieving their religious articles from public auctions, they worked with the FBI and their legal advisors to recover two Ahayu:da that an art dealer in Port Townsend, Washington, had offered for sale and developed a strategy for protecting and ensuring Zuni access to sacred sites off the reservation. They also continued their discussions at Zuni about the Ahayu:da in the Smithsonian Institution and Denver Art Museum collections. They wanted to see these negotiations successfully concluded before presenting requests to other museums.

To this end, on December 28, 1978, Zuni religious leaders sent a five-page letter to the Denver Art Museum’s board of trustees explaining why the Ahayu:da should be returned to the Zuni Tribe. On January 10, 1979, a second meeting was held between Zuni representatives and museum officials. The Zuni delegation included Huestito, Niibi, Mahooty, Ladd, and Ferguson, joined by LaFrance of the NARF, Youngbird of the Colorado Commission on Indian Affairs, and Sharon Steely of the Colorado lieutenant governor’s office. After offering prayers to the Ahayu:da in the collections storage area, the Zuni delegation met with the museum’s director, curators, and 30-member board of trustees.

Frederick Mayer, chairman of the board, opened the meeting by indicating that the museum wanted to learn more about the Zuni perspective on the Ahayu:da but no decision on the return of the image would be made that day. The Zuni religious leaders then presented an overview of the importance of the Ahayu:da in Zuni religion, and Ferguson described the security measures that the Zunis were developing to ensure that Ahayu:da returned to the reservation would not be stolen again. He also summarized the legal theory that the Zunis had used to recover the Ahayu:da from the Sotheby’s auction. LaFrance confirmed that the Zunis had a basis for litigation to recover the Ahayu:da but explained that they preferred that the museum return them for moral and humanitarian reasons. The museum inquired how it could be known that the Ahayu:da in its collection had been stolen. The previous May, at the request of the NARF, the assistant attorney general of Colorado had assured museum officials that, if the Ahayu:da had been stolen, they would not be violating their charge if they denied their visitors access to the Ahayu:da by returning them to Zuni. Ladd explained that because no Zuni individual has the right to sell an Ahayu:da, any not located in its proper place and around the reservation must have been stolen. The Zuni representatives asked that their request and the discussions regarding the Ahayu:da be kept confidential for fear that the image would once again be subject to possible theft. The meeting closed with a promise from the museum board to consider the issues carefully and notify the Zunis of its decision.

On February 10, the Denver Art Museum issued a press release questioning the veracity of the Zuni claims. It pointed out that there was no legal precedent for the return of artifacts based on a claim of communal ownership and that returning the Ahayu:da might lead to claims by other tribes, but it indicated its intention to continue discussions with the Zunis to find a mutually acceptable resolution. This press release, issued in anticipation of a forthcoming news article about the negotiations in a local newspaper (Wolf 1979), resulted in several additional stories in local newspapers that characterized the Denver Art Museum’s position in very negative terms (Clurman 1979, Rocky Mountain News 1979a, Albuquerque Journal 1979a). LaFrance wrote Mayer requesting a retraction of statements in the press release that he thought misrepresented the Zuni position. LaFrance released his letter to the press, leading to additional controversial news stories (Gallup Independent 1979, Rocky Mountain News 1979b, Albuquerque Journal 1979b). This public controversy disturbed the Zuni religious leaders, who felt that the Ahayu:da deserved more respectful discourse.

In mid-March, the museum requested further discussions, but the Zunis responded that they expected the board to make a final decision during its next meeting. On March 21, the board approved a resolution to return the Ahayu:da to the Zunis. It indicated that the Zunis considered the Ahayu:da to be an animate deity crucial to the performance of their religion rather than a symbol or art object and that as communal property it could not have been legally sold or given away. It instructed museum officials to meet with Zuni representatives to arrange for the return of the Ahayu:da, to work with them to ensure the Ahayu:da’s security at Zuni, and to discuss how to enhance communication between the museum and the Zuni people.

With assistance from the museum, the Zunis immediately began planning a high-security facility to be constructed around the shrine where the Ahayu:da was to
be placed. This facility was designed to protect the Ahayu:da from theft while meeting the religious requirement that the shrine be exposed to the elements [Mills and Ferguson 1990:18–19]. A design was approved by the museum and the tribe, and in late 1979 crews from the Zuni Young Adult Conservation Corps began construction. The fortified shrine was completed on May 22, 1980, the same day that museum officials arrived in Zuni to meet with the tribal council and religious leaders and inspect it [Zuni Young Adult Conservation Corps 1980].

This meeting was characterized by good feelings, and the Zunis were glad that negotiations that had begun in a somewhat contentious and controversial fashion ended very cordially. Not only had they reached an agreement for the return of the Ahayu:da but they had obtained valuable professional support from the museum in the process. On October 29, Niihi and Martza picked up the Ahayu:da in Denver along with two other Ahayu:da that the museum had discovered in its collections during the course of the negotiations and returned to Zuni, where they placed them in their shrine.

Unfortunately, the FBI had notified several Albuquerque television stations and newspapers of the return of the Ahayu:da and, unbeknownst to Zuni Pueblo, had arranged a press conference at the airport. The Zuni delegation was not prepared for the media attention it received. The airing of a film clip showing the bow priest with the Ahayu:da on local television caused consternation in tribal officials who had just negotiated the return of another Ahayu:da from a museum in New Mexico with the understanding that the image would be repatriated without publicity. The experience led them to exercise more control over the publicity surrounding their work.

The Zunis’ efforts to recover Ahayu:da at the Denver Art Museum, the Smithsonian Institution, and Sotheby Parke-Bernet were closely interrelated. The actions taken in one negotiation were evaluated and applied, where appropriate, in others to maximize consistency and effectiveness. After the passage of the American Indian Religious Freedom Act of 1978, the Zunis’ campaign to recover religious items began to receive national attention. Their approach to the repatriation of Ahayu:da was publicized during field hearings on the act held at Zuni Pueblo [Andrus 1979: appendix C; U.S. Department of the Interior 1979], in reports prepared for the NARF [American Indian Law Center 1978:18–21], in scholarly articles [Blair 1979a, b; Childs 1980; Talbot 1985], and in popular publications [Canfield 1980]. The Zuni Tribe sent Ferguson to a number of professional meetings and conferences to explain Zuni actions and dispel rumors that the Zunis were planning wholesale raids on museum collections [Eriacho and Ferguson 1979, Ferguson 1979]. During this period, the Zunis continued to emphasize the critical importance of the Ahayu:da in their world and to distinguish them from most other objects collected or otherwise obtained from Zuni.

Upon learning about Zuni concerns for recovery of Ahayu:da, the Millicent Rogers Museum in Taos, New Mexico, requested that the Zunis prepare a formal, written rationale for the return of one of these images in its collection. Governor Robert E. Lewis, who had been returned to office in 1979, submitted the report on August 1, 1980, at the same time asking permission to send a delegation to Taos to present the Zunis’ request to the museum’s board of trustees. In September a delegation comprised of Lieutenant Governor Theodore Edaakie, Niihi, Hustito, Mahooty, and Ferguson met with the board to discuss why the Ahayu:da should be returned to its rightful place on the Zuni Indian Reservation. Impressed with the sincerity and reasonableness of the Zuni religious leaders, the board approved the repatriation request on October 24 but asked the Zunis to describe in writing how the security of the image was to be ensured and to provide a list of other objects in the museum’s collection that the Zuni Tribe might in the future ask to be returned. Lewis submitted this information in a letter dated November 19, 1980, and the Zunis returned to Taos in January 1981 to retrieve the Ahayu:da and place it at the fortified shrine [Stephens 1982].

Similarly, in the fall of 1980, the Wheelwright Museum of the American Indian and the Museum of New Mexico, both in Santa Fe, along with the University of Iowa Museum of Art, informed the Zunis that they had Ahayu:da in their collections and offered to return them. While the repatriation of these Ahayu:da did not require formal presentations to the boards of trustees, it did entail considerable correspondence and performance of a variety of administrative tasks. Because the tribe did not have travel funds to send a delegation to Iowa, arrangements were made with Jean Weber, the director of the Museum of New Mexico, to have the Ahayu:da from the University of Iowa Museum of Art shipped to Santa Fe. There, on July 28, 1981, Bear clan leaders Alonzo and Charles Hustito, Mahooty, and Ferguson received it, returning with it to the reservation the same day. Two months later, on September 30, 1981, a Zuni delegation that included Edaakie, Hustito, Niihi, and Ferguson returned to Santa Fe to retrieve two Ahayu:da from the Wheelwright Museum and four Ahayu:da from the Museum of New Mexico.

RESUMING NEGOTIATIONS WITH THE SMITHSONIAN INSTITUTION

From the fall of 1978 until the fall of 1980, the Zuni religious leaders and others working for the Zunis on repatriation issues focused on securing the return of the Ahayu:da from these museums and from private collectors. A coherent rationale for repatriation had been developed and was consistently applied, but after the trip of the religious leaders to the Smithsonian Institution the tribe’s campaign became more reactive than proactive: actions were undertaken only to prevent the sale of Ahayu:da or to respond to museums that voluntarily offered repatriation. Although the religious leaders had met twice in late 1978 to discuss the Smithsonian Institution collections and had reached a consensus on what should be done, they had made little progress toward
completing the formal report requested by the museum. To advance the negotiations with the Smithsonian Institution, Ladd was hired by the Zuni Tribe in October 1980 to work with religious leaders to prepare a formal report on Zuni curatorial recommendations. Ladd’s involvement was supported by a grant from the North American Indian Museums Association.

By the end of the month, Ladd had completed a draft of the report that was circulated among religious leaders for their comments and suggestions. Ben Kallestewa, who had recently inherited from his father the position of komosona, met privately with each religious group to ensure that the statement reflected its thinking. The final report was completed in early January 1981, more than two years after the religious leaders had inspected the Smithsonian Institution collection. This report bore the title “Request for the Return of Zuni Sacred Material and Recommendations for the Care and Curation of Objects of Zuni Religious Significance in the Collection of the Smithsonian.” A cover letter signed by Governor Lewis indicated that the report had the full support of the Zuni Tribal Council.

On January 19, 1981, Lewis sent the report to Douglas Ubelaker, who had succeeded Fitzhugh as chair of the Smithsonian Institution’s Department of Anthropology in January 1980. In their report, the Zuni religious leaders divided the Smithsonian Institution’s Zuni collections into five classes. Class 1 was identified as “items that are communally owned by the Pueblo as a whole and which have been illegally removed from Zuni lands.” This class included the two Ahayu:da plus the gaming articles and prayer sticks associated with them. Class 2 consisted of “items removed from Zuni lands without the consent of the religious society or priesthood responsible for their care and maintenance” and included two “plumed serpents” (ko/lowisi), “fetishes” of the rain priesthood (etto wel), and “fetishes” owned by individual members of the medicine societies (mil-ile). The Zunis requested that the more than 70 objects in these two classes be returned. Class 3 was defined as “items of special concern sold by individuals for which specific action is recommended.” All the items in this class were masks. The Zunis requested that a delegation of religious leaders dismantle these masks, with the Smithsonian Institution retaining the dismantled elements. This recommendation reflected the way in which masks not in use are stored within Zuni Pueblo. Class 4 consisted of “other items sold by individuals or taken from individual local shrines” and class 5 of “miscellaneous pottery, working tools, rabbit sticks, dance paraphernalia, and other artifacts.” The objects in these two classes could remain at the Smithsonian Institution.

Zuni religious leaders indicated that paraphernalia from Zuni religious societies extant in the 19th century but now extinct should remain at the Smithsonian Institution, which had in effect become the custodian. For these and other items that would remain there the Zunis made recommendations for their curation. They indicated that masks should never be exhibited but other objects such as dance kilts and rattles could be placed on public display. All these items could be used for scholarly study, but in no circumstances should they be replicated or copied. The Zunis should be allowed to make prayer offerings to the objects but otherwise the Smithsonian should treat them in accordance with standard museum practices. In addition, Zunis would cooperate with the Smithsonian in preparing public exhibits about Zuni culture.

As soon as he received the report, Ubelaker met with three members of the department’s collections management staff—Wilcox, Phebus, and Linda Eisenhart—along with Sturtevant and William Merrill, who had been hired four months earlier as curator of the Smithsonian Institution’s western North American ethnology collections. The group concluded that before a response could be prepared, the objects that the Zunis had requested to be returned should be investigated thoroughly to determine their place in Zuni culture and the circumstances under which they had entered the collections. In addition, with the approval of the Zunis, these objects should be documented in detail so that a record of them could be preserved. It was agreed that Merrill would be responsible for the project and for formulating a response to the Zunis’ statement. Eisenhart, who had prepared the Zuni collection for the visit of the religious leaders in 1978, would work with him, preparing written descriptions of the objects and coordinating photography and illustrations. A few days later, Edith Dietze, a conservator with the Smithsonian Institution’s Native American Museum Training Program, was assigned to the project to supervise the identification of the materials of which the objects were composed.

On March 12, Ubelaker wrote Lewis, thanking him for the Zunis’ carefully considered recommendations regarding the Zuni objects in the Smithsonian Institution’s collections. He indicated that the Department of Anthropology’s reaction to the recommendations was generally favorable and that each object in question was being investigated thoroughly. He expressed his hope that the Zunis’ desires could be met with a “minimal loss of information ... to future scholars of Zuni culture and history” and that he would keep him informed of the progress of the review. He closed by requesting additional information on how the Zunis proposed to dismantle the masks.

By late spring of 1981, the documentation process was well under way, but because of the number of items involved it was clear that several more months would be required to complete it. During the first week of June, Merrill visited Zuni to meet with the tribal council, religious leaders, and Ferguson to report on the progress of the work and discuss in more detail the issues involved. During his visit he was taken to examine the shrine that had been prepared to receive the Ahayu:da returned to Zuni and to meet with the chief of the Zuni Tribal Police, who explained the elaborate security measures they were taking to ensure the safety of the Ahayu:da. Merrill’s visit happened to coincide with the public performance of a masked dance sponsored by one of the kivas,
and this gave him the opportunity to see firsthand how vital the Zuni religion was for contemporary Zunis and to observe that artifacts similar to the ones in the Smithsonian Institution’s collection were still in ritual use.

In August 1981, Ferguson resigned as the director of the Zuni Archaeology Program, but his association with the Pueblo of Zuni did not cease. He served as a codirector (with Calbert Seciwa) of the Zuni History Project in 1982–83 and continued to conduct research and testify for Zuni Pueblo as an expert witness in two land claims against the United States. A year later, Ladd retired from the National Park Service and became curator of ethnology at the Museum of New Mexico.

By the fall of 1981, Merrill had completed a review of the published literature and unpublished records on the Smithsonian Institution’s Zuni collections, but he had been unable to find any detailed information about how Cushing had acquired one of the Ahayu:da at the Smithsonian Institution [fig. 6]. The associated accession records revealed that Item 206426, a wooden image of the elder brother war god, had been purchased in August 1900 from Cushing’s widow, Emily Magill Cushing. A catalog card carries the information, assumed to be from notes left by Cushing, that the image was taken from “the altar of Ahanita [a/tani’a] on Toyaalane Mt. near the Pueblo of Zuni, where such figures are renewed yearly.” Cushing probably secured the Ahayu:da between 1879 and 1884, when he lived at Zuni, or on later short visits between 1886 and 1889, when he was the director of the Hemenway Southwestern Archaeological Expedition [Hinsley 1981:190–207; Green 1990]. For at least a decade before entering the Smithsonian Institution, the image had remained in Cushing’s private collection. In November, Merrill examined Cushing’s papers at the Southwest Museum in Pasadena, and, while he learned nothing more about the Ahayu:da at the Smithsonian Institution, he discovered that Cushing had definitely acquired and manufactured these images for other people during this period. On one occasion, for example, Cushing carved a facsimile of an Ahayu:da and restored a number of associated offerings, which he shipped to the British anthropologist E. B. Tylor; in 1911 Tylor donated them to the Pitt Rivers Museum at Oxford University [Cushing n.d.]. Although doing so clearly violated Zuni norms, Cushing, renowned for his skill at replicating Indian artifacts using traditional technology, presumably felt that his status as a bow priest justified this activity. He may also have hoped that by presenting these items to Tylor he could cultivate a relationship with this major figure in European anthropology to compensate for his poor relations with many anthropologists in the United States [Hinsley 1981:200–201; Green 1990:2–37].

The circumstances surrounding the acquisition of the other Ahayu:da at the Smithsonian Institution were better-documented. This one [Item 176544] was taken from its shrine on Corn Mountain by Nai’uchi, the elder brother bow priest, who gave it to James Stevenson in 1881 [fig. 7]. Unlike the other items collected during the same Smithsonian Institution expedition, it was not immediately accessioned into the museum’s collection but apparently retained by the Stevensons as part of their private collection. In 1896, eight years after the death of James Stevenson, Matilda Coxe Stevenson collected various items associated with the Ahayu:da to be used in an exhibit at the U.S. National Museum [Culin 1907: pl. 2]. Presumably the National Museum acquired this Ahayu:da at that time.

On February 2, 1982, Merrill completed a draft of a response to the Zunis’ statement of January 1981 and submitted it for review to the Smithsonian Institution administration and legal counsel. By early May the review process was complete. On May 4, 17 months after receiving the Zunis’ report, Ubelaker sent the Smithsonian Institution’s response to Governor Lewis. In the document, the Smithsonian Institution concurred with the Zunis that the Ahayu:da had been taken from their shrines improperly. It agreed to return them on the

**Fig. 6.** The Ahayu:da taken by Frank H. Cushing (catalog number 206426). Photograph by Kiell Sandved, 1982, courtesy of the Department of Anthropology, Smithsonian Institution, temporary negative number 60/32.
grounds that, since the Ahayu:da were and are communally owned by the Zuni people, no one could have conveyed title to them to the Smithsonian Institution. However, the available evidence indicated that all the other objects in class 1 had been made by Zuni people, in many cases the appropriate religious leaders, expressly to be brought to the Smithsonian Institution for exhibition. Similarly, some of the class 2 objects had been constructed by Zunis as “models” for the Smithsonian Institution, and the others had been owned individually. In the case of the masks (class 3), all but two had been made by Zunis from materials supplied primarily by the Smithsonian Institution to be incorporated into its collections. It appeared that the individuals who provided these objects had done so voluntarily, although the economic and political circumstances of turn-of-the-century New Mexico may have placed some pressures on Zuni people to cooperate with Smithsonian Institution anthropologists. In addition, some Zuni leaders at the time had apparently believed that the Zunis’ relations with the federal government would benefit by having an exhibit on Zuni religion in Washington. The Smithsonian Institution thus requested the Zunis to explain why contemporary Zuni leaders felt that objects made for the Smithsonian Institution by the appropriate religious leaders should be returned to Zuni and to clarify the nature of the ownership of the other items. In short, it agreed to return the Ahayu:da to Zuni but requested additional information on the other items before reaching a final decision.

For two years the Zunis did not respond to the Smithsonian Institution document. During this period, members of the tribe visited the Smithsonian Institution on several occasions to view the collections and to make prayer offerings, but no discussions on the return of the objects took place. This delay resulted in part from the complicated nature of the negotiations and the number of religious leaders who needed to consider the various issues before reaching a decision. In addition, during this period the tribe’s political administration changed. In January 1983, Quincy Panteah replaced Lewis as governor. A few months later, Panteah died and was succeeded by his lieutenant governor, Chauncey Simplicio. The new administration was unable to locate records of the negotiations, even though they were on file in the governor’s office and at the Zuni Archaeology Program. Internal factional politics, changes in administrative personnel within the tribe, and the difficulty of achieving consensus on the appropriate treatment of so many categories of sacred objects also contributed to the delay. In addition, with more than 100 tribal programs to oversee, the tribal council required some time to set the priorities for tribal initiatives. Throughout this period, however, the Zuni religious leaders regularly asked Ladd and Ferguson about the status of repatriation of the Ahayu:da from the Smithsonian Institution, and, with urging from religious leaders, the tribal council eventually attended to this unresolved matter.

The interaction between the Zunis and the Smithsonian Institution did not cease entirely during this hiatus. Several employees of the Zuni Archaeology Program received training as museum interns at the Smithsonian Institution. In addition, the Department of Anthropology began working with the Pueblo of Zuni in 1982 on the loan of a number of the most significant examples of Zuni ceramics in its collections for an exhibit that the pueblo organized in collaboration with the Heard Museum of Phoenix, Arizona. The anthropologist Margaret Ann Hardin was the curator for this exhibit. Hardin had first studied Zuni ceramics while a Smithsonian Institution postdoctoral fellow in 1975–76 as part of a research project on ceramic style that she had begun a decade earlier among Purépecha (Tarascan) potters in Michoacán, Mexico. She did not actually visit the Pueblo of Zuni, however, until the end of 1978, when, over the course of a week, she presented several lectures at Zuni High School about the Zuni pottery collection at the Smithsonian Institution. The ceramics teacher at the high school, Jenny Laate, indicated that she would appreciate having some photographs of outstanding ex-

Fig. 7. The Ahayu:da taken by James Stevenson (catalog number 176544). Photograph by Kjell Sandved, 1982, courtesy of the Department of Anthropology, Smithsonian Institution, temporary negative number 51/20.
amples of this pottery that her students could study in developing designs for the ceramics they were producing in her classes.

The following spring, Hardin returned to the Smithsonian Institution and contracted for a series of photographs. That summer she gave copies of the photographs to Laate, whose students began producing pottery inspired by the ceramics featured in the photographs. Hardin worked for the next two summers with potters at Zuni, documenting a revival of Zuni pottery attributable in part to her own efforts to expose young artists to the ceramic variability evident in the Smithsonian Institution’s collections [Hardin 1989]. In the summer of 1981, Hardin began collaborating with the Pueblo of Zuni on the planning of an exhibit that would juxtapose the old and the new ceramics, and the following year the National Endowment for the Arts approved funding for the exhibit. Hardin returned to Zuni as a research associate of the Zuni Archaeology Program to work full-time on developing and implementing the project. During the same period, she assembled a collection of contemporary Zuni arts for the Smithsonian Institution, including pottery produced by Zuni High School students, several examples of which were lent by the Smithsonian Institution for the upcoming exhibit. The exhibit, entitled “Gifts of Mother Earth: Ceramics in the Zuni Tradition,” opened in 1983 at the Heard Museum and traveled until 1985 with venues at the Pueblo of Zuni, the Milli- cent Rogers Museum, the New Mexico State University Museum, and the Smithsonian Institution [Hardin 1983].

In February 1984, a delegation from the Zuni Tribe traveled to Washington to testify at congressional hearings on a bill (P. L. 98-408) that added Kolhu/wala:wa, a very important sacred site in Arizona known as “Zuni Heaven,” to the Zuni Indian Reservation [Hart 1991]. The Zunis scheduled a meeting with Merrill to discuss how the repatriation negotiations should be resumed. Attending the meeting were Governor Simplicio, Head Councilman Roger Tsabetsaye, Komosona Ben Kallestewa, and the tribe’s land claims attorney Stephen Boyden. E. Richard Hart of the Institute of the North-American West, who had been hired by the Zuni Tribal Council to undertake historical research in connection with the bill before Congress, was also present. During the meeting, the Zunis explained that they were unable to proceed with the preparation of a response to the Smithsonian Institution’s response of May 1982 because the tribal council did not have ready access to copies of that response or to any of the other communications between the Pueblo of Zuni and the Smithsonian Institution. Merrill photocopied the relevant documents, and the Zuni representatives indicated that they would pass them on to the religious leaders.

The following month, Merrill represented the Smithsonian Institution at the opening of the “Gifts of Mother Earth” exhibition at Zuni. Because so many activities were taking place in conjunction with the exhibit and the religious leaders had not yet had time to meet to formulate a response, there were no discussions of the return of Zuni objects from the Smithsonian Institution’s collections. However, on July 11, Zuni religious leaders and members of the tribal council met with Hart and Ferguson to decide how to respond to the Smithsonian Institution. [Ferguson was serving as the acting director of the Zuni Archaeology Program, a position he held until the following June.] The Zuni religious and political leaders discussed each class of objects as well as the general issues of how religious objects should be treated and the proper relations between museums and American Indian tribes. Ferguson was asked to draft a document summarizing the discussions that he would pass on to Kallestewa for review and approval.

On July 17, Simplicio sent the final document, entitled “Request for Immediate Return of the Zuni Ahay-u:da and Reformulation of Zuni Position on Other Sacred Artifacts in the Collection of the Smithsonian Institution,” to Ubelaker at the Smithsonian Institution. The document began with a disclaimer, explaining that the Zuni religious leaders had misunderstood the nature of the information that the Smithsonian Institution had requested of them in September 1978 and that this misunderstanding had been reflected in the document they had submitted in 1981. It had become clear to the younger religious leaders who had inherited the positions of their deceased elders that the religious leaders who had inspected the Smithsonian Institution’s collections had assumed that the museum wanted to know how the Zunis cared for the objects in question. It was thought that this misunderstanding had arisen from the difficulty in translating non-Indian curatorial concepts into the Zuni language. The new komosona and clan leaders now understood that the Smithsonian Institution had really been asking for the tribe’s position on the objects’ ultimate disposition. On the basis of this new understanding, the religious leaders had reformulated their position.

The Zuni religious leaders indicated that the Smithsonian Institution’s justification for returning the Ahay-u:da on the basis of title differed radically from the Zuni perspective. Their position was that all Zuni religious objects embody knowledge that belongs to the Zuni community as whole and is held by specific individuals only in trust. All objects made on the basis of this knowledge, even those made outside Zuni by non-Indians, derive their existence ultimately from Zuni knowledge and thus belong to the Zuni people. This position was basically the same as that articulated in the 1950s during the controversy over the Zuni masks made by the La Junta Scouts. The Zunis therefore requested that all religious objects in the Smithsonian Institution collections be returned to Zuni. Recognizing the complicated nature of the case, they asked that only the Ahay-u:da be returned immediately. They maintained, however, that by accepting the Ahay-u:da they would not relinquish their claim to other Zuni objects in the Smithsonian collections, and they reserved the right to negotiate for the return of other items in the future.

When this document arrived at the Smithsonian Institution, Merrill was conducting field research in Mexico, and the museum took no action until he returned in January 1985. At that point, he reviewed the Zuni re-
sponse and consulted with administrators and legal counsel about the position the museum should take. He then recommended that the Smithsonian Institution return the Ahayu:da and postpone negotiations on the remainder of the collection. He contacted Zuni officials to arrange a meeting to discuss details of the return, and it was agreed that Zuni and Smithsonian Institution representatives would meet in June in conjunction with the opening of the Zuni ceramics exhibit.

On June 14, 1985, Simplicio, Tsabetsaye, and Councilwoman Rita Enote Lorenzo met with the Department of Anthropology’s chair, Adrienne Kaeppler, its collections manager, Candace Greene, and Merrill to decide how to bring the negotiations to a mutually satisfactory conclusion. Since the two sides were in agreement as to what should be done, there was little discussion. Smithsonian Institution representatives indicated that they would prepare a formal recommendation to the administration that the Ahayu:da be returned to Zuni, and the Zuni representatives agreed that this was the appropriate step to take.

The Smithsonian Institution administration had changed in 1984, and most of the higher-level administrators were unfamiliar with the negotiations that had taken place prior to their arrival. In the months following the meeting, Merrill prepared a detailed report on the history of the negotiations along with a justification for the return of the Ahayu:da. He also reviewed the documentation of the objects that were to be returned to ensure that it was complete. In January 1986 he completed a draft of the report for review by the Smithsonian Institution legal counsel and the Department of Anthropology. On March 28, the final report was submitted to the administration for its approval, but it was inexplicably misplaced. The administration did not finally approve Merrill’s recommendations until the following September, more than two years after the Zunis’ request for the “immediate return” of the Ahayu:da.

On October 23, 1986, Kaeppler wrote Simplicio, informing him that the Smithsonian Institution had approved the agreement reached during the July 1985 meeting and requesting the Zunis’ advice on what to do with the adornments that had been attached to one of the Ahayu:da when it had been exhibited at the Smithsonian Institution around the turn of the century. On December 29, Simplicio responded that the adornments should remain on the Ahayu:da and that the Zuni religious leaders would determine their disposition. He also suggested procedures for returning the Ahayu:da to Zuni. On January 1, 1987, Robert E. Lewis replaced Simplicio as governor. On January 7, Merrill called him to bring him up to date on the status of the tribe’s request and sent him a copy of Kaeppler’s letter of the previous October, which Lewis had not seen.

Transfer of the Ahayu:da
The Department of Anthropology then began the process of deaccessioning the Ahayu:da, which involved obtaining the approval of the Department’s collections committee, its chair, and the museum’s director. By March 5, 1987, deaccessioning had been approved, and arrangements had been made to return the Ahayu:da to the Zunis in a ceremony at the School of American Research in Santa Fe, where Jonathan Haas helped coordinate the local arrangements. Travel funds were available for only one staff member of the department to attend the ceremony. It was decided that Eisenhart, who had worked extensively in caring for and documenting the Zuni collection over the previous decade, would accompany the Ahayu:da. On March 13, she traveled from Washington to Santa Fe, where she deposited the Ahayu:da in a storage vault at the School of American Research.

The next day, Robert McC. Adams, Secretary of the Smithsonian Institution, arrived at the School of American Research to return the Ahayu:da to representatives from Zuni (Adams 1990, Smithsonian 1987). The Zuni delegation included Head Councilman Barton Martza, the bow priests Perry Tsadiasi and Juan Qualo, Lambert Homer of the Bear clan, Deer clan leader Neal Kallestewa, Edmund Ladd, Zuni Police Chief Val Panteah, Police Officer Syverson Homer, and Roger Anyon, director of the Zuni Archaeology Program. Others who attended were Fred and Joan Eggn, Margaret Hardin, Barbara Mills, T. J. Ferguson, and several members of the staff of the School of American Research. A staff member of the Museum of New Mexico attended at Ladd’s request to document the event on videotape.

The Ahayu:da were laid flat on a table in the School of American Research’s elegant Southwestern-style chapel, their heads facing west so that, at the proper time, the bow priest could make them rise up and take them home. Adams spoke briefly, indicating that the Smithsonian Institution was delighted that the negotiations for the Ahayu:da had been successfully concluded, and then formally conveyed the images to the Zuni. Martza, Homer, Tsadiasi, and Ladd accepted the Ahayu:da on behalf of the Pueblo of Zuni and, with Adams, signed a document that affirmed and certified the transfer. Food and beverages were then served, after which the Zuni delegation returned to the religious activities at hand. First offering prayers that marked the beginning of their trip back to Zuni, the bow priests picked up the images from the table and left the chapel, the other members of the Zuni delegation following them in single file. They then drove immediately to the Zuni Indian Reservation.

That evening, nine years after the tribe had first approached the Smithsonian Institution, the Zuni delegation arrived at Zuni with the Ahayu:da. As is customary in the return of Ahayu:da, the delegation stopped before entering Zuni lands, and Qualo, in his capacity as an officer of the Newekwe society, offered a prayer to purify the images and everyone in the delegation. The delegation then proceeded to the fortified shrine, where they placed the Ahayu:da among the others that had already been returned and said appropriate prayers.

The Return of Other Ahayu:da
Between 1984 and 1987, the Zuni tribe concentrated its efforts on completing the negotiations with the Smith-
sonian Institution rather than beginning new negotiations with other museums. The religious leaders and their advisors continued to see the negotiations with the Smithsonian Institution as crucial to the campaign to recover all Ahayu:da. During this period, only two Ahayu:da were returned to Zuni, one anonymously in 1984 by a Tucson collector, the other in 1985 by the Tulsa Zoological Society.

Once the two Ahayu:da were returned from the Smithsonian Institution, the tribe began to contact all remaining museums known to have images. As this project was being organized, the Morning Star Gallery in Santa Fe and two museums in Wisconsin [the Logan Museum of Anthropology and the Milwaukee Public Museum] offered to return a total of seven Ahayu:da. Return of the Ahayu:da from the Morning Star Gallery was facilitated by Rogers, then in private practice in Santa Fe, who put the gallery owners in contact with Zuni officials. In addition, Sotheby Parke-Bernet advertised an Ahayu:da for sale in its auction of the Andy Warhol collection. Merrill notified the Zunis of the pending sale, and the tribe asked Hart of the Institute of the North American West to complete the historical documentation needed by the Department of Justice, which had agreed to represent the tribe if litigation was required. Drawing upon the files maintained by Ferguson, Rogers, and the Zuni Archaeology Program, Hart facilitated a prelitigation resolution in which the Andy Warhol Foundation withdrew the Ahayu:da from sale and returned it to Zuni religious leaders. Qualo, Kopekwin John Niihi, Tribal Councilman William Tsikewa, and Hart traveled to New York in May 1988, where they took possession of the Ahayu:da and returned it to Zuni (Firestone 1988). The administrative effort, travel expenses, and other costs associated with these activities consumed all of the resources of the tribe allocated for repatriation in 1987 and 1988.

In 1988, at the request of the Zuni Tribal Council, the Institute of the North American West donated the time for Ferguson to prepare a brief history of the removal of Ahayu:da from Zuni, what the tribe had done to date to recover these images, and which museums and collectors were known to have Ahayu:da remaining in their collections (Ferguson 1989). This report was intended to provide the tribal council with the information needed to secure legal representation from the Department of Justice. Although the Zunis were committed to requesting that museums return Ahayu:da for religious and humanitarian reasons, they recognized that deaccessioning museum artifacts is always a legal process. Except for the NARF’s work with the Denver Art Museum and the early work of Rogers in 1978–79, the Zunis had never retained an attorney to provide comprehensive legal advice and representation. They thought it best to have parity in future negotiations: if museums had legal counsel, so should the tribe.

In 1989, as a result of inquiries made to obtain catalog numbers for Ferguson’s report, the Southwest Museum decided to repatriate the two Ahayu:da remaining in its collection. Upon completion of the report, the Department of the Interior’s Office of the Field Solicitor decided to act as the Zuni’s legal counsel, calling upon U.S. Department of Justice lawyers only when their assistance was required to recover Ahayu:da from private collections. The Institute of the North American West continued to provide professional assistance at the request of the Zuni Tribe even though the field solicitor could not pay for these services.

The pace of Ahayu:da repatriations greatly increased in 1990, spurred in part by the precedent set by the Smithsonian Institution and in part by the passage of the Native American Graves Protection and Repatriation Act. In 1990, 15 images were recovered from nine museums and four private collections, including 2 that the Museum of the American Indian returned the day before it became the newest unit of the Smithsonian Institution. In 1991, 26 Ahayu:da were repatriated from five museums and three private collections, including 2 in the Lois Flury collection that the tribe had first attempted to recover in 1978. In 1992, two additional Ahayu:da were returned from a museum and an anonymous collector. The substantial costs of travel to repatriate Ahayu:da in 1990 and 1991 were paid from grants from the Seventh Generation Fund and the Frost Foundation. When it was impossible for the Zunis to travel to a museum to carry the Ahayu:da back to the reservation, the Museum of New Mexico provided assistance by receiving the images shipped to them and holding them until the religious leaders could travel to Santa Fe to retrieve them (Livesay 1992:297).

Personal Perspectives

Our presentation of the history of the return of the Ahayu:da to the Zuni people has focused thus far on the quasi-public dimension of the process: meetings, formal documents, official actions. In the following personal perspectives on what took place, we offer our opinions of what motivated the Smithsonian Institution anthropologists and administrators and the Zuni religious and political leaders to adopt certain positions or to pursue particular courses of action. We also isolate those aspects of the negotiations that we feel are worthy of emula-

William L. Merrill

The Smithsonian Institution’s response to the Zunis’ 1981 request for the return of the Ahayu:da and other items of religious significance was conditioned by several developments of the previous decades. Changes in the national political climate associated with the civil rights and anti-Vietnam-war movements had contributed to a politicization of the field of anthropology and had led a number of Smithsonian Institution staff members to promote increased interaction between the Institution and Indian people. In the 1960s and 1970s, several programs were established to increase Indian participa-
tion in Smithsonian Institution activities and to provide Indian people greater access to Smithsonian resources and expertise. Two of these programs were designed to offer technical assistance to Indian tribes in the creation of their own archives and museums. Between 1973 and 1981, the year in which the Zunis submitted their formal request for the return of the Ahayu:da, 283 persons from 163 different tribal groups participated in these two programs, including 4 Zunis [Nancy Fuller, personal communication, 1992; James Glenn, personal communication, 1992].

Many at the Smithsonian Institution regarded the formation of tribal museums as a prerequisite for the return of objects from its collections to the tribes. Although the possibility of permanently transferring some of the collections to the tribes was considered, most felt that collections would be most appropriately "returned" within the framework of long-term loans to tribal museums. Such loans would allow the Smithsonian Institution to ensure that the collections were curated and exhibited in accordance with current museum standards and that they would be returned to the Smithsonian Institution in the event that the tribal museums ceased to exist [as in fact occurred in several cases].

The Smithsonian Institution did not have to confront the issue of repatriation directly until the Zunis submitted their formal request in 1981. At the time, its position on repatriation was a very simple and practical one: each repatriation request should be judged on its own merits. No more elaborate policy had been developed in part because of an absence of specific repatriation requests but also because it was thought that any policy that would be applicable to the great diversity of Indian cultures would have to be so general as to be of little use. Although there was general concern that returning some objects might result in the dismantling of the collections, this concern was overridden by a commitment to return collections if legal or ethical considerations warranted it.

The reluctance of Smithsonian Institution administrators and anthropologists in 1978 to consider returning Zuni items from the collections did not reflect an inflexible and a priori decision to reject all repatriation requests. Instead, it was based on the belief that the Zuni items in question had been acquired by the Smithsonian Institution both legally and ethically. At the same time, staff members recognized that the information on the cultural significance of these items in the museum's records was incomplete. They asked the Zunis to examine the entire Zuni collection to clarify the status of these objects within Zuni culture and to produce a set of guidelines for their proper curation. It was hoped that the Zunis' concerns for these items could be accommodated without having to return them, but the repatriation of at least some of the items was recognized as a distinct possibility.

In 1981, when I assumed responsibility for responding to the Zunis' repatriation request, I discussed the 1978 meetings with several staff members who had participated in them, but detailed descriptions of these meetings were unavailable: neither the Smithsonian Institution nor the Zunis had prepared formal reports on what had transpired. As a consequence, I relied on the Zunis' 1981 position paper as my point of departure.

I began by undertaking an extensive review of the literature on Zuni history and culture and the archival and catalogue records associated with the Zuni collections housed in the museum. My feeling was that it would be a disservice to both the Zunis and the Smithsonian Institution to prepare a response based on a superficial understanding of the cultural significance of the items in question and of the circumstances under which they had entered the collections. I also felt that it was crucial to communicate directly with the Zunis to supplement the information I gathered from written materials. I therefore contacted Ferguson, at the time the director of the Zuni Archaeology Program and the person whom the Zunis had designated as the liaison on matters related to their repatriation request. We agreed that we would discuss the issues that emerged as my work progressed and that I would go to Zuni later in the year to meet with the religious and political leaders.

After I began my research, it quickly became obvious that the two Ahayu:da in the Smithsonian Institution's collections should be returned to Zuni. They were unquestionably communally owned and had been taken from shrines without the authorization of the pueblo as a whole. However, because the Zuni request involved scores of items in addition to the Ahayu:da, I continued my research rather than simply recommending that the Ahayu:da be returned. This research revealed that many of these items had been prepared by Zuni religious leaders expressly for the Smithsonian Institution and others apparently were owned by individuals rather than communally by the pueblo. I decided to recommend that the Smithsonian Institution agree to return the Ahayu:da while requesting clarification of the status of these other objects and of the Zunis' justification for requesting their return.

In preparing my recommendations for the administration, I consulted primarily with William Sturtevant of the Department of Anthropology and Marie Malaro of the Smithsonian Institution's General Counsel's office. Both agreed that the Ahayu:da should be returned to the Zunis, but neither Sturtevant nor Malaro nor, for that matter, anyone else at the Smithsonian Institution pressured me to adopt a particular stance on the issues. Nonetheless, because of the reluctance of some administrators to accede to the Zunis' request to close the Zuni masks exhibit in the early 1970s, I was concerned that my recommendation to return the Ahayu:da would not be readily approved. In my report to the administration, I emphasized that the Smithsonian Institution's title to the Ahayu:da was doubtful and that my recommendation that they be returned to Zuni was based on strictly legal considerations. As a result, I argued, the repatriation of these items would set no new precedents and would not jeopardize the collections as a whole. As it turned out, the museum's administrators needed little convincing; they believed that the Institution should en-
deavor to respond as positively as possible to American Indian concerns about the collections.

A little over a year had elapsed between the Smithsonian Institution's receipt of the Zunis' repatriation request and its decision to return the Ahayu:da, but the Ahayu:da were not returned to Zuni until five years later. Changes in administration at both Zuni and the Smithsonian Institution and the logistical problems that inevitably arise when many people must be involved in making a decision contributed to this delay. However, the principal factor was the belief on the part of both the Zunis and the Smithsonian Institution that the other side expected resolution of the complicated issues surrounding the items other than the Ahayu:da before the Ahayu:da could be returned. Since the Zunis had submitted a comprehensive statement on the collections, I assumed that they wanted a comprehensive response—a task that required over a year of full-time work for me to complete. Because they received a comprehensive response, the Zunis assumed that the Smithsonian Institution considered the return of the Ahayu:da to be contingent on reaching an agreement on the other items. They feared that if they accepted the Ahayu:da without resolving the issues associated with the other items they would be expected to relinquish their claim to these items. Not until the summer of 1985 was this miscommunication cleared up and an agreement reached to return the Ahayu:da while postponing discussions on the other items. The time between the reaching of this agreement and the return of the Ahayu:da to Zuni was devoted to resolving final details of the return, deaccessioning the Ahayu:da from the collections, and arranging a date for the official transfer.

Despite the length of the negotiations, both the Smithsonian Institution and the Zunis agreed at their conclusion that they had been handled properly. From the outset, the Smithsonian Institution was impressed by the Zunis' deliberate and nonconfrontational approach and their recognition of the difficult issues that their repatriation request raised for the museum. For their part, the Zunis appreciated the Smithsonian Institution's commitment to respond to their request in a careful fashion and to be sensitive to the Zunis' concerns for the collections. Although some individuals not involved in the negotiations suggested that the delays were a tactic to avoid returning the Ahayu:da, this was not the case, and the Zunis never expressed any doubt that the Smithsonian Institution acted at all times in good faith. Indeed, to the degree that these delays could have been avoided, both sides were responsible. The important point is that the negotiations strengthened the relationship between the Zunis and the Smithsonian Institution, providing the basis for cooperation in future projects both at Zuni and at the Smithsonian.

EDMUND J. LADD

Perhaps the most important aspect of the efforts to return the Ahayu:da to Zuni has been the role played by the Zuni religious leaders. Around 1978, some of the religious leaders decided that the reason there was so much suffering in the world was that so many Ahayu:da had been removed from Zuni land. The campaign that resulted from this was initiated and directed by the religious leaders, and this is the only way it could have worked at Zuni. If it had been up to the tribal council or the average Zuni, it would never have happened.

I became involved in the negotiations at the request of both the Zuni Tribe and the Smithsonian Institution. William Sturtevant was particularly helpful in setting up the mechanism by which the National Park Service made my time available to assist the tribe at the beginning of the project. The National Park Service had previously assigned me to the Zuni Tribe or to a federal agency such as the Department of Justice to serve as a translator for depositions or court testimony in land claims cases. This work entails more than just linguistic translation, because there are fundamental concepts that need to be interpreted from English into Zuni and back again. My professional training as an anthropologist provided me with the background I needed to undertake this type of cross-cultural interpretation. Fortunately, my supervisors in the Park Service supported me in this work and saw that it was of value.

I feel that for the Smithsonian Institution my credentials as a museum professional and anthropologist were as important as my status as a member of the Zuni Tribe; my participation in the negotiations gave the tribe additional credibility. At Zuni, my role as part of the advisory team that worked with the religious leaders on repatriation of the Ahayu:da was appropriate in part because I am a member of the Suski (Coyote) clan, whose members have an affiliation with the Ahayu:da. I acted as a mediator, trying to translate adequately the different concepts of museums and Zunis and helping to make sure that people were really talking to one another and not simply at each other. Sometimes I reviewed documents prepared by both sides before they were officially transmitted to try to maximize communication.

Zuni elders and Smithsonian Institution representatives viewed the collections differently. The museum seemed to conceive of the artifacts as a collection, considering the entire set as important as the component pieces. The Zunis viewed the collection as individual objects many of which are not meant to be preserved (the goal and trust responsibility of the museum). "Curating" these objects properly according to Zuni beliefs would upset many museum curators, because as sacred artifacts they are supposed to be deposited in the ground and allowed to disintegrate. It is profane to keep masks completely decorated, because a spirit is invested in the mask when it is used in a performance and this spirit needs to be released so that it can return to the afterworld at Kolhu/walaw:wa. In theory, keeping the masks completely decorated like art objects or "mantle pieces" keeps the spirit of the dance performance trapped in the mask. The person who originally owned
the mask is thus left without a passport to enter the afterworld or to come back to Zuni land for spring rains and winter storms. As a result, that spirit is not doing his job.

Medicine bundles and fetishes are similar in that upon the death of the medicine man who owned them they are supposed to be buried and sent to the afterworld. When they are preserved in a museum context, the spirit is trapped. The whole museum concept of preservation of artifacts is alien to Zuni religious culture. Even though they had been told what to expect, the Zuni religious leaders were horrified upon seeing that the Smithsonian Institution was preserving religious objects. In their view, masks and other religious paraphernalia did not belong in the museum; preservation of these materials was insensitive and immoral.

The Zunis were not angry at the Smithsonian Institution, however. What they experienced was ṭse/met, sadness. They said, “We are very sad. Why have these things been put here? Who sold these things?” I tried to give them philosophical answers to these questions as well as to provide information on the historical circumstances within which many of the objects had left Zuni. I said that many of them had been acquired by museums when people were hungry—that the Zunis had not thought about the consequences of “selling their life” and perhaps not being able to enter the afterworld because they were trying to feed themselves.

Even though emotions were strong during the visits to the Smithsonian Institution, the Zuni elders always conducted themselves as religious leaders. In Zuni culture, one does not mix anger into religious undertakings. Emotions are important, and it is vital to remain spiritually cleansed and focused on the purpose at hand. The Zuni religious leaders were always polite, as the religious oaths they take required them to be. They never demanded the immediate return of the Ahayu:da; they always said, “We respectfully request that you return them.” The Zuni approach was forceful in its sincerity, but the religious leaders remained determined to recover what they knew belonged to them.

When the religious leaders left the Smithsonian Institution the first time, they spiritually made the spirits there rise up and come back to Zuni. But they still felt a sadness that their children, the artifacts in the museum, were being held in ways that for the Zunis were insensitive. The Zuni religious leaders know that in the long run the objects in the museum will “eat themselves up” no matter what the museum does to preserve them. Prolonging that process of disintegration, however, is still wrong.

One confounding issue in the negotiations with the Smithsonian Institution concerned artifacts that were made for museum exhibits. To the museum these are “models.” To the Zuni today they are real and very sensitive. For instance, during my tenure as curator of ethnology at the Museum of New Mexico, the museum returned a number of Zuni kokko masks made during the WPA period. These masks were made as “models” using Stevenson’s 1904 report as a guide. Even though they were made of cardboard, they looked like the originals and thus like the spirits of the kachinas they represented. As in the case of the La Junta Scouts, even though they had not been made with ritual and prayer the Zunis still considered it insensitive to have them in the museums as models and used as decorative pieces. The Zuni religious leaders, looking at these objects, considered them real. For this reason, at the request of the Zuni Tribe, we gave them to the Zuni religious leaders for disposition as they thought best.

The issue of “models” in museum collections poses two basic questions for the implementation of the Native American Graves Protection and Repatriation Act: What is real? and Whose belief system is to be applied? These questions and others will take time to answer. For this reason, the implementation of the NAGPRA should not entail setting fixed time limits. Given the diversity of Indian tribes in the United States, no blanket policy can be created that covers every situation for every tribe, and the issues surrounding the repatriation of human remains in many cases will be quite different from those associated with the repatriation of religious items. While a mandate requiring museums to talk with Indians about sensitive and sacred artifacts is clearly needed, the issues will need to be worked out on a case-by-case basis. Tribal religious leaders should be the ones to direct the work and make the decisions, as in the repatriation of the Zuni Ahayu:da. Museums should make it possible for religious leaders to see the collections firsthand and tell the museum what is sensitive. Museums should open their doors as the Smithsonian Institution did for Zuni. Also, future generations are going to be interested in what we are doing under the NAGPRA and why, and for this reason it is important that the whole process be documented.

There was a “heavy” feeling during the ceremony in Santa Fe that returned the Ahayu:da from the Smithsonian Institution to the Zuni Tribe. In some respects it was a reenactment of the way the Ahayu:da are ceremonially set out in the plaza before they are taken to the shrines. The religious leaders were saddened, but they were also elated by the fact that they had recovered the Ahayu:da from the Smithsonian Institution—the ones that had become the most important to us because we had worked so long to get them back. After all the work that had gone into the negotiations, it was a very pleasant feeling to have attained the goal.

Even though the Ahayu:da have been returned, negotiations with the Smithsonian Institution are not over. Currently, at the request of the National Museum of the American Indian, we are considering the large collection of Zuni artifacts in that newest branch of the Smithsonian Institution, and the museum is assisting us with the development of a tribal museum. If and when the Zuni religious leaders decide it is necessary, they will also reopen the negotiations with the National Museum of Natural History. In the meantime, the power and continuity of Zuni culture and religion have been reinforced.
by the return of the Ahayu:da to their shrine on the Zuni Indian Reservation, and this is good.

T. J. FERGUSON

As Ladd points out, the Zunis were successful in their negotiations with the Smithsonian Institution because the impetus for the repatriation request came from the Zuni religious leaders themselves. Two generations of clan leaders and bow priests provided the drive and persistence needed to sustain nine years of discussion. Even though the Zunis made use of anthropologists, attorneys, and law enforcement officers in their campaign, their approach remained grounded in Zuni culture—that is, there was an imperative to ask for repatriation four times as reasonable men. In implementing this approach, after the initial experience with the Denver Art Museum, the first contacts with other museums were couched in nonthreatening, humanistic terms rather than legal ones. The Zunis were well aware of their legal rights, however, and after the repatriation of the Ahayu:da from the Smithsonian Institution all correspondence with other museums was reviewed by the tribe's legal counsel to ensure that the tribal government's position that Ahayu:da are stolen property was not inadvertently compromised.

Everything I did as a consulting anthropologist was closely coordinated with the Zuni Archaeology Program, which played a key role, as the tribe's cultural resource management agency, in maintaining administrative continuity and serving as an archive. My main function was to conduct research on questions posed by Zuni religious leaders and museums about the history of removal of Ahayu:da and the role of these images in Zuni culture and society. Although I occasionally served as an amanuensis in the preparation of documents, I did not act as an advocate. The Zuni religious leaders used legal counsel when an advocate was needed.

At the outset of the campaign, Rogers forged a procedure whereby all the alternatives concerning repatriation issues were presented to the religious leaders, who were thus empowered to make informed decisions about a course of action. Although this was sometimes a difficult process because of the complexity of the legal and cultural issues, the religious leaders remained in control of the whole endeavor. At first this was a very formal procedure. Over time, as the personal relationships of the participants solidified and fewer people were directly involved, it became more informal. This occasionally led to rough edges in the articulation of the repatriation activities of Zuni religious leaders and successive tribal councils. At no time, however, did political leaders or non-Indians try to make decisions for the Zuni religious leaders.

I found that at Zuni certain information requested by museums was easier for a non-Indian to collect and transmit than for a Zuni who was not initiated in the proper religious societies or otherwise qualified to have it. By working with a non-Indian, the religious leaders maintained better control over the diffusion of privileged information within the pueblo as well as the transmission of information to museums, and this helped to make the difficult process of providing sensitive information to museums somewhat easier.

The negotiations with the Smithsonian Institution cannot be divorced from other aspects of the campaign to recover Ahayu:da. The actions the Zunis took in one situation had an impact on what they were doing in others. In reflecting on the 14 years during which the Zunis have sought to recover Ahayu:da, what impresses me is the tribe's incredible outlay of time, administrative costs, and travel expenses. Requests for documentation, attendance at meetings of boards of trustees, and trips to repatriate these images all heavily taxed its meager financial resources. Fortunately, the Zunis were able to secure several grants to offset the costs of travel, and when travel was impossible the Museum of New Mexico made its facilities available. This relationship reflected Ladd's efforts as curator of ethnology and is illustrative of the role museums can play as third parties when artifacts are repatriated.

I agree with Merrill that the major reason that the negotiations with the Smithsonian Institution took as long as they did is that the issues were extended from a focus on the Ahayu:da to the whole collection. The Smithsonian Institution representatives expressed their desire to deal with the entire Zuni collection at the same time. In 1978, when this approach was proposed, it seemed reasonable both to the museum and to the Zunis, but in retrospect it was naive and incongruent with the structure of the decision-making process at Zuni. The Deer and Bear clans, supported by the bow priests, were responsible for the Ahayu:da. They were unified in their spiritual concerns and agreed on what was needed to rectify the world situation that disturbed them. The religious leaders with authority over the Ahayu:da could not, however, answer questions about other sacred artifacts in the museum. Addressing these questions entailed intensive consultation with many other religious leaders, not all of whom had firsthand knowledge of the curatorial issues involved. In contrast to the situation with the Ahayu:da, there was no agreement on the appropriate disposition of all the artifacts. Working toward a consensus took several years of meetings and consultations at Zuni, and in the end the tribe decided to defer many decisions until the appropriate religious leaders expressed concerns that warranted a reconsideration of the issues. Fortunately for everyone concerned, the Smithsonian Institution was amenable to this resolution.

I now think it would have been better if Zuni and the Smithsonian Institution had dealt only with the issue that had brought the Zunis to the museum, the repatriation of the Ahayu:da. In fact, after their experience with the Smithsonian Institution, the Zunis tried to keep all negotiations with other museums focused on the Ahayu:da. While it is understandable that museums would like to deal with each tribe once and only once to dispense with all issues either party may identify, this may not always be in the interest of either the tribe or the
museum. To do so may force decisions about repatriation of sacred artifacts that the tribe is not ready to make, and this may result in tribes’ requesting that more artifacts be repatriated than is warranted by spiritual or cultural needs.

I hope that the implementation of the NAGPRA will not create a situation like that which occurred in the Zuni-Smithsonian Institution negotiations, with their misplaced if well-intentioned attempt to force decisions about sacred items the curation of which was not a pressing concern for the tribe. The impetus for repatriation requests should come from the religious leaders of a tribe on the basis of spiritual needs. Since these spiritual needs may not manifest themselves until some time in the future, tribes should retain the right to request repatriation of sacred artifacts whenever the need arises. They should not be expected to give up the right to make future claims. The NAGPRA gives tribes important leeway in deciding what human remains, funerary objects, and items of cultural patrimony to request for repatriation. The schedule of repatriation requests should reflect the cultural needs of Indian people and not the bureaucratic and administrative convenience of museums.

Two important aspects of the Zuni approach that were instrumental in the success of their campaign to recover Ahayu:da are documentation of the process and dissemination of information. From the outset, the Zuni religious leaders expressed their concern that their actions be documented so that a history could be written that explained to future generations of Zunis what they did and why. Also, the Zuni Tribe’s willingness to explain its point of view to museum personnel and to publicize its concerns in appropriate forums in ways that did not compromise esoteric information was very useful in gaining support for its position [Ladd 1983; Ferguson 1990a, 1991; Ferguson and Eriacho 1990; Hustito 1991; Martza 1991; Tsadiasi 1991].

Another important aspect of the campaign to repatriate Ahayu:da has been a genuine concern for the security of the artifacts once they have been returned to Zuni. The Zuni religious leaders helped design and construct a culturally appropriate but secure facility around one shrine to provide physical protection. Indian tribes requesting repatriation of human remains and artifacts should be ready, as the Zunis were, to address questions from museums about the security of artifacts after repatriation. I think that museums, with a trust responsibility for the materials being repatriated, should be ethically bound to raise this issue and do what they can to help resolve it in a manner appropriate to the tribe involved. It is in no one’s interest to see repatriated artifacts stolen or otherwise removed from their intended disposition.

The Zunis have never denied that members of the tribe were occasionally involved in thefts of Ahayu:da, but they do not think that this justifies the thefts [and, in fact, federal law does not distinguish between objects stolen by tribal members and those stolen by nonmembers]. By returning two Ahayu:da removed from shrines by Zuni bow priests (albeit one of them was Cushing), the Smithsonian Institution validated the Zuni position on this issue. I hope that the Smithsonian Institution’s action will teach collectors that it is unethical to possess this type of cultural property and thus help discourage the black market in stolen sacred artifacts. Thefts of Ahayu:da at Zuni have not entirely ceased. While all the repatriated Ahayu:da are secure in their fortified shrine, some that have never left the reservation are in open, unprotected shrines, and three of these were stolen in 1990 [Ferguson 1990b]. The investigation of these thefts was impeded by the fact that the specific Ahayu:da were not documented. To correct this situation, Perry Tsadiasi and the Zuni Archaeology Program have obtained funding from the Chamisa Foundation to document all existing Ahayu:da at all of the shrines on the reservation. It is hoped that this project will help deter thefts [Othole, Tsadiasi, and Ferguson 1992].

Conclusion

The Zuni-Smithsonian negotiations for the repatriation of the Ahayu:da were successful even though the two parties justifed the return on different grounds. For the Smithsonian Institution, the issue of title was paramount. Once it had been determined that the Institution lacked good title to the Ahayu:da, there was no question that it would return them to the Zunis, just as it would any other item in comparable circumstances. In their 1984 reformulation of their position, the Zuni religious leaders noted that the Smithsonian Institution’s rationale differed significantly from their own, indicating that from their perspective any object created on the basis of Zuni knowledge belonged to the Zuni people, even if it had been made by non-Zunis. Although their concern for the return of the Ahayu:da reflected the great religious significance of these items, the justification for their return was encompassed by this broader principle, which resembles in many respects laws governing rights to intellectual property.

The Zunis and the Smithsonian Institution worked out their respective positions in terms of the cultural and legal traditions within which each operated at the time. Future repatriation negotiations between Indian tribes and museums will take place within the framework of the 1990 Native American Graves Protection and Repatriation Act [Public Law 101-601]. It requires the reburial of Indian remains and grave goods if so re-

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6. The Smithsonian Institution was excluded from the NAGPRA. The repatriation of human remains and burial goods in all Smithsonian collections was addressed in the legislation that established the National Museum of the American Indian [Public Law 101-185]. Although Public Law 101-185 does not mention the repatriation of sacred objects and cultural patrimony, the Smithsonian’s Department of Anthropology and National Museum of Natural History have decided to embrace the spirit and intent of the NAGPRA, broadening its mandate to include consideration of the repatriation of these categories of objects [Baugh, Bray, and Killion 1992]. It remains unclear what effect, if any, the NAGPRA will have on the continued application of 18 U.S.C. § 1163.
quested by culturally affiliated tribes or direct lineal descendents. It also authorizes requests for repatriation of communally owned items of cultural patrimony that have “ongoing historical, traditional or cultural importance central to the Native American group or culture itself” and communally or individually owned sacred objects, defined as “specific cermonial objects which are needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents.”

The NAGPRA calls for the identification of the necessarily vaguely defined “sacred artifacts” and “cultural patrimony” in specific museum collections through the exchange of information and perspectives between tribes and museums, but it does not specify how these exchanges are to take place. Similarly, the proposed regulations for implementing the act, which the Department of the Interior published in May 1993, deal with all the stages of the process but in a rather schematic fashion. Although the procedures will undoubtedly differ somewhat from case to case, the Zuni-Smithsonian experience offers some suggestions as to how negotiations should be conducted.

At the outset, each party should commit itself to understanding the concerns and perspectives of the other and to reaching a mutually satisfactory agreement in a nonconfrontational fashion. Everyone involved should recognize that vast cultural differences potentially separate museums and tribes (as well as one tribe from another) and that their concepts of, for example, “an object” and of “sacred” may differ radically. In the Zuni-Smithsonian negotiations, a common goal was reached, but the reasons given by the two parties to justify the result were quite different. In other repatriation cases, the goals and justifications may be so divergent that resolution will require considerable compromise and the creation of entirely new perspectives on the issues at hand.

In every repatriation request, each party should appoint appropriate persons to handle negotiations on a day-to-day basis. These persons will usually be not tribal political leaders or museum administrators but individuals who fully appreciate the importance of the items in question to both the tribes and the museums and can focus their attention on reaching an equitable agreement. Ideally, the tribal representatives should have some familiarity with museums and the museum representatives should be knowledgeable about the tribes with which they are dealing. These representatives need not have the authority to make final decisions (which presumably will reside in religious leaders, tribal officials, and museum administrators), and their activities should not be disrupted by changes in tribal or museum administrations.

It is extremely important that both tribes and museums recognize that the amount of time and money required to assemble information and reach an agreement can be substantial and will vary considerably from one collection to another, even when the collections are comparable in size and complexity. The Pueblo of Zuni and the Smithsonian Institution invested tens of thousands of dollars and several years of staff time in reaching a mutually satisfactory agreement. Yet these negotiations were relatively simple because detailed information on Zuni culture at the time that the Ahayuda entered the Smithsonian collections was readily available and the collections themselves were well documented. Also, the issue of whether the Zunis were legitimate claimants did not arise; the political and religious organizations of the Pueblo of Zuni have remained relatively unchanged over the past century, and the religious and political officials agreed on how the negotiations with the Smithsonian Institution were to be handled. Negotiations will be more complicated in the case of tribes that lack this continuity and consensus and in situations in which documentation is uneven. Tribal and museum representatives should take these various factors into consideration when establishing budgets and time frames for their negotiations and should expect that these will have to be adjusted over time.

In requesting the repatriation of museum collections, tribes should avoid making blanket requests such as for “all sacred objects.” Instead, they should indicate specific items and provide a detailed explanation of the significance of these items and the justification for their return. An effort should be made to support contemporary perspectives on these items with information derived from well-established traditions or published sources, especially information from the time period in which the items entered the museums’ collections. Tribal representatives should not invent traditions for these objects, nor should they allow short-term political gain for themselves to motivate repatriation requests. For their part, museums should share all the information that they have on the collections in question with the tribal representatives.

This information as well as other communications between the tribes and museums should be written down, so that the negotiations will not be hampered if the tribal or museum representatives should change. At the same time, these representatives should discuss these written statements in detail to ensure that their messages and intentions are clear. They should also meet at both the museums and the tribal lands to allow each party the opportunity to present its views in a familiar setting, to discuss the issues with other members of the tribes or museum staffs, and in general to understand one another better. Meaningful consultation is an expensive process for all parties, and means need to be developed to fund the work that the NAGPRA has set in motion. When a decision is reached to repatriate human remains or artifacts, tribes should provide museums with explicit and detailed instructions on the culturally appropriate protocol for packing and shipping those materials. If such instructions are not volunteered, museums should request them in order to be sure that they are proceeding in an appropriate and respectful manner.

Finally, tribes and museums should employ the repatriation negotiations as a context within which to explore alternatives to repatriation and possibilities for co-
operation in other projects (Boyd and Haas 1992). For example, if tribes are concerned that items might be damaged or lost if they were permanently returned, an agreement might be reached in which the museums would continue to care for the items but would turn them over to the tribes upon request. At the least, tribes might consider allowing museums to prepare detailed documentation of the items so that a record of them would remain if the items themselves should be lost or stolen.

In some circles, the passage of the Native American Graves Protection and Repatriation Act has been regarded as a devastating blow to museums, threatening to dismantle irreplaceable scientific collections at a time when increasing numbers of scholars are relying on these collections in their research. The impact of this legislation will likely be greater on the extensive collections of skeletal remains and burial goods, for which repatriation is now a mandated option, than on ethnographic collections, which often contain few sacred objects or items of cultural patrimony. From an “ethno-graphic” perspective, this new law can be seen as the logical next step in the evolving relationship between Indian people and museums, creating an opportunity for tribes and museums to work together to increase understanding of American Indian culture and history. We believe that the negotiations between the Pueblo of Zuni and the Smithsonian Institution for the return of the Ahayuda offer an excellent example of the positive benefits that can result when such negotiations are conducted in the context of mutual respect and understanding.

List of Unpublished Materials Consulted

1970

29 October. Memorandum, William C. Sturtevant to George Phebus.
30 October. Work order, Clifford Evans to George Phebus.
4 November. Memorandum, R. S. Cowan to Sidney R. Galler.
9 November. Memorandum, Sidney R. Galler to R. S. Cowan, Clifford Evans, and William C. Sturtevant.
10 November. Memorandum, William C. Sturtevant to George Phebus.
10 November. Note, R. S. Cowan to Clifford Evans.
10 November. Memorandum, John C. Ewers to Clifford Evans.
12 November. Memorandum, William C. Sturtevant to R. S. Cowan.
24 November. Memorandum, R. S. Cowan to John C. Ewers.
25 November. Memorandum, R. S. Cowan to Sidney R. Galler.
1 December. Memorandum, John C. Ewers to Ad Hoc Committee.
1 December. Memorandum, William C. Sturtevant to John C. Ewers.
1 December [ca.]. Two undated reports, prepared by John C. Ewers, entitled “Exhibition of Zuni Masks at the Smithsonian” and “Publications on Zuni Masked Ceremonies.”
3 December [ca.]. Undated note, John C. Ewers to William C. Sturtevant.
7 December. Memorandum, Ad Hoc Committee on Zuni Mask Exhibit to R. S. Cowan.
10 December. Memorandum, R. S. Cowan to John C. Ewers.

1971

29 January. Memorandum, R. S. Cowan to Department of Anthropology staff.

1972

23 March. Note, R. S. Cowan to William Fitzhugh.
7 April. Letter, R. S. Cowan to Governor Robert Lewis.
1 June [ca.]. Letter, Governor Robert Lewis to R. S. Cowan.
5 June. Note, R. S. Cowan to Clifford Evans.

1978

8 February. Letter, Richard Conn to Governor Edison Laselute.
3 April. Notes, T. J. Ferguson, meeting with Zuni Tribal Council.
6 April. Transcription of report, Federal Bureau of Investigation.
7 April. Notes, T. J. Ferguson, phone conversation with Vincent Wilcox.
10 April. Notes, T. J. Ferguson, phone conversation with Vincent Wilcox.
10 April. Memorandum, Vincent Wilcox to William Fitzhugh, John Ewers, William C. Sturtevant, Herman Viola, James Hanson, and Marie Malaro.
11 April. Notes, T. J. Ferguson, meeting with Barton Martza.
15 April. Note, Bryant Rogers [Indian Pueblo Legal Services] to T. J. Ferguson.
20 April. Notes, T. J. Ferguson, meeting between Zuni and Smithsonian representatives at the Smithsonian.
20 April. Notes, Jane Walsh [staff member, Department of Anthropology, Smithsonian], meeting between Zuni and Smithsonian representatives at the Smithsonian.
21 April. Memorandum, William Fitzhugh to Vincent Wilcox, William C. Sturtevant, James Glenn, James Hanson, Marie Malaro, and Porter Kier.
3 May. Letter, James Hanson to T. J. Ferguson.
5 May. Notes, T. J. Ferguson, phone conversation with Margaret Hardin.
5 May. Letter, Timothy LaFrance to William James [assistant attorney general, state of Colorado].
9 May. Notes, T. J. Ferguson, meeting with Zuni Tribal Council.
11 May. Letter, Governor Edison Laselute to James Hanson.
19 May. Notes, T. J. Ferguson, phone conversation with James Hanson.
19 May. Letter, James Hanson to Governor Edison Laselute.
25 May. Memorandum, Vincent Wilcox to George Phebus.
30 May. Memorandum, Governor and Zuni Tribal Council to Zuni religious leaders, tribal employees, individuals working on behalf of the tribe on subject of “Coordination of Tribal Efforts to Secure Protection and Return of Objects of Traditional Religious Significance to the Zuni People.”
31 May. Memorandum, Bryant Rogers to Governor Edison Laselute, Councilman Chester Mahooty, and Zuni religious leaders.
1 June. Letter, William Fitzhugh to T. J. Ferguson.
7 June. Memorandum, T. J. Ferguson to Governor Edison Laselute and Councilman Chester Mahooty.
13 June. Notes, T. J. Ferguson, meeting with Wilfred Eriacho.
20 June. Notes, T. J. Ferguson, phone conversation with Edmund Ladd.
21 June. Memorandum, T. J. Ferguson to Governor Edison Laselute and Councilman Chester Mahooty.
21 June. Letter, Timothy LaFrance to Governor Edison Laselute and Councilman Chester Mahooty.
26 June. Notes, T. J. Ferguson, meeting with Porter Kier, Herman Viola, and William C. Sturtevant at Smithsonian.
26 June. Memorandum, Bryant Rogers to Zuni Governor and Tribal Council and religious leaders.
28 June. Notes, T. J. Ferguson, meetings with Edmund Ladd, Chester Mahooty, and Mark Barnes (National Park Service).
July. Memorandum, Bryant Rogers to Zuni Governor, Chester Mahooty, and religious leaders.
August. Notes, T. J. Ferguson, meeting with Zuni religious leaders.
August. Letter, Howard Chapman (regional director, National Park Service) to Governor Edison Laselute.
August. Notes, T. J. Ferguson, meetings at Zuni Pueblo.
August. Letter, T. J. Ferguson to Howard Chapman.
August. Letter, T. J. Ferguson to Porter Kier.
August. Governor Edison Laselute to Rod Sauvageau (Trade Winds West Auction Gallery).
September. Letter, Porter Kier to T. J. Ferguson.
September. Letter, Timothy LaFrance to Governor Edison Laselute and Councilman Chester Mahooty.
September. Notes, T. J. Ferguson, meeting with Zuni religious leaders.
September. Letter, Howard Chapman to Governor Edison Laselute.
September. Memorandum, T. J. Ferguson to Zuni Governor and Tribal Council.
September. Memorandum, James Hanson to William C. Sturtevant.
September. Notes, T. J. Ferguson, meeting with Governor Robert Lewis.
September. “Statement of Religious Leaders of the Pueblo of Zuni Concerning Sacred Zuni Religious Items/Artifacts, Prepared by Wilfred Eriacho, Official Tribal Translator, from a Written Transcript in the Zuni Language of a Meeting of the Religious Leaders of the Pueblo of Zuni Held on May 9, 1978.”
Resolution No. M70-78-991, Zuni Tribal Council.
September. Notes, T. J. Ferguson, meeting between Zuni and Smithsonian representatives at the Smithsonian.
September. Notes, T. J. Ferguson, meeting with Edmund Ladd.
September. Letter, William Fitzhugh to T. J. Ferguson.
September. Memorandum, William Fitzhugh to William C. Sturtevant, John C. Ewers, Bruce Smith, Vincent Wilcox, James Hanson, Marie Malaro, and Porter Kier.
September. Notes, T. J. Ferguson, phone conversation with William C. Sturtevant.
September. Notes, T. J. Ferguson, meeting with Alonzo Hustito, Edmund Ladd, Durkus Manning (Indian Pueblo Legal Services), Bryant Rogers, and Barbara Mills (Zuni Archaeology Program).
10 October. Notes, T. J. Ferguson, meeting with Zuni religious leaders.
October. Notes, T. J. Ferguson, meeting with Alonzo Hustito, Mrs. Alonzo Hustito, and Charles Hustito (Bear clan leader and relatives).
October. Letter, Allen Kallestewa [Deer clan], Alonzo Hustito [Bear clan], Chester Mahooty [councilman], and T. J. Ferguson (tribal archaeologist) to Linda Eisenhart.
October. Letter, Allen Kallestewa [Deer clan], Alonzo Hustito [Bear clan], and Bow Priests Victor Niihi, Juan Qualo, Blair Amosoli, Mike Leekela, Dexter Cellicion, and Perry Tsadasi to John L. Marion (chairman, Sotheby Parke-Bernet).
October. Notes, T. J. Ferguson, meeting with Victor Niihi (head war chief).
October. Memorandum, T. J. Ferguson to Zuni Governor and Tribal Council.
October. Notes, T. J. Ferguson, phone conversation with James Hanson.
October. Notes, T. J. Ferguson, meeting with Alonzo Hustito and Triloki Pandey.
October. Notes, T. J. Ferguson, meetings with Triloki Pandey and Alfonso Ortiz.
October. Notes, T. J. Ferguson, meeting with Bryant Rogers and Hayes Lewis (governor’s son).
October. Receipt, Federal Bureau of Investigation, for Ahayu-da from Sotheby Parke-Bernet.
October. Notes, T. J. Ferguson, phone conversation with Triloki Pandey and meetings with Zuni religious leaders.
October. Memorandum, James Hanson to William Fitzhugh, William C. Sturtevant, John C. Ewers, and Marie Malaro.
October. Receipt, Robert Collins [assistant U.S. attorney, state of New Mexico], for Ahayu-da brought by Triloki Pandey from Sotheby Parke-Bernet.
October. Notes, T. J. Ferguson, meeting with Bryant Rogers.
October. Notes, T. J. Ferguson, phone conversation with Dynde Andrews [attorney provided by Maytag Foundation].
October. Notes, T. J. Ferguson, phone conversation with Robert Collins.
October. Letter, T. J. Ferguson to Porter Kier.
October. Letter, T. J. Ferguson to William Fitzhugh.
October. Letter, T. J. Ferguson to James Hanson.
October. Letter, T. J. Ferguson to Vincent Wilcox.
October. Notes, T. J. Ferguson, meetings with Bryant Rogers, Michael Taylor [Indian Pueblo Legal Services], Triloki Pandey, and Barbara Mills.
October. Notes, T. J. Ferguson, meeting with Bryant Rogers.
October. Notes, T. J. Ferguson, phone conversations with LaDonna Harris [Americans for Indian Opportunity] and James Steinbaugh [U.S. Fish and Wildlife Service].
October. Memorandum, James Hanson to William Fitzhugh, William C. Sturtevant, John C. Ewers, and Marie Malaro.
October. Notes, T. J. Ferguson, meeting with Barbara Mills and Durkus Mannheim.
October. Notes, T. J. Ferguson, phone conversations with Maggie Gover [Americans for Indian Opportunity].
October. Letter, Governor Edison Laselute to Ann L. Maytag [Maytag Foundation].
October. Note, Marie Malaro to James Hanson.
November. Affidavit, Triloki Pandey.
November. Notes, T. J. Ferguson, phone conversations with Maggie Gover, Robert Collins, Dynde Andrews, and Bryant Rogers.
November. Notes, T. J. Ferguson, meeting with Barbara Mills and Thaddeus Beinart [Indian Pueblo Legal Services].
November. Notes, T. J. Ferguson, phone conversation with Mr. Waldo (U.S. attorney, state of Washington).
November. Notes, T. J. Ferguson, meeting with Bruce Boynton [Indian Pueblo Legal Services] and Bryant Rogers.
November. Letter, B. Reid Halton [Norhaus, Moses, and Dunn] to LaDonna Harris.
November. Notes, T. J. Ferguson, phone conversation with Edmund Ladd.
November. Notes, T. J. Ferguson, meeting with Steve LaBlanc.
with the Denver Art Museum Board of Trustees and Collections Committee.
11 January. “Notes from a Discussion on American Indian Ceremonial Objects and Restoration vs. Fake Objects, Held January 11, 1979, Millicent Rogers Museum.” Manuscript prepared by and on file at Millicent Rogers Museum, Taos, New Mexico.
12 January. Memorandum, T. J. Ferguson to Zuni Governor and Tribal Council.  
13 January. Letter, T. J. Ferguson to Timothy LaFrance.
14 January. Memorandum, T. J. Ferguson to Zuni Governor and Tribal Council.
15 January. Letter, T. J. Ferguson, meeting with Barton Martza.
19 February. Notes, T. J. Ferguson, meeting with Zuni Tribal Council.
20 February. Letter, Timothy LaFrance to Thomas Maytham.
21 February. Letter, Thomas Maytham to Timothy LaFrance.
22 February. Letter, Thomas Maytham to Timothy LaFrance.
23 March. Notes, T. J. Ferguson, phone conversation with Frederick Mayer [member, Board of Directors, Denver Art Museum].
24 March. Notes, T. J. Ferguson, phone conversation with Frederick Mayer.
26 March. Letter, Thomas Maytham to Governor Robert Lewis.
27 March. Letter, Timothy LaFrance to Steve Munsinger [U.S. Attorney’s Office, Denver].
28 March. Letter, Timothy LaFrance to Nancy Dick [lieutenant governor, state of Colorado].
29 March. Letter, Timothy LaFrance to Marilyn Youngbird.
31 April. Notes, T. J. Ferguson, with Alonzo Hustito.
33 June. Letter, T. J. Ferguson to Thomas Maytham.
34 June. Letter, T. J. Ferguson to Timothy LaFrance.
37 June. Notes, T. J. Ferguson, with Zuni religious leaders.
38 August. Notes, T. J. Ferguson, with Zuni Tribal Council.
39 August. Letter, Thomas Maytham to Governor Robert Lewis.
40 September. Notes, T. J. Ferguson, meeting with Zuni Young Adult Conservation Corps.
41 November. Notes, T. J. Ferguson, meeting with Councilman Pesacnio Lasiloo, Zuni Young Adult Conservation Corps, and Perry Paragon [superintendent, Zuni Agency, Bureau of Indian Affairs].
42 November. Letter, Governor Robert Lewis [signed by Lieutenant Governor Theodore Edake] to Perry Paragon.
43 November. Memorandum, T. J. Ferguson to Virgil Pablo [Zuni Agency, Bureau of Indian Affairs].
45 November. Letter, Governor Robert Lewis to Elizabeth Childs.

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4 January. Memorandum, T. J. Ferguson, to Zuni Governor and Tribal Council.
4 January. Letter, Timothy LaFrance to Thomas Maytham.
4 January. Notes, T. J. Ferguson, phone conversations with Timothy LaFrance.
4 January. Notes, T. J. Ferguson, meeting with Zuni Tribal Council.
9 January. Notes, T. J. Ferguson, meeting of Zuni delegation to the Denver Art Museum with staff of the Native American Rights Fund, Boulder, Colorado.
10 January. Notes, T. J. Ferguson, meeting of Zuni delegation
1 February. Letter, Richard Hill to T. J. Ferguson.
25 February. Letter, Thomas Maytham to Governor Robert Lewis.
5 March. Letter, Governor Robert Lewis to Kenneth Canfield.
10 March. Letter, Kenneth Canfield to Governor Robert Lewis.
12 March. Notes, T. J. Ferguson and Edmund Ladd, meeting with Zuni Tribal Chairman, Chester Mahooty, and Ben Kallestewa.
14 March. Letter, Governor Robert Lewis to Thomas Maytham.
14 March. Letter, Governor Robert Lewis to Richard Hill.
18 March. Letter, Richard Hill to T. J. Ferguson.
26 March. Letter, Richard Hill to Governor Robert Lewis.
7 April. Letter, Thomas Maytham to Governor Robert Lewis.
25 April. Letter, Governor Robert Lewis to Thomas Maytham.
1 May. Letter, Thomas Maytham to Governor Robert Lewis.
16 May. Notes, T. J. Ferguson, meeting with Alonzo Hustito.
22 May. Notes, T. J. Ferguson, meeting of Zuni Tribal Council with representatives of Denver Art Museum at Zuni.
23 May. Letter, Richard Conn to Governor Robert Lewis.
27 May. Letter, Governor Robert Lewis to Mr. and Mrs. Alexander Girard [collectors].
30 May. Letter, Richard Conn to T. J. Ferguson.
10 June. Letter, Garnet Owale [Zuni Young Adult Conservation Corps] to Governor Robert Lewis.
14 June. Letter, Richard Hill to Governor Robert Lewis.
25 June. Notes, T. J. Ferguson, meeting with Zuni Tribal Council.
3 July. Letter, Governor Robert Lewis to Sally Wagner [collector].
8 July. Letter, Governor Robert Lewis to Richard Hill.
8 July. Letter, Governor Robert Lewis to Joan Lester [Boston Children's Museum].
8 July. Letter, Richard Conn to Kenneth Canfield.
12 July. Letter, Kenneth Canfield to Richard Conn.
1 August. Letter, Governor Robert Lewis to Arthur Wolf [director, Millicent Rogers Museum].
14 August. Letter, Susan McGreavy to Governor Robert Lewis.
19 August. Notes, T. J. Ferguson, phone conversation with William C. Sturtevant.
20 August. Letter, T. J. Ferguson to Edmund Ladd.
3 September. Letter, Governor Robert Lewis to Richard Hill.
3 September. Letter, Governor Robert Lewis to Robert L. Barrel [director, Pacific Area, National Park Service].
9 September. Letter, Richard Hill to Governor Robert Lewis.
9 September. Letter, Richard Hill to T. J. Ferguson.
19 September. Letter, Richard Hill [director, Native American Center for the Living Arts] to Rose Wyaco [Zuni Archaeology Program].
22 September. Notes, T. J. Ferguson, meeting with Alonzo Hustito.
23 September. Notes, T. J. Ferguson, meeting with Ben Kallestewa.
24 September. Travel authorization, Pueblo of Zuni, for Edmund Ladd.
25 September. Letter, Robert L. Barrel to Governor Robert Lewis.
29 September. Letter, T. J. Ferguson to Edmund Ladd.
30 September. Receipt of Transfer of Ahayu:da from Wheelwright Museum to Pueblo of Zuni.
1 October. Memorandum, T. J. Ferguson to Governor Robert Lewis.
8 October. Letter, T. J. Ferguson to Richard Hill.
10 October. Notes, T. J. Ferguson, phone conversation with Elizabeth King [University Museum, University of Pennsylvania].
21 October. Travel authorization, Pueblo of Zuni, for Victor Nihi and Barton Martza to retrieve three Ahayu:da from the Denver Art Museum.
21 October. Notes, T. J. Ferguson, meeting with Edmund Ladd, Allen Kallestewa, and Ben Kallestewa.
22 October. Notes, T. J. Ferguson, meeting with Zuni religious leaders.
22 October. Letter, Bruce W. Chambers [director, University of Iowa Museum of Art] to Governor Robert Lewis.
23 October. Letter, Governor Robert Lewis to Thomas Maytham.
28 October. Letter, Arthur Wolf to Governor Robert Lewis.
28 October. Notes, T. J. Ferguson, meeting with Ben Kallestewa.
29 October. Letter, Richard Conn and Thomas Congdon [chair, Collections Committee, Denver Art Museum] to the Tribal Council, religious leaders, and people of Zuni.
29 October. Return receipt for three Ahayu:da from Denver Art Museum to Pueblo of Zuni.
31 October. Notes, T. J. Ferguson, meeting with Zuni Tribal Council.
3 November. Letter, Governor Robert Lewis to Joel Carson [Federal Bureau of Investigation].
10 November. Notes, T. J. Ferguson, meeting with Ben Kallestewa.
11 November. Travel voucher, Pueblo of Zuni, for Victor Nihi (bow priest) for trip to Denver Art Museum to retrieve three Ahayu:da.
15 November. Letter, Governor Robert Lewis to Arthur Wolf.
18 December. Letter, Richard Hill to T. J. Ferguson.
23 December. Letter, Vincent Wilcox to T. J. Ferguson.

1981

6 January. Letter, T. J. Ferguson to Richard Hill.
6 January. Notes, T. J. Ferguson, meeting with Rose Wyaco.
1 January. Letter, Governor Robert Lewis to Arthur Wolf.
1 January. Letter, Governor Robert Lewis to Douglas Ubelaker.
20 January. Letter, Governor Robert Lewis to Bruce W. Chambers.
21 January. Notes, T. J. Ferguson, meeting with Zuni Tribal Council.
24 February. Letter, Governor Robert Lewis to John Echo-Hawk [Native American Rights Fund].
24 February. Letter, Governor Robert Lewis to Timothy LaFrance.
4 March. Memorandum, T. J. Ferguson to Governor Robert Lewis.
12 March. Letter, Douglas Ubelaker to Governor Robert Lewis.
19 March. Letter, T. J. Ferguson to Ms. Cockrell [Association of American Indian Affairs].
4 May. Letter, William L. Merrill to Governor Robert Lewis.
7 May. Letter, William L. Merrill to T. J. Ferguson.
15 May. Memorandum, T. J. Ferguson to Zuni Tribal Council.
15 May. Notes, T. J. Ferguson, phone conversation with Edmund Ladd.
15 May. Letter, Governor Robert Lewis to Douglas Ubelaker.
19 May. Letter, Bruce W. Chambers to Governor Robert Lewis.
21 May. Memorandum, T. J. Ferguson to Zuni Governor and Tribal Council.
16 June. Memorandum, T. J. Ferguson to Zuni Governor and Tribal Council.
16 June. Letter, Governor Robert Lewis to Bruce W. Chambers.
16 June. Letter, Governor Robert Lewis to Mr. and Mrs. Alexander Girard.
22 June. Letter, Bruce W. Chambers to Governor Robert Lewis.
28 July. Receipt of delivery of Ahayu:da from University of Iowa Museum of Art to the Pueblo of Zuni.
29 July. Letter, Alonzo Hustito, Chester Mahooty, and Charles Hustito to Bruce Chambers.
29 July. Memorandum, T. J. Ferguson to Zuni Governor and Tribal Council.
29 December. Letter, T. J. Ferguson to William L. Merrill.

1982
2 February. Memorandum, William L. Merrill to Douglas Ubelaker.
2 April. Letter, T. J. Ferguson to William L. Merrill.
13 April. Letter, Joan Lester to Governor Edison Laschutte.
19 April. Memorandum, Marie Malaro to Douglas Ubelaker.
4 May. Letter, Douglas Ubelaker to Governor Robert Lewis.
4 May. "The Smithsonian Institution's Response to the 'Request for the Return of Zuni Sacred Material and Recommendations for the Care and Curation of Objects of Zuni Religious Significance in the Collection of the Smithsonian Institution,' Submitted by the Pueblo of Zuni, January 1981.'"
17 May. Letter, William L. Merrill to Edmund Ladd. 
17 May. Letter, William L. Merrill to T. J. Ferguson.

1983
16 May. Letter, William L. Merrill to Governor Quincy Panteah.
25 May. Letter, Alvin Abrams (Eagle Properties, Inc.), to Susan Collins (Zuni Archaeology Program).
3 June. Letter, Governor Quincy Panteah to Alvin Abrams.

1984
1 February. Notes, T. J. Ferguson, phone conversation with Richard Hart.
17 July. Letter, Governor Chauncey Simplicio to Douglas Ubelaker.
17 July. "Request for Immediate Return of the Zuni Ahayu:da and Reformulation of Zuni Position on Other Sacred Objects in the Collection of the Smithsonian Institution. Prepared by the Pueblo of Zuni and Submitted to the Smithsonian Institution, July 1984."
17 July. Letter, Governor Chauncey Simplicio to Alvin Abrams.
16 October. Memorandum, T. J. Ferguson to Celisa Tsabetsaye (Zuni Tribal Administrator).
17 October. Letter, T. J. Ferguson to Alvin Abrams.
24 October. Memorandum, T. J. Ferguson to Zuni Governor and Tribal Council.
26 October. Letter, Governor Chauncey Simplicio to Charles Rippy [Tulsa Zoological Park].
5 November. Letter, Alvin Abrams to Pueblo of Zuni.
15 November. Memorandum, T. J. Ferguson to Governor Chauncey Simplicio and Zuni Tribal Council.

1985
28 February. Letter, T. J. Ferguson to Alvin Abrams.

1986
28 March. Memorandum, William L. Merrill to Adrienne Kaeppler.
28 March. William L. Merrill, "Report on the Request for the Return of Sacred Objects from the Collections of the Department of Anthropology, Smithsonian Institution."
23 October. Letter, Adrienne Kaeppler to Governor Chauncey Simplicio.
20 December. Letter, Governor Chauncey Simplicio to Adrienne Kaeppler.

1987
7 January. Notes, William L. Merrill, phone conversation with Governor Robert Lewis. 
February [no day given]. Joint statement by Pueblo of Zuni and Smithsonian Institution regarding return of two Ahayu:da.
18 February. Memorandum, William L. Merrill to Mary Jo Arnoldi [chair, Accessions Committee, Department of Anthropology, Smithsonian Institution].
3 March. Memorandum, Adrienne Kaeppler to Robert Hoffman [director, National Museum of Natural History, Smithsonian Institution].
11 March. Memorandum, William L. Merrill to Margaret Santiago [registrar, National Museum of Natural History, Smithsonian Institution].
14 March. Receipt for Ahayu:da returned by Smithsonian Institution to Pueblo of Zuni.
15 March. Trip report for return of the Zuni war gods from the Smithsonian Institution, Roger Anyon [director, Zuni Archaeology Program].
30 October. Letter, Governor Robert Lewis to Jordon P. Davis [Morning Star Gallery].
12 November. Notes, Edmund Ladd, meeting of Zuni delegation with Morning Star Gallery, Santa Fe.
17 November. Letter, Linda Cheetham (née Mowat) to William L. Merrill.

1989

1990
24 January. Notes, William L. Merrill, interview with Margaret Hardin. 
5 February. Notes, T. J. Ferguson, phone conversation with Barton Mariza.

1991
16 July. Notes, William L. Merrill, interview with James Hanson.

1992
22 December. Letter, Marie C. Malaro to William L. Merrill and T. J. Ferguson.

1993
Comments

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U.K. 17 VI 93

The debate concerning the repatriation of cultural artefacts and human skeletal remains has been gathering momentum during the past 20 years, and, although there are several examples of compromises between North American indigenous peoples and archaeologists, anthropologists, and museums (Ubelaker and Grant 1989), no clear solution has yet emerged. As Zimmerman (1989:281–82) has pointed out, no solution is likely to be achieved until fundamental questions have been answered, or at least considered, relating to the past and to cultural relativism [e.g., can anyone “own” the past and its relics, and, if so, who!]?

These issues are considered in detail by Merrill et al. using the example of the Zuni Ahayu:da. I found the nonconfrontational manner of the Zuni-Smithsonian negotiations encouraging and was impressed by the care and concern voiced by both sides, coupled with a genuine desire not only to take the correct decision legally and ethically but to base the decision on careful research and an understanding of the particular importance of these artefacts to Zuni religion. The return of these particular items highlights one of the basic problems in the debate. Merrill et al. note that in April 1978 the Smithsonian representatives’ position was that they “had a trust responsibility to preserve these collections for all people . . . they could not in good conscience turn over any objects without assurances that they would be afforded the care and security required by modern museum practices.” But Ladd indicates that “the whole museum concept of preservation of artifacts is alien to Zuni religious culture” and that prolonging the “process of disintegration . . . is . . . wrong.” It has been suggested that some artefacts should be given to indigenous groups to curate in their own museums, because the Zuni religious leaders believe that public display of the Ahayu:da is wrong, this compromise would not have been a viable option for this case. There could be no compromise here, and one side had to yield to the other—in this case, the Smithsonian to the Zuni. The Ahayu:da are in a shrine, albeit fortified, in the open air, gradually returning to the earth through exposure to the elements in accordance with Zuni religious beliefs. Even models of them have been deemed sensitive and inappropriate for public display. If and when new methods of scientific analysis are developed, no matter how many photographs or measurements were taken [and Zuni religious leaders may question whether this would be acceptable], they will not be applied to these Ahayu:da. The original Ahayu:da will yield no more information to the Zuni people or other researchers about the historic culture of North America. Ubelaker and Grant (1989) have suggested that media attention invariably centres on the offence to the religious and political ideals of the North American Indians, whereas little credit is allotted to the importance of the scientific study of the materials, particularly biomedical research on skeletal material. In a way, Merrill et al. are guilty of the same charge.

Zimmerman (1989:211), has noted that the return of artefacts may be used by reactionary groups as a means to attract public attention to their cause. It is important that curation and ownership of museum collections not become political tools, either as an example of oppression and insensitivity to minority cultures or as an insular antipathy to scientific research.

The legal position regarding the repatriation of archaeological artefacts and human skeletal remains continues to be uncertain and varies between countries and, in America, between states. Perhaps this is advantageous both for groups requesting the return of ancestral collections and for archaeologists and anthropologists concerned to preserve these collections in museums for further research and education. My interpretation of the protracted negotiations between the Zuni and the Smithsonian is that each group reached a greater understanding of the position of the other, allowing an informed conclusion to be reached. It would seem from the Zuni example that it is important that each case be considered on its individual merits and that any law designed to apply to all claims by all ethnic groups for all claimed items will be cumbersome and may result in unsatisfactory conclusions for both parties. The Smithsonian representatives, after appropriate discussion, research, and consideration, reached a decision that they considered ethical. It would seem that other museums and institutions should be permitted to make their own decisions, in the same way that ethnic groups are able to make their own claims for the repatriation of specific artefacts, on the basis of informed opinion and negotiation rather than general laws.

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Merrill, Ladd, and Ferguson’s important and timely article offers invaluable historical perspective and insight into the process leading to the return of the Ahayu:da and provides advice based on this experience that will be of considerable value in facilitating discussions under the provisions of the Native American Graves Protection and Repatriation Act [NAGPRA]. This provocative article raises many issues and invites many comments, but I restrict myself here to consideration of the museums’ fiduciary obligations to Native Americans.

Merrill, Ladd, and Ferguson urge both museums and American Indians to commit themselves to “understanding the concerns and perspectives of the other and to reaching a mutually satisfactory agreement in a non-confrontational fashion.” This is certainly a worthy goal, one that we can hope will characterize all discussions of repatriation requests, but the fact that the
NAGPRA was necessary suggests that this may not always be the case.

The nonconfrontational attitude characterizing the Zunis’ approach to the Smithsonian is more than admirable, as is their willingness to “educate” the museum professionals and anthropologists managing the Ahayu:da, particularly since the initial request for their return was made in 1970. As Merrill, Ladd, and Ferguson point out, this nonconfrontational approach is deeply rooted in Zuni culture, and museums have no right to expect that other tribes will display such remarkable forbearance.

Museums do have a fiduciary responsibility to the “public” for their collections. When those collections include American Indian human remains, sacred and ceremonial items, and items of cultural patrimony, which under the NAGPRA are no longer even arguably “owned” by the museum, however, the museum’s trust is no longer a public one. It is one owed directly and solely to the sources of the collections and to their descendants. Accordingly, the burden of learning about, understanding, and respecting the perspective “of the other” rests first and foremost upon the museum.

Museums’ fiduciary responsibility with respect to sacred and ceremonial items, items of cultural patrimony, and human remains is to ensure that these are treated with respect in accordance with the cultural values and traditions of the people who were their sources and of their modern descendants. The NAGPRA does provide a real and important opportunity for museums and American Indians to learn from one another, and it also provides an unparalleled opportunity for them to establish new partnerships. Whether these opportunities are soon realized depends more on the museums than on the American Indians. Museums that approach their fiduciary responsibilities from this perspective are far more likely to benefit from these opportunities than those that assume that they can continue to do business as usual, behaving as if the American Indians first had to prove themselves worthy of serious consideration. Museums cannot assume nor should they expect a nonconfrontational attitude as the basis for discussions of repatriation issues. Whatever the attitude of American Indians when they initially approach a museum, the museum must pursue its statutory and fiduciary responsibilities to the fullest, without preconceptions or preconditions.

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In their balanced contribution to the current discussion about the repatriation of Native American and other non-Western artifacts, Merrill, Ladd, and Ferguson present a case for the return of a specific class of objects from the ownership of ethnographic museums and private collectors to the control of the community representing the culture of their original makers and users. Neither the case itself nor the way it was handled should be regarded as typical. Most of the claims for the return of the “cultural heritage” of indigenous peoples are much less well founded, and in many of the resulting cases mutual insinuations take precedence over careful deliberations over the factual evidence.

The paper is typical of the current discussion, however, in largely phrasing the museum’s point of view in supposedly universalist terms of law, ethics, and sensitivity for the needs of other cultures, whereas the Native American side is given the privilege of arguing on the basis of particularistic cultural beliefs and practices [see Ferguson’s comment: “The schedule should reflect the cultural needs of Indian people and not the bureaucratic and administrative convenience of museums”]. Anthropologists could profit by reflecting on the fact that their own discipline and the practice of collecting artifacts (specifically those of other cultures) are historically constituted cultural practices as well. Removed from the meaningful and functional context of their culture of origin and placed in the meaningful and functional context of the culture of collecting, artifacts in fact undergo a significant transformation. In a Euro-American museum context, even the Ahayu:da are no longer objects of Zuni religious observance but Euro-American documents of the fairly unique Western cultural practice of showing a systematic interest in other cultures.

Both the case discussed and the question of repatriation in general involve questions of intercultural understanding that are only indirectly noted by Merrill, Ladd, and Ferguson. As one side presents the case largely as a legal one and the other side as a religious one, it might be fruitful to address the compatibility of legal notions such as “communally owned property” and concepts of “religion” and especially “freedom of religion.” If freedom of religion under the First Amendment was intended to keep government out of religion and religion out of government, how does this apply to largely theocratic societies such as the Zuni? Can it be usefully applied to “pre-Enlightenment” societies, in which religion more or less evenly pervades all aspects of culture (“Ladd indicated that in one sense almost all Zuni objects are sacred”).

Tribal “factional politics” are noted as a factor complicating current negotiations; the possible role of differing points of view in the past as one reason for the original alienation of objects from their traditional contexts is not considered, perhaps because of a view of traditional culture[s] as highly static and homogeneous.

Despite the promise of “valuable lessons for museums and tribes” in view of recent U.S. legislation on this subject, some of the implications of the experience still need to be spelled out. For example, given the “tens of thousands of dollars and several years of staff time to reach a mutually satisfactory agreement” in the fairly simple case under discussion, the recommended and seemingly sensible suggestion of handling all repatriation requests by careful bilateral consideration on a case-by-case basis will require almost unlimited funds and
manpower—and in the process seriously conflict with other aspects of museum work. It may, in fact, paralyze, if not doom, ethnographic museums for decades. Given that “public reaction [is] largely in support of the American Indian position,” ethnographic museums may be faced by the choice of either better explaining to the public the socially redeeming value of their collecting activities or devoting their full attention [and the public’s money] to repatriation.

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This article provides welcome, detailed documentation of what is currently the best-known and most successful example of the repatriation of Native American sacred objects. As it demonstrates, the repatriation process is complex, lengthy, and expensive. It is complicated from the outset because it requires sensitive, patient communication and negotiation among individuals who live in different professional, religious, and cultural worlds and who have different views on museums’ roles, practices, and responsibilities. The U.S. context involves historical relationships between tribes and the federal government—centuries of oppression and flip-flop policies and only now signs of respect for Native Americans’ right to self-determination and sovereignty. It also involves anthropology as a discipline with its own colonialist roots, its current critical reflections on these, and its fieldwork processes and the understandings they produce.

Since the late 1960s, when interest in preserving ethnic and cultural heritage grew internationally as a corollary of newly achieved independence and nationalism in Third World countries, ethical, legal, and moral questions about cultural property, culturally sensitive objects, and human remains have proliferated. Museums have responded differently to increasing demands for respectful portrayals of the religious aspects of individual cultures, equal-voice dialogues in exhibit planning and presentation, and repatriation. Some have had to be pushed by activist groups and/or threats of litigation; others began repatriation efforts in the 1970s, before the 1975 Self-Determination Act and the American Indian Religious Freedom Act of 1978 and long before the NAGPRA.

Will the NAGPRA, like the AIRFA, be shown to be ineffective as its regulations are developed and agencies, institutions, and the courts move into implementation and interpretation? Attempts to amend AIRFA have yet to reach fruition, and one may wonder whether such amendments as eventually emerge from Congress will really ensure the protection of American Indian religious freedoms. The international “esoteric art” market for sacred objects continues to thrive, and in America it is being additionally stimulated by the spiritual quests of New Age movement followers, many of whom are “Wannabe Indians.” Until collecting others’ sacred objects becomes devalued and such markets are shut down, American Indian spiritual beliefs, practices, and objects will continue to be subjected to defamation, imitation, appropriation, and abuse by outsiders.

The documentation of the Ahayu:da repatriations by multiple voices is highly instructive. It illustrates the importance of strategies which make sense within the tribal religious and political spheres and have tribal support, culturally appropriate negotiation styles, understanding of legal rights, precedents, and the services available from outsiders, and understanding of variable decision-making processes and models both within tribes and within the bureaucratic hierarchies of outsiders’ museums, other institutions, and agencies. It also identifies some of the many pitfalls resulting from internal/external and closed/open communications, different perceptions of meetings, interpretations of documents, attitudes toward time and space, publicity, and the use of legal or other assistance, lack of consistent rationales, record keeping, and funding, and changing political winds, new administrations, new employees, factionalism, and bureaucratic bungling. Finally, the article illustrates both insider and outsider anthropologists’ roles during repatriation processes and the benefits of interagency and interinstitutional cooperation.

While the Zuni example certainly is positive, it is unproductive to assume that it provides a model which, with slight modifications, is applicable to all other tribes. Understanding that Native Americans and their cultures are diverse will be the key to the implementation of the NAGPRA and successful repatriation negotiations. Each tribe must decide for itself what repatriation means and whether requests should be made for human remains, funerary objects, and cultural patrimony. Before starting repatriation discussions, each must answer the who, what, when, where, and how questions, taking into account the diversity of ideas and voices within the tribe. Just as there is no single American Indian language, political organization, religion, or response to self-determination and sovereignty or economic development issues, so, too, there will be no single answer to the legal, ethical, political, religious, and other questions raised by the NAGPRA.

No law is perfect, and like others, the NAGPRA will be open to interpretation and court tests. Its potential for curtailing trafficking in sacred objects remains unclear. As does the AIRFA, it creates double binds for Native Americans who, in order to protect their religious freedoms and intellectual property rights, must make sacred matters secular, with no assurance of confidentiality. Additionally, Congress has yet to appropriate funds to support the enormous amount of work for museums that compliance with deadlines for summaries necessitates. However, repatriation is proceeding. The days of pro forma, token consultation with Native Americans are over at last; the dialogues, creative solutions, and new partnerships which lie ahead promise to be challenging, exciting, and enriching for all.
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Four years after the Smithsonian-Zuni Ahayu:da repatriation, the largest group of Ahayu:da yet returned—six figures with associated materials—were handed over to the Pueblo of Zuni by Robert B. Pickering and me for the Denver Museum of Natural History. This voluntary repatriation was a simple and cooperative event following a relatively brief and quiet stewardship of the figures by the Denver Museum. The exemplary groundwork of Zuni religious and other leaders and the model of the Smithsonian repatriation were vital to our museum’s learning curve and the satisfying finale. Our concerns focused on public trust responsibilities within a framework of strong donor-museum and Native American-museum relationships, in contrast with the research-oriented Smithsonian situation. Even so, our conservatively deliberate yet sensitively concerned approach depended primarily for final resolution on the coming together of Zuni knowledge and national museum professionalism.

The origins of our “war gods” were quite in contrast to those of the Smithsonian’s: the six figures with seven associated materials were donated in 1968 by the Mary W. A. and Francis V. Crane Foundation as part of the Crane American Indian Collection. The Cranes had assembled their broadly based collection (some 20,000 objects from the Americas) mostly during the 1950s and 1960s from a variety of primary and secondary sources and operated the private Southeast Museum of the American Indian at Marathon, Florida, until the collection moved to Denver in 1968. They had purchased the Ahayu:da from three New Mexico and California dealers—one figure in 1964, two figures, a ceremonial wand, and three prayer sticks in 1965, and three figures, each with a prayer stick, in 1968. The figures varied from highly weathered to new in appearance. Though they revealed little provenance information, all the sellers probably took at least secondary positions in chains of private holders after the figures’ removal from the reservation.

After her husband’s death in 1968, Mary Crane continued a productive museum relationship as donor and trustee, with the result that a major new Native American hall was completed within ten years. No Ahayu:da were displayed, our staff and the donor having agreed that they should be secluded. Their sensitive nature had been flagged, in fact, by the stipulation of one source that no exhibit take place for ten years.

Our policy [from 1973, under then Anthropology Head Arminta Neal] reflected commitment to a progressive program of collection review and exhibit planning by a Native American staff member and advisory council. Tribal consultations and management policies were set for sensitive materials such as medicine bags, Kachina masks, and Iroquois masks. In general, guidelines called for normal cataloging, photography with special handling, appropriate storage in separate controlled areas, ceremonial attention where required, and response to research or tribal inquiry. Relative to Ahayu:da, advice was solicited from several traditional Pueblo leaders (including the late Fred Kabotie), whose admonitions against display and for seclusion of any Pueblo mask or shrine object were heeded. However, our Native American advisors never directly contacted Zuni representatives. Over 23 years, no requests for information or access to the protected Ahayu:da were received.

In the late 1970s repatriation activism reached Denver. At the National History Museum an Iroquois group advised the return of all wooden False Face Society Masks to the Hodenosaunee Council. [This issue is as yet unresolved.] At the Denver Art Museum in 1979–80 the Zuni war god exhibit confrontation and subsequent repatriation received much local publicity, and its acrimonious tone caused negative reaction among our staff. Fortunately, the more measured Zuni-Smithsonian negotiations also came to our attention, having been reported by Ferguson at the North American Indian Museums Association meeting held at the museum in 1979. Follow-up discussions with our director resulted in a conservative Ahayu:da policy; direct confrontation with the repatriation issue was to be avoided until the Smithsonian’s policy became known or the Zuni Tribe made a formal request. Like Denver Art Museum officials, we were concerned that our trust as a public institution would be violated by turning over Ahayu:da to the Zunis. The implied threat of litigation was equally onerous. The donor appeared satisfied that we were prudently safeguarding the Crane Collection while responding appropriately to Indian concerns other than repatriation. Mary Crane continued to “fill out” the collection until her death in 1982.

The landmark repatriation statements by the Zunis and the Smithsonian in 1987 provided clear documentation of the points most salient to us: Ahayu:da are communally owned by Zuni Pueblo; Ahayu:da outside the Zuni tribal boundary had been unlawfully removed; Ahayu:da are needed for the current practice of traditional religion by the Zuni people; and the appropriate religious spokespersons, the bow priests, have requested the return of all Ahayu:da. By 1988, I knew that we must follow the Smithsonian example, but changes in leadership and staffing kept us from initiating action quickly. Soon enough, however, our administration’s attention to repatriation was demanded by the pending Native American Graves Protection and Repatriation Act, and in its own Repatriation Policy Statement (1990) the museum reflected much of the proposed law’s language.

The November 16, 1990, passage of the NAGPRA made the need to repatriate the Crane Collection Ahayu:da clear, and we decided to do so voluntarily. The deaccession process began on February 12, 1991, and curatorial-to-trustee-level approvals were quickly obtained. By March 4, our unexpected notification of Zuni Governor Robert E. Lewis had activated plans for a March 19 transfer modeled on previous Zuni repatria-
This important document should be required reading for all museum curators in charge of ethnographic collections. Because of recent legislation the issues discussed are of particular importance to U.S. museums, but collections outside the United States are increasingly coming under the scrutiny of “native peoples” and it is clear that the whole question of the return of “sacred objects,” like that of human remains, can no longer simply be ignored. The issues under consideration need to be addressed regardless of the existence of legislation.

Among other things, this report shows a way forward for dealings between museums and the peoples whose cultures are represented in the collections. It also reveals some of the problems, even when there is goodwill on both sides, for example, the complicated issue of determining what is “sacred.” Sometimes definitions can be equally difficult for museum staff and for Zuni religious leaders. Nor will all such dealings have a satisfactory outcome, if only because what is considered satisfactory by one party may be unsatisfactory to the other. And if all known Ahayu:da in the United States are returned to the Zuni people and allowed to disintegrate, as seems to be happening, this may have the effect of encouraging those few museums elsewhere which have such objects to hang onto them.

A notable feature of efforts by Zuni to recover their Ahayu:da is that at no time did they pursue legal action through the courts, preferring instead to make what they regarded as reasonable requests in a reasonable manner. Doubtless the existence of legislation had the effect of concentrating museum minds and encouraged curators to deal with the problem as a matter of some urgency. Nevertheless, as Ferguson remarks, “The Pueblo of Zuni and the Smithsonian Institution invested tens of thousands of dollars and several years of staff time in reaching a mutually satisfactory agreement.” Merrill notes that he spent “over a year of full-time work” in preparing a “comprehensive response” to a statement which the Zuni submitted to the Smithsonian on the collections. One can only envy museums that have such resources, both human and financial.

It is not difficult to sympathize with and support Zuni efforts to obtain the return of Ahayu:da or any cultural property which can be shown to have been stolen from their shrines. Some readers, however, may find it more difficult to fully grasp the Zuni idea that any representation of Zuni religious objects made by anyone should be handed over to the Zuni authorities. If it looks Zuni, even though made of cardboard, then it has been made on the basis of Zuni knowledge and as such belongs to the Zuni people even if made by non-Zunis. Museums or private collections are not the place in which such objects should be kept. In the case of Ahayu:da, they should be placed out in the elements and allowed to disintegrate so that their spirits are freed and returned to a state where they can work for the benefit of all peoples. As museum curators spend their working lives trying to ensure the long-term preservation of artefacts for purposes of scholarly study, this last may be particularly difficult to accept.

One must admire the methodical patience of Zuni leaders in handling their campaign. As results have shown, they were wise to turn down enthusiastic offers by FBI agents to confiscate Ahayu:da from museum collections in order to achieve a speedy return to the Zuni people. The high Zuni success rate must, however, be due at least in part to the existence of U.S. legislation enacted in 1989 and 1990 requiring repatriation of human remains, grave goods, sacred objects, and communally owned “cultural patrimony” if requested to do so. The laws also require museums to draw up inventories of such materials and to make them available to Indian tribes and native Hawaiian organizations and, presumably, anyone else who asks. This last is, or should be, standard professional museum practice in any case, regardless of legislation. In countries where such laws do not exist and where the same kinds of pressure cannot be brought to bear on institutions, the response is likely to be different. In Britain, for example, where museums are geographically isolated from the “native peoples” whose collections they hold, there may well be resistance to such requests. We have already seen it here in
regard to Australian Aboriginal requests for the return of human remains. Some museums have cooperated, others have not. In any event, the only way forward is on a case-by-case basis, as both Zuni leaders and Smithsonian anthropologists fully recognize.

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Probably the three most important ingredients for the successful recognition of indigenous rights are [a] recognition of indigenous title in the laws of the dominant community, [b] a practical incentive to settle the indigenous claim, and [c] popular support for a settlement.

The need for appropriate legislation is stressed throughout Merrill et al.'s paper. The paper also demonstrates a close link between land rights and rights to cultural property. Non-Western concepts of ownership have proved fatal stumbling blocks to the recognition of indigenous rights in the past [see Layton 1985 and Williams 1987 on Australian Aboriginal land rights]. Another important, related issue noted here is the identification of legitimate links between the living and the remains of the dead, which in the past demanded that native people demonstrate a genealogical rather than a general ethnic or community affiliation [cf. Moore 1989]. The question of continuity in indigenous knowledge and practice has also been posed in other contexts, for example, in the requirement of the Australian Northern Territory Land Rights Act that claimants demonstrate "strength of attachment" to sites on the land claimed [see Aboriginal Land Commissioners' reports, e.g., Kearney 1985:26–27 and Toohey 1980:26–27].

Popular support for the return of the Ahayu:da, at least amongst anthropologists and Smithsonian Museum staff, was also evidently significant in the Zuni case. Whether there was a practical incentive to settle the dispute is less clear. Was the museum fearful, for example, of adverse publicity that might have affected attendance figures? Evidently there was no economic sanction of the magnitude that brought the government of Quebec to the negotiating table during phase 1 of the James Bay hydroelectric project [see Feit 1983:420].

Australian policy towards the return of perhaps the most contentious form of cultural property, human skeletons, has developed since the stage cited by Merrill et al. At the request of the government of Victoria, the Australian federal government included in the Aboriginal and Torres Strait Islander Heritage Protection Amendment Act of 1987 a clause acknowledging that "the Aboriginal people of Victoria are the rightful owners of their heritage and should be given responsibility for its future control and management." Under this provision, the skeletal collection made by Murray Black, obtained from Aboriginal graves from the 1920s through the 1940s and including bones up to 15,000 years old, was in 1989 returned to Aboriginal communities in New South Wales and Victoria. The bones were reinterred at six different locations—some, for example, on the banks of the Murray River, some beneath a seven-ton granite boulder within the city of Melbourne. Current government measures in support of the return of Aboriginal skeletal material in museum collections are described by Bromilow [1993].

Merrill et al.'s paper well illustrates the way in which the engagement of anthropology with indigenous rights gives a practical edge to issues that might otherwise be dismissed as postmodern scholasticism. A key issue in this regard is the appropriate translation of cultural constructs such as "curation," caring for places and objects. This issue has repeatedly arisen in Australian Aboriginal land claims [see, for example, Toohey 1980:11–20; Kearney 1985:13–14]. The fundamental point is that the meaning of artefacts and even natural objects is culturally constructed, not intrinsic to the material items, whether they be sacred sites or wooden "images" [or are the Ahayu:da animate beings?]. Merrill et al. give a striking demonstration of this when they write that all objects made on the basis of Zuni religious knowledge, even those made by non-Zuni, belong to the Zuni. If there are no "natural" meanings, is it [as is argued, for example, by Shanks and Tilley 1987:59] nothing more than a contest of power to determine whose meanings prevail?

The Zuni ethic of conservation is shown to be strikingly different to that of the Smithsonian, although similar to that of many indigenous peoples who have participated in the reburial debate. Yet another ethic of conservation has been highlighted by Byrne [1991:275], who points out that "heritage management" is a Western concept and a product of the Enlightenment. He cites the continual restoration and extension of the Chinese Confucian temple of Qufu, first constructed in 478 B.C. but enlarged and rebuilt more than 50 times since: "Although the physical form may change, the spirit and purpose of the original is not only preserved as a continuity, but can be enhanced through the contributions of succeeding generations" [Byrne 1991:275, citing Wei and Aass 1989].

The clear distinction which Merrill et al. draw between the constitutive propositions of Zuni culture and the regulative procedures of Zuni etiquette could well be compared with Ahern's [1982] reanalysis of Azande rationality.

Perhaps the most striking "postmodern" issue is that of privileging scientific knowledge. Can Zuni beliefs really be equated with those of fundamentalist religious groups, as some Smithsonian staff argued, and opposed to the scientific study of Zuni culture? Does public education have precedence over indigenous control of knowledge where control confers authority? Merrill et al. rightly reject both these arguments, but it should be noted that opponents of reburial have repeatedly advocated them [see Layton 1989:5–15].
The Smithsonian's initial handling of the Zuni request for return of the Ahayu:da is typical of the responses of many museums and other repositories to repatriation requests. Paranoia about setting precedents, questions about how materials would be handled upon return, and worries about fulfilling responsibilities of public trust appeared in early considerations. To the credit of the Zuni, the Smithsonian, and others involved, these and related issues eventually were resolved through cultural sensitivity and mutual respect.

Important issues are raised by this fine paper. Most compelling is the driving influence of religious leaders in the process. Many non-Indians have concluded erroneously that the issue is largely political. They have not understood that the more vocal Indians, adept in dealing with non-Indians, are often "front" persons taking guidance from spiritual leaders and elders who tend to speak of "a spiritual imbalance in the world which has resulted in 'adverse effects'" (Rhodd 1990:374). Certainly politics is involved in the sense that repatriation is a contest for "control" over cultural materials and intellectual property rights about them, and in some cases there has indeed been open pursuit of publicity and power. Only in the rarest of cases, however, is control or publicity paramount.

Other core repatriation issues relate to the meanings of "ownership," "curation," and "law." Among traditional peoples many cultural materials or remains simply cannot be "owned," except, perhaps, in a collective sense—an idea surprisingly similar, by the way, to museum concerns about maintaining a collective, public world heritage. The stunning difference between Zuni and museum notions of curation helps us assess the possibilities of the "keeping places" or tribal museums offered as a compromise on repatriation. Depending on the culture, keeping places may not work; museum concepts of preservation and curation may actually be anathema to Indian views. Adjudicative law may have no meaning in sacred matters, in which natural law must take precedence; rigid adherence to human law may actually be disrespectful—a complication that implementation of the NAGPRA increasingly will face.

Merrill, Ladd, and Ferguson see the Zuni-Smithsonian repatriation negotiations as providing guidelines for implementation of the NAGPRA and similar negotiations, duly noting that "the procedures will undoubtedly differ somewhat from case to case." Many of their suggestions are absolutely on the mark. The one exception is their view that "nonconfrontational" negotiations work best to accomplish mutually satisfactory agreements. A nine-year time frame simply would not do for some groups. More important, suggesting how a tribe's negotiators should behave seems a bit presumptuous. How fortunate all parties in this case were that Zuni ideas of appropriate behavior coincided with the wishes of museum staff and administrators for little confrontation! If Ruth Benedict were around, she might point out that the Zunis were her model for the Apollonian ethos, with sobriety, measure, and distrust of excess as important values (Benedict 1932:4). Certainly Zunis value nonconfrontation. Benedict might also have classified anthropological academics and especially administrators as Apollonian. They too are afraid of excess and open confrontation. The former may feel that they are somehow poor anthropologists if they can't get along with members of other cultures, the latter that they will be judged as lacking management skills. The Plains tribes with which I have worked most often on repatriation were Benedict's model for the Dionysian ethos, in which "excess" is valued. The Lakota, for example, enjoy and use confrontation to help build an eagerly sought consensus. After confrontational "rhetorical" position statements, participants move toward compromise and then consensus. Confrontation can also bring about mutually satisfactory agreements, and sometimes very quickly. Other Smithsonian/Native American negotiations, such as those in the Larsen Bay repatriation, have not been so smooth [Knecht and Hauser-Knecht 1992], but they have resulted in successful repatriation much more rapidly than in the Zuni case. One simply needs to recognize the approach to negotiations that is in operation, not personalize issues too much, and "go with the flow."

Generally speaking, Indian religious people and elders, whatever their tribe, have been very patient with us academics, museum specialists, and administrators, as well as with their own tribal councils. As the Lakota elder Matthew King told me, their role is to teach, and teachers need to be patient even though they may feel frustrated over the process. The Zuni religious leaders' concern that the repatriation case be well documented "so that a history could be written that explained to future generations of Zunis what they did and why" carries an especially important and caring lesson; anthropologists should be equally responsible to the future and document the issue thoroughly.

Merrill, Ladd, and Ferguson learned well from the process. Not only have they helped to explain the circumstances of the Ahayu:da repatriation but they have given one good example of how successful repatriation negotiations can be accomplished. Their willingness to share these experiences suggests that they are also good teachers with important lessons.

Reply

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We are grateful to our colleagues for their insightful comments on our article. They identify the most important issues associated with repatriation and indicate the difficulties that confront museums and tribes as they
attempt to resolve these issues. On the whole we concur with their observations and offer here only a few com-
ments to complement their perspectives or to clarify our position.

Although the Native American Graves Protection and Repatriation Act encompasses human remains, funerary goods, communally owned cultural patrimony, and sac-
cred objects, the issues surrounding the return of human remains and funerary goods are somewhat different from those associated with the repatriation of cultural patri-
mony and sacred objects. In the case of the former, the
principal matter museums must resolve is establishing
affiliation of the material with a particular cultural
group or groups; the Native American groups must de-
terminate whether or not to repatriate affiliated remains
and how they should be treated. In the latter, museums
and tribes must apply complex and abstract definitions
of sanctity, ownership, and property to specific objects.
Moreover, while the NAGPRA treats human remains as
property, it is likely that many tribes will not share this
view. The Zuni people conceive of human remains as
dead people and therefore treat them quite differently
from artifacts. At the present time, the Pueblo of Zuni’s
policy is not to request the repatriation of skeletal re-
 mains from museums but to insist that all ancestral
graves be protected from future disturbance or destruc-
tion. If such disruption is inevitable the Pueblo of Zuni
requests that the graves be respectfully excavated by pro-
fessional archaeologists, the human remains and grave
goods documented through nondestructive techniques,
and then both the remains and the grave goods rein-
terred.

Several commentators applaud the nonconfronta-
tional tone that characterized the Zuni-Smithsonian ne-
gotiations, but both Downer and Zimmerman suggest
that museums should not expect other tribes to adopt a
similar approach. Zimmerman points out that confronta-
tion is an integral component of the negotiation styles
of the Plains tribes with which he has worked and a
strategy that they will probably adopt when they inter-
act with museums on repatriation matters. We fully rec-
ognize that not all tribes share the Zuni ethic of noncon-
frontation, but we believe that nonconfrontation will be
the most effective approach for all tribes in their negoti-
ations with museums. Tribal representatives should be
aware that the approach they follow in reaching a con-
sensus among themselves may be counterproductive
when adopted with museum staff members and be will-
ing to adjust their approach accordingly. Confrontation
tends to engender a confrontational response and may
preclude the formation of the positive relationships
upon which future cooperation among tribes and muse-
ums depends. Moreover, while the NAGPRA encourages
nonconfrontational negotiations between tribes and mu-
seums, it also provides for increasingly adversarial forms
of negotiations if initial negotiations cannot produce a
mutually satisfying resolution.

Downer and Zimmerman also suggest that the Zunis’
nonconfrontational approach was in part responsible for
the delay in bringing the negotiations to a successful

conclusion. Our perspective is quite different. The Zu-
nis first requested the return of the Ahayu:da in 1978
(not 1970) but did not submit a formal repatriation re-
quest for them until January 1981. By May 1982, the
Smithsonian had agreed to return the Ahayu:da. This
decision was made strictly on the basis of a careful con-
sideration of the legal and moral issues involved, not
to answer Layton because of the fear of adverse publicity,
economic sanctions, or any other outside pressure. The
negotiations continued for five more years primarily be-
cause the request included many additional items which
were the responsibility of a number of different religious
leaders, all of whom had to be consulted. Had the repa-
tri ation request focused exclusively on the Ahayu:da,
the negotiations would have been concluded in a matter
of months at most and much of the expense avoided.
In contrast, if the Zunis had chosen a more confrontational
approach, and especially if they had sued the Smithso-
nian for the return of these items, the repatriation pro-
cess undoubtedly would have taken much longer. We
believe that it is imperative that tribes and museums be
allowed adequate time to formulate their positions as
long as both understand the reasons for possible delays
and museums do not attempt to postpone reaching a
decision as a tactic to avoid repatriation.

Feest and Jones express concern about the impact that
repatriation will have on the ability of museums to ful-
fill their roles as research and educational institutions,
emphasizing the enormous time and expense that re-
sponding to repatriation requests entails. We are con-
vinced that adequate funds must be made available to
both museums and tribes if the repatriation process is
to be carried through properly without jeopardizing the
functioning of either. Having judged repatriation suffi-
ciently important to legislate it though the NAGPRA,
Congress should appropriate these funds. Otherwise, as
Frisbie fears, the NAGPRA will be as ineffective as the
American Indian Religious Freedom Act.

In a similar vein, Cruwys comments that the repatria-
tion of museum collections typically precludes their use
in future scientific research. The possibility that tribes
will allow researchers access to collections once they
are repatriated is remote, but the loss of potential
knowledge would seem to be greater in the case of pre-
historic skeletal materials than in that of ethnographic
objects. Skeletal materials represent one of a very lim-
ited array of sources of knowledge about prehistoric peo-
ple and their lives, and their potential for revealing addi-
tional information increases with each advance in
biomedical technology. While the importance of ethnog-
ographic objects as sources of information on the past
should not be underestimated, ethnographic research
tends to focus more on their cultural contexts than on
the objects themselves. Ethnographic research also has
access to a much broader range of data sources, includ-
ing the contemporary members of the cultures that pro-
duced the objects. The failure to respond to legitimate
requests for repatriation might result in a more exten-
sive loss of knowledge than returning the objects.

In the case of the Ahayu:da, we think that a proper
balance has been struck between the rights of the Zunis and the academic interests of scholars. The Zunis have approved and encouraged the thorough documentation of Ahayu:da by photographs, measurements, and materials analysis prior to their repatriation from museums. While this information is no substitute for the images themselves, it will serve to answer many questions about the Ahayu:da that might arise in the future. The Zuni Tribe considers this documentation to provide very important information that can be used in law enforcement investigations should any repatriated Ahayu:da be stolen. The tribe’s own project to document Ahayu:da at shrines on the Zuni Indian Reservation employed a suite of 18 measurements developed by the Brooklyn Museum in consultation with the Smithsonian Institution.

Cruwys’s comments touch upon the basic issue of conflict between scientific research and museum practices, on the one hand, and the rights of Indians to control their cultural property and knowledge about that property, on the other. Layton also raises this issue in his instructive comparison of the Zuni-Smithsonian negotiations with repatriation cases from Australia and other parts of the world. Given the vast differences between the Western scientific tradition and the cultural traditions of many non-Western people, such conflict is inevitable, and where perspectives are diametrically opposed (as in the case of Zuni and Smithsonian concepts of proper curation of certain kinds of objects) there may be little possibility of compromise. However, we are convinced that privileging a priori one perspective over another will be unproductive. In the Zuni-Smithsonian negotiations, the different perspectives on repatriation and curation were carefully evaluated and discussed by both parties before a final agreement was reached. The Smithsonian accepted the legitimacy of the Zunis’ claim to the Ahayu:da and agreed that this claim outweighed any argument for keeping the Ahayu:da in the museum as a source of data. At the same time, the museum did not concur with the Zuni argument that all objects made on the basis of Zuni knowledge belong to the Zuni people. As Jones indicates, this perspective will be difficult for many people to accept, and its far-reaching implications undoubtedly will become the focus of the next round of negotiations between the Pueblo of Zuni and the Smithsonian Institution.

As most commentators point out, the necessity to translate and, if possible, reconcile such divergent perspectives represents the greatest challenge to future repatriation negotiations. By providing general definitions of the kinds of materials subject to repatriation, the NAGPRA limits to some degree the universe of discourse in terms of which these negotiations will take place, but the range of concepts and issues to be discussed remains immense. We do not expect that museums and tribes will ever come to share a perspective, but we hope that a common ground of understandings can be established that will facilitate reaching agreements on the proper disposition of items in museum collections.

Feest and Layton argue that the meaning of artifacts is culturally constituted and thus varies from one cultural context to another. While we accept this observation in principle, we do not agree with Feest’s conclusion that in a “Euro-American museum context, even the Ahayu:da are no longer objects of religious observance.” Despite being appropriated by non-Zunis and endowed with a new set of meanings, these images continue to be central to Zuni religion and their repatriation of great significance to the Zuni people. Also, many Zunis and other American Indians envision sacred objects and places as endowed with meaning and power derived from a divine or spiritual source. Acknowledging that meaning is a cultural construct that can be contested in a political arena is helpful in explaining how non-Indians may understand the cultural and legal aspects of repatriation, but it is also important to recognize that the Zunis seek to recover Ahayu:da not because they want their meanings to prevail but because they believe that the world is endangered if the Ahayu:da are not at their shrines where Zuni priests can attend to them.

Frisbie correctly notes that the Zuni-Smithsonian negotiations do not provide a model that can be adopted by all tribes and museums, a view echoed by several other commentators. Herold, in her detailed account of the return of six Ahayu:da from the Denver Museum of Natural History, indicates that her institution did, in fact, rely on these negotiations as a model; a number of other museums have done likewise. However, our intention was not to propose these negotiations as an algorithm for repatriation but to point out general features that we considered useful and applicable to most repatriation cases. Repatriation must proceed on a case-by-case basis because the circumstances of each case are unique, and not simply because of the cultural diversity of Indian tribes. Different museums also have different perspectives and concerns, reflecting their status as private or public museums, the emphasis they place on research or public education, and their location in the United States or abroad.

The impact of the NAGPRA on museums and tribes has already begun to be felt. The majority (over 80%) of the Ahayu:da returned to the Zuni Tribe have been repatriated since its passage, and Herold indicates that it influenced the timing of her museum’s decision to return the six Ahayu:da. In May 1993, the Peabody Museum of Archaeology and Ethnology at Harvard University became the first museum to repatriate an Ahayu:da explicitly using the procedures specified in the NAGPRA. Yet no one should have any illusions that the implementation of such broad legislation will resolve the myriad cultural issues associated with repatriation or automatically result in the repatriation of all items that tribes request. The NAGPRA acknowledges a museum’s “right of possession” to an object, even a sacred object, if the museum acquired the object “with the voluntary consent of an individual or group that had authority of alienation.” Native Americans may not like the fact that their ancestors voluntarily transferred possession of these objects to museums, but the NAGPRA does not mandate that they be repatriated. The ultimate disposi-
tion and treatment of such objects will be determined primarily by moral considerations rather than legal dictates. As Jones notes, these issues “need to be addressed regardless of the existence of legislation.”

In this regard, we do not agree with Downer’s reading of the NAGPRA as instantly shifting a museum’s trust responsibility for materials covered by the legislation from the public at large to specific tribes. The status of certain items as sacred objects or cultural patrimony is not always apparent, and in many cases determining this status will depend upon the exchange of information between museums and tribes. If a museum’s right of possession to any of these objects is confirmed, then the NAGPRA does not require that the museum curate them according to the tribe’s wishes. In many cases, a tribe’s view of the proper treatment of an object will violate standard museum practices of conservation and curation. We hope that in such cases museums and tribes will work together to arrive at mutually satisfactory compromises, but sometimes reaching such agreements will be quite difficult, particularly when the tribe’s wishes conflict with more general legal principles. For example, many tribes insist that sacred objects should not be handled by women, but museums are subject to federal laws and regulations that prohibit sexual discrimination in the workplace.

The important point is that while the NAGPRA is a crucial first step toward transforming the relationships between tribes and museums, completing this process will depend on the ability of museums and tribes to cooperate in addressing the diverse issues—many of them ethical rather than legal—not encompassed by the legislation. Despite its “colonialist roots,” anthropology has done more than any other Western academic discipline to challenge the tenets and practices of Euro-American ethnocentrism, and anthropologists have played crucial roles in the development of the repatriation process. By continuing to work together, Indian tribes and anthropologists can forge a new, more collaborative anthropology that will benefit both.

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WANTED

Books and journals for the libraries of the University of Vilnius, the Russian State University of the Humanities in Moscow, and the Kiev-Mogilianskaja Academy University and/or financial contributions to their transport and maintenance. The Second World Center has been assembling materials in English, French, and/or German in any academic discipline but especially in history, political science, languages, sociology, anthropology, psychiatry, and psychology. To participate in the project, please write: Second World Center, André Koppers, P.O. Box 3754, 1001 AN Amsterdam, The Netherlands.

Our Readers Write

In his discussion of the pig-like nature of the Kebara hyoid, Lieberman [CA 34:172-75] asserts, "The anatomical claim that Frayer, Smith, and other adherents of Milford Wolpoff are making...[would place] the larynx in the creature's chest." The comment is a real double-whammy and a great debating tactic. In one fell swoop it manages to tar me, for having ideas so easily ridiculed [whatever they are—he doesn't actually say, and no reference to my work is in the bibliography], and a number of other scientists for mindlessly sticking to them like a collection of refrigerator magnets. I only regret that he chose not to apply this intellectual energy to defending his position. The pity is that ridicule, which some call the weapon of the defeated, can only create heat without light and is disappointing from a scholar who has pioneered so many innovative ideas. What is even more disappointing, however, is the editorial process that allows comments like this to get into print in anthropology's most important international journal. Everybody gets irritated with colleagues from time to time and can-