

# Note

## Cultural affiliation is not enough: the repatriation of Ainu human remains

Naohiro Nakamura

School of Geography, Earth Science and Environment, Faculty of Science, Technology and Environment, The University of the South Pacific, Laucala Campus, Private Bag, Suva, Fiji (nakamura\_n@usp.ac.fj)

Received July 2016

doi:10.1017/S0032247416000905

**ABSTRACT.** The challenges faced by indigenous peoples in repatriation negotiations vary across the globe. In 2012, three Ainu individuals launched a legal case against Hokkaido University, demanding the return of the human remains of nine individuals and a formal apology for having conducted intentional excavations of Ainu graveyards, stolen the remains and infringed upon their rights to perform ceremonies of worship. This action marked the first of such legal cases in Japan. The Ainu experienced both legal and ethical challenges during negotiations with the university; for example, while the claimants applied the Ainu concept *kotan* as a legal argument for collective ownership of the remains, Hokkaido University claimed the lack of assumption of rights relating to worship under the Civil Code of Japan. There has been significant progress recently on repatriation, mainly due to the Native American Graves Protection and Repatriation Act in the US, and several meaningful recommendations have been made to ease the repatriation process. However, such recommendations are often case specific and variations in the experiences of indigenous peoples from country to country have not been widely documented. This article discusses the challenges faced by the Ainu in repatriation negotiations in Japan, with a particular focus on the difficulties of applying indigenous customs and philosophies within legal frameworks.

### Introduction

In November 2012, three Ainu from Urakawa, Hokkaido, Japan, launched a legal case against Hokkaido University, demanding the return of the human remains of nine individuals and a formal apology for having conducted intentional excavations of Ainu graveyards, stolen the remains and infringed upon their rights to perform ceremonies of worship. The Ainu remains that were the subject of this legal dispute had been in ‘storage’ at the Faculty of Medicine, Hokkaido University for a long period of time. The Ainu had originally requested that the university return the 1,027 remains in the 1980s, but the university only returned a limited number of the remains as they believed that the remains were collected legally and were valuable for scientific research (HU 2013: 91). After the recognition of the Ainu as an indigenous people of Japan in 2008, the national government has discussed the possibility of repatriation of Ainu human remains, along with the construction of a memorial facility where the Ainu remains would rest. Concurrently, Hokkaido University’s School of Medicine has tried to confirm the identities of the remains (HU 2013; Izumi 2013). However, due to the lack of data/records for each of the remains and the random mixing of broken skulls and bone fragments during storage, only 19 identities have been confirmed. Individual identification of all of the remains is considered to be nearly impossible (Committee on the Promotion of Ainu Policies minutes, 18 September 2014). As a result of the university’s defensive position and slow progress with identification, a legal claim was made in 2012.

However, this legal case has highlighted additional challenges with regards to repatriation in Japan. That is, while the Ainu claimants have asserted that all members of *kotan* – a traditional Ainu community – share rights relating to worship based on their traditional indigenous belief, the university, by strictly following the Civil Code of Japan, has required the claimants to verify whether or not each of them has individually succeeded rights relating to worship (*saishi keisho ken*), regardless of their kinship. While almost all of the remains are without doubt culturally affiliated with the Ainu, each claimant is required to verify individual affiliation with each of the remains under the current law.

This article discusses the challenges involved in the repatriation of Ainu human remains in Japan. Although the case discussed in this article concerns the experiences of a particular indigenous people in a particular context, this case might be relevant to other indigenous peoples located in a similar context, as repatriation is a concern for indigenous peoples and nations worldwide, especially in terms of negotiation processes and the challenges of applying indigenous customs and philosophies to legal frameworks established upon non-indigenous philosophies (Kakaliouras 2012: S218).

Data were collected from the *Report on the Ainu human remains stored in the School of Medicine, Hokkaido University* (henceforth referred to as *The Report*; HU 2013), and documents made available online by the Ainu claimants and their support group *Hokudai Bunsho Kaiji Kenkyu-kai*. Interviews were conducted in November 2012 and December 2015 with a member of the support group, five individuals associated with Hokkaido University, and three members of the Committee on the Promotion of Ainu Policies under the Office of Prime Minister. The identities of the interviewees are not disclosed to protect anonymity. Of the five individuals associated with Hokkaido University, some of them were involved in the production of *The Report* (HU 2013).

Although conveying the nuance of Anglophone concepts in another language or *vice versa* can be problematic, the terminology used in this article is taken from the definitions provided in the Native American Graves Protection and Repatriation Act (NAGPRA) glossary of the National Park Service, US Department of Interior (<https://www.nps.gov/nagpra/TRAINING/GLOSSARY.HTM>, accessed 30 May 2016).

- Human remains: the physical remains of the body of a person of [Ainu] ancestry;
- Intentional excavation: the planned archaeological removal of human remains, funerary objects, sacred objects or objects of cultural patrimony found under or on the surface of [...] lands;
- Possession: having physical custody of human remains, funerary objects, sacred objects or objects of cultural patrimony with a sufficient legal interest to lawfully treat the objects as part of its collection for purposes of these regulations;
- Return: something which has had a prior existence will be brought or sent back;
- Transfer: to convey or remove from one place, person, etc. to another; pass or hand over from one to another; specifically to change over the possession or control of.

Japanese and Ainu words are italicised but a macron above long vowels in Japanese words is not used. Japanese names follow English order: given name – family name.

### Negotiations for repatriation

Repatriation of indigenous human remains and possessions has been widely observed recently. The outcomes of repatriation have not merely been the return of human remains and other materials from institutions – mostly museums – to indigenous peoples. Through negotiations for repatriation, the relationship between museums and indigenous peoples has drastically changed. While some scholars have seen the impact of repatriation on their scientific research negatively, that is, repatriation is the loss of valuable research materials (Kakaliouras 2012: S211, S212), many museums are becoming sympathetic with indigenous peoples and actively seeking enhanced possibilities of repatriation. Indigenous peoples have also significantly benefited from repatriation (Kakaliouras 2012: S214). In particular, the return of sacred and/or symbolic objects has been recognised as the redressing of colonial history and wrongful collection (Merrill and others 1993). In addition, Article 12 of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) confirming the right of repatriation provides an international basis for this trend (United Nations 2007).

Nevertheless, many indigenous peoples have experienced difficulties negotiating with institutions to realise repatriation and a significant amount of effort has been required. One example is the return of Ahayu:da (twin gods or war gods) to the Zuni Nation from the Smithsonian Institution and the Denver Art Museum in 1987 and 1990, respectively. Merrill and others (1993) describe the negotiation processes and challenges involved. For the Smithsonian Institution, the submission of a formal request of return was the first direct confrontation with the group of Native Americans and the Smithsonian was reluctant to the return because they believed that Ahayu:da had been acquired legally and ethically (Merrill and others 1993: 545). The Denver Art Museum thought that the museum ‘would violate their trust as a public institution and set a precedent that could result in the loss of much of their collection’ (Merrill and others 1993: 531). The return from the Smithsonian was put into effect after nine years of negotiations. Ferguson (2010: 194) states that the success in recovering Ahayu:da ‘was largely due to the moral persuasion of Zuni religious leaders in convincing museums, galleries, and private collectors that the Ahayu:da had been wrongfully removed from the Zuni Reservation and that they needed to be returned in order for the Zuni people to be able to freely practice their religion’. The Zuni also explored their legal rights to claim recovery of stolen tribal property and applied 18 US Code § 1163 – Embezzlement and theft from Indian tribal organisations, which criminalises embezzling and stealing of assets belonging to an Indian tribal organisation. Another factor in the success of the claim was the deliberate and non-confrontational approach taken by the Zuni people and their recognition of the difficult issues that their repatriation requests raised for the museums (Merrill and others 1993: 546).

In the US, the NAGPRA established in 1990 significantly accelerated the process of repatriation by mandating that an institution should initiate ‘repatriation of these materials to lineal descendants, tribes that demonstrate ownership, or tribes with a cultural affiliation’ (Merrill and others 1993: 524). Nevertheless, NAGPRA has not necessarily created greater opportunities of repatriation for all Native Americans. First, as a federal

law, NAGPRA initially only applied to federally recognised groups. As a result, state-recognised or unrecognised groups were not supported by NAGPRA. This official policy created the categories of ‘unaffiliated’ or ‘unidentifiable’ remains, although material heritage of the remains could have been traced to state-recognised or unrecognised groups (McKeown 2010; Kakaliouras 2012: S215). Another issue has been ‘who can claim unaffiliated remains [and] under what conditions they would be returned’ (Colwell-Chanthaphonh and others 2011: 28; also see Thomas 2000 for the 9,000-year-old Kennewick man). Furthermore, identifying ways of resolving multiple or competing claims has been difficult, and it is unclear whether or not associated funerary objects must also be returned (Colwell-Chanthaphonh and others 2011; Schillaci and Bustard 2012). Despite a number of unresolved issues, NAGPRA has obviously stimulated nationwide discussions (Kakaliouras 2012: S212) and contributions to the discussions have been observed both from the institution and Native American sides (Erdrich 2010; Ferguson 2010; Hemenway 2010). More importantly, the amount of work invested to refine the concept of cultural affiliation has been critical to make NAGPRA effective (Kuprecht 2012: 50). Such fruitful discussions have produced several realistic recommendations for repatriation, for example: ‘background research of collections is imperative to ensure that ancestral remains are returned to the appropriate lineal descendants’ (Martinez and others 2014: 199); indigenous peoples should not be confrontational in negotiations (Merrill and others 1993: 546); and ‘museums should share all the information that they have on the collections in question with the tribal representatives’ (Merrill and others 1993: 550).

Nevertheless, it should be noted that these positive outcomes derive from a particular situation and it is important to address to what extent these findings and recommendations can be applied across contexts. Japan, for example, has never spent a significant amount of time or effort on the critical examination of the concept of repatriation and its procedures. In such a context, what would the indigenous experience of repatriation be?

### Intentional excavations of Ainu graveyards

The Ainu are an indigenous people of Japan, who have lived mostly on the northern island of Hokkaido. Historically, the Ainu have experienced hardships and racism, as have many other indigenous peoples in different parts of the world. The Ainu have experienced long-term colonisation by the Japanese, government policies of assimilation, community relocation, the spread of disease, decreasing population and discrimination (Siddle 1996). The Ainu, once considered to be a ‘backward’ people, were also the target of discriminatory research. In the late nineteenth and early twentieth centuries, Japanese anthropologists passionately discussed how ‘inferior’ the Ainu were and argued that intermarriage with ‘superior’ ethnic Japanese would help the Ainu enhance their ‘intelligence’ (Siddle 1997). Presently, the Ainu do not have any legally recognised indigenous rights – either individual or collective – and are merely Japanese citizens. Furthermore, the Ainu do not have an institution of representation. Although the Ainu Association of Hokkaido is the largest Ainu organisation, membership is voluntary and less than half of the total Ainu population are members. The fundamental philosophy of the constitution of Japan is to guarantee individual rights and equality under the law, and it does not always agree with the recognition of collective or indigenous rights (Nakamura 2014). With regards to repatriation, unlike

Native Americans under NAGPRA, which recognises cultural affiliation to decide ‘which person or *group of persons* shall be the owner, possessor, or steward of an object’ (emphasis added, Kuprecht 2012: 38), the collective ownership by the Ainu as an indigenous people is not always recognised under the law. Historically, there used to be Ainu communities called *kotan*. However, *kotan* has become dysfunctional as a result of the assimilation policies of the government.

Since its establishment in 1921, the School of Medicine, Hokkaido Imperial University (present Hokkaido University), has had strong research interests in the Ainu people. Their research has spanned from tuberculosis to fingerprints and blood types to neurology (HU 2013: 11). Between 1924 and 1927, the anatomy laboratory collected the human remains of five Ainu individuals from hospitals and prisons. The media reported that the Ainu remains were a ‘national treasure’ because the Hokkaido Imperial University was the only institute in Japan to own Ainu human remains (HU 2013: 14–15). The researchers believed that the development of research projects involving Ainu human remains were highly relevant. Their interest grew in the 1930s when researchers from the university, Haruo Yamazaki and Sakuzaemon Kodama, joined a research group on Ainu bio-ethnology under the Japan Society for the Promotion of Science (HU 2013: 1).

The researchers began excavations of Ainu graveyards. Yamazaki was the first to conduct such an act in 1931, followed by Kodama, who began intentional excavations in 1934. According to HU (2013) and Ueki (2005), excavations continued until 1977 and the remains of nearly 1,000 individuals were collected from Hokkaido, Sakhalin and Chishima islands. Kodama also collected buried objects including swords, hunting materials, earrings and pans. From the measurement of skulls, he claimed to have found regional differences in physical characteristics among Hokkaido, Sakhalin and Chishima Ainu. Although not all Yamazaki’s excavations in the 1930s were documented, it is believed that the excavations in Biratori were conducted and remains collected with permission of the family members or descendants of the deceased, and some of remains were donated by the descendants (HU 2013: 17–18). However, Kodama’s intentional excavations received mixed responses from the Ainu. Although Kodama tried to convince the Ainu of the importance of his actions for scientific purposes, some Ainu elders complained about the disturbance of those who were at rest (HU 2013: 30). He was even questioned by the police over the legality of his 1934 excavation in Yakumo (HU 2013: 35). He claimed that all remains were found on the beach, in the bush or on farms, and were not from graveyards that were in use (Ueki 2007: 9). In 1934, the government of Hokkaido established guidelines on formally approved excavations in abandoned graveyards. Thereafter, it is believed that Kodama’s excavations were conducted in abandoned graveyards, in accordance with the guidelines. Occasionally, Kodama held ceremonies of worship with the Ainu (HU 2013: 36–46).

The Ainu human remains were initially kept in the offices of the researchers and each of the remains were individually stored in a wooden box on desks or shelves (HU 2013: 67). However, Jun Kawada, who was invited to visit the anatomy laboratories by an engineering professor who was also Kodama’s friend, saw 13 unboxed Ainu skulls displayed on a desk and some 400 skeletons on shelves. Kawada was informed that Kodama was proud of his collection of 13 skulls (HU 2013: 67). In 1968, the remains were relocated to a newly constructed research building in the School of Medicine. However, the research value of the

Ainu remains gradually decreased after Kodama passed away in 1969 and successive researchers did not engage in research on Ainu remains (HU 2013: 72–76). Since then, the remains have been left neglected and the proper records have been misplaced. Furthermore, occasionally pieces of the skeletons were mixed up (HU 2013: 115). In 1984, upon a request made by the Ainu Association of Hokkaido, the remains were transferred to the newly constructed ‘Remains preservation store’ (*‘hyohon hozonko’*). Since 1988, the School of Medicine has provided funding to the Ainu Association of Hokkaido to hold annual ceremonies of worship (HU 2015: 105).

### Claims from the Ainu to return the remains

The first claim for the return of the Ainu remains was made in December 1980 by Hiroshi Kaibasawa, who claimed to be the representative of the Hokkaido Ethnology Issue Research Group (*Hokkaido Minzoku Mondai Kenkyukai*). Although it is unclear how Kaibasawa learned of the human remains at Hokkaido University, in his letter to the university, Kaibasawa claimed that Sakuzaemon Kodama excavated Ainu graveyards and took the remains of 1,500 individuals without following the proper legal procedures (Ogawa and Takizawa 2015: 128). Kaibasawa noted that a series of Kodama’s intentional excavations were ethically and legally wrong. He demanded that the president of the university clarify whether or not the ownership of the funerary artefacts and the remains collected for research purposes belonged with the researchers. He also demanded the return of human remains to the lineal descendants (HU 2013: 82–83).

Letter exchanges between Kaibasawa and Hokkaido University continued until February 1982. The School of Medicine repeated that Kodama’s excavations were conducted using appropriate procedures, including consultations with the relevant authorities and ceremonies of worship with the local Ainu. However, Kaibasawa was never convinced. He demanded the university to release proof of ‘appropriate procedures’ on the excavations. He also wanted to see the preservation conditions of the remains. The university rejected his request, saying that the remains were only open to researchers for research purposes (HU 2013: 89–91).

In July 1982, the university consulted the Minister of Education and was urged to cooperate with the Ainu Association of Hokkaido to initiate repatriation of the remains if such a request was made (HU 2013: 93). Between 1985 and 2001, a total of 35 remains were transferred to the five branches of the Ainu Association of Hokkaido (Asahikawa, Kushiro, Obihiro, Mitsuishi and Mombetsu). The rest of the remains are still being stored in the memorial hall (HU 2013: 107). In 2002, the Ainu Association of Hokkaido requested that the School of Medicine release an inventory of the remains with detailed information, including the site of excavation, so that they might be able to find the descendants of the individuals to initiate the process of return. However, the university did not release the inventory of the Ainu remains until 2009 (HU 2013: 109–112). In 2012, the School of Medicine finally began a comprehensive investigation to confirm the identities of the remains and a specialist was recruited to restore the complete skeletons from the thousands of pieces of bone and skulls (HU 2013: 117).

### Legal action by the Ainu

It is not surprising that the slow actions and defensive standpoint of the university and the School of Medicine angered some Ainu. The result was legal action in 2012. Three Ainu

individuals from Urakawa demanded the return of the remains and compensation of three million yen per person. The claimants stated that their right to perform cultural activities – holding ceremonies for ancestors – had been infringed by Hokkaido University's exclusive possession of the remains. A claimant, Yuri Jonouchi, asserted that the remains known as 'Kineusu 4' in the inventory released from Hokkaido University was confirmed as her uncle (Hirata 2012: 56).

In the second hearing on 8 February 2013, Morihiro Ichikawa, the attorney for the claimants, argued the legal case for the return of the remains. The university confirmed possession of the remains and an intention to transfer the remains to the claimants; however, the university would only proceed when instructed to by the court because the succeeded rights relating to worship could not be confirmed for the claimants (Hokkaido Shimbun 2012; Legal brief on 30 August 2013). According to Article 897 of the Civil Code of Japan, rights relating to worship, including equipment used in rituals and any grave, shall be succeeded by the individual who custom dictates, should there be no designation made by the person him/herself. Unlike rights to inheritance of property and assets, the assumption of rights relating to worship are not necessarily decided by kinship. Hokkaido University justified its defensive position as follows: there might be individuals, other than the claimants, who have succeeded rights relating to worship. Therefore, the university might face another legal challenge if other successors claim rights relating to worship and object to the university's decision to transfer the remains to the claimants (Anonymous personal communication).

The attorney and claimants made counter arguments to the university. First, they claimed that the philosophies behind the Civil Code of Japan enacted in 1896 derive from customs and ethics of the ethnic Japanese; however, it is debatable if the philosophies can apply to other ethnic groups in Japan. In particular, this legal case concerns indigenous religious philosophies; therefore, the customs and ethics of the Ainu should be considered. With regards to the 'maintenance' of graves, the ethnic Japanese designates an individual as the maintainer of their ancestor's grave and this individual is considered to succeed rights relating to worship. Descendants also regularly visit ancestors' graves, clean gravestones, offer food and flowers, and pray for the soul. The Ainu do not have such customs. Unlike graveyards of the ethnic Japanese that are clearly demarcated by unit of each family, the Ainu bury deceased community members in the order of death (Legal brief on 27 March 2014). They see graveyards as sacred places where visits should be avoided (Ueki 2005: 14; 2007: 4–5). Remains, as well as wooden grave signs, eventually decompose. Leaving graveyards to nature is 'maintenance' for the Ainu – this is why Sakuzaemon Kodama assumed that the graveyards had been abandoned and could collect remains unnoticed by the Ainu (Legal brief on 27 March 2014; see Ueki 2005: 15–17; 2007: 9). In addition, ceremonies for ancestors are held by the community, *kotan*. All members of *kotan* join *sinurappa* or *icharpa* ceremonies, and graveyards are collectively 'maintained' by *kotan*. In this sense, any *kotan* member is considered to be the successor of rights relating to worship. As the government of Japan voted in favour of the UNDRIP, the government must assume responsibility to respect the customs of the Ainu as an indigenous people of Japan (Legal brief on 27 March 2014).

Second, the claimants made it clear that they had continued to hold ceremonies even after the remains had been taken by Kodama. Thus even if the present Civil Code of Japan applies to

this case, the claimants are considered to have succeeded rights relating to worship, as Article 897 recognises customs (Legal brief on 27 March 2014).

The attorney of the claimants intended to claim indigenous customs as the legal basis of the return. On the contrary, Hokkaido University saw the claimants as Japanese citizens. While cultural affiliation with the remains was without doubt clear, the university wanted to confirm exclusive individual affiliation with the remains in terms of rights relating to worship. To proceed with the transfer of the remains, no other individuals must have been affiliated with the remains. Consequently, the university did not want to risk making its own decision on to whom the remains would be transferred. Instead, responsibility of making a decision was given to the courts (Anonymous personal conversation).

### Implications

On 25 March 2016, the claimants and Hokkaido University reached agreement over the conciliation plan proposed by the Sapporo District Court. Prior to this agreement, Yuri Jonouchi passed away. Meanwhile, the identity of five of the 16 remains taken from graveyards in Urakawa had been confirmed and one of them was claimant Ryukichi Ogawa's uncle. The agreement included: 1) the remains of Ogawa's uncle and the other 11 remains whose identity had not been confirmed shall be transferred to '*Kotan no kai*', a group established by the claimants in December 2015 and assumed to be functioning as *kotan*; 2) *Kotan no kai* would re-bury the remains in the original graveyard; 3) the group shall also maintain the graveyards; 4) Hokkaido University shall release the attributions of the four remains whose identity has been confirmed and search for lineal descendants of the deceased up until September 2017; 5) if a lineal descendant has not been found by then, these four remains shall also be transferred to *Kotan no kai* and the group shall re-bury; 6) Hokkaido University shall pay all costs incurred for transportation and re-burying of the remains; 7) the claimants shall not claim compensation from the Hokkaido University; and 8) Hokkaido University shall be exempt from any legal disputes over the 16 remains once they have been transferred to *Kotan no kai*. The idea behind the conciliation plan proposed by the court was 'the restoration of the original state (*genjo kaifuku*)', meaning that the remains be taken back to and re-buried in the graveyard that Kodama and other researchers had excavated (Anonymous personal communication). The claimants were pleased that the remains would no longer be exclusively possessed by the university and they would be able to hold ceremonies of worship with the remains. The attorney Morihiro Ichikawa stated that, 'it is significant that the concept *kotan* has been accepted. From now on there is a hope that the other remains would be handed over to a group' (Hasegawa and Mitsurui 2016). On 17 July 2016, the 12 remains were transferred to '*Kotan no kai*' and they were re-buried in the original graveyard in Urakawa on 19 July.

This case marked the first of such legal cases in Japan. Nevertheless, the impact on the progress of repatriation of Ainu human remains may not be substantial for several reasons. First, unlike a judicial decision, conciliation agreement is reached case by case. Although two additional claims followed from Mombetsu in January 2014 and Urahoro in May 2014, there is no guarantee that the claimants and the university will reach an agreement. The Ainu will still experience legal and ethical challenges in negotiations for repatriation with universities holding a defensive position. Second, in this conciliation process, the court did not state who has succeeded rights relating to worship. *Kotan no kai*

has been merely recognised as the maintainer of the remains and the graveyard, not the legally recognised successor of rights. The legality of indigenous collective ownership is unconfirmed, and incompatibility between indigenous philosophies and the current law remains unresolved. Third, in this legal case, the court did not address whether or not Kodama's and other researchers' intentional excavations were legal, and the 'wrongful removal' of the remains conducted by the School of Medicine was not critically examined. Unlike the 1997 decision in the Nibutani Dam legal case where the Sapporo District Court recognised the indigeneity of the Ainu for the first time and land appropriation for the dam construction by the government was illegal as it failed to recognise the cultural importance of the land for the local Ainu, this time the court avoided an epoch-making decision. The national government has been working on guidelines for repatriation of Ainu remains possessed by 11 national universities (Izumi 2013). Because of the significant difficulty to confirm the identities of scattered bone pieces and to find lineal descendants, the national government has made a plan to construct a memorial facility for the remains in Shiraoi by 2020 and proposed that all of the remains would be transferred and rested there. Activists have criticised the government for its lack of consultation and effort to find descendants.

While there has been recent progress on repatriation, the discussions tend to be based on a particular context, particularly the US, and therefore, findings and recommendations are case specific (see Kakaliouras 2012). The majority of international repatriations documented are 'the return of material cultural heritage from foreign museums (usually European and US) to home countries, particularly in Africa and South America' (Kakaliouras 2012: S218; see Greenfield 2007; Jenkins 2011). Many other countries, including Canada, Australia and New Zealand/Aotearoa, settler countries with a large indigenous populations, do not have a similar law and currently repatriation is processed within ethical principles established by each organisation (Hamilton 2010: 189; Jenkins 2011). Without a specific law and enforcement power, negotiations for repatriation require indigenous peoples to spend significant amount of time and effort, especially when an institution hesitates to proceed with repatriation. Concepts such as cultural affiliation might not be successful. Thus a legal justification for repatriation may need to be made based on existing laws, placing extra burden on indigenous peoples (Merrill and others 1993; Seidemann 2010). Japan's Ainu are one such indigenous people who have experienced difficulties in negotiations for repatriation. As this case demonstrates, challenges faced by indigenous peoples in repatriation negotiations vary from country to country. International sharing of experiences of repatriation by indigenous peoples could help to establish effective tactics to accelerate the process of repatriation.

### References

- Colwell-Chanthaphonh, C., Maxson, R. and Powell, J. 2011. The repatriation of culturally unidentifiable human remains. *Museum Management and Curatorship*, 26, 27–43.
- Erdrich, H.E. 2010. National monuments. *Museum Anthropology*, 33, 249–251.
- Ferguson, T.J. 2010. Repatriation of Ahayu:da: 20 years later. *Museum Anthropology*, 33, 194–195.
- Greenfield, J. 2007. *The return of cultural treasures*, third edition. Cambridge: Cambridge University Press.
- Hamilton, M.A. 2010. *Collection and objections: aboriginal material culture in southern Ontario*. Montreal, QC: McGill-Queen's University Press.
- Hasegawa, J. and Mitsurui, S. 2016. Hokkaido University returns 16 Ainu human remains, conciliating with the descendants. *Asahi Shimbun*, 26 March 2016. [In Japanese].
- Hemenway, E. 2010. Trials and tribulations in a tribal NAGPRA program. *Museum Anthropology*, 33, 172–179.
- Hirata, T. 2012. Ainu human remains in unrest. *Shukan Kinyobi*, 910, 56–57. [In Japanese].
- Hokkaido Shimbun. 2012. The return of Ainu human remains, Hokkaido University confirms to obey the court decision. 28 November 2012. [In Japanese].
- HU (Hokkaido University). 2013. *Report on the Ainu human remains stored in the School of Medicine, Hokkaido University*. Sapporo: Hokkaido University. [In Japanese].
- Izumi, K. 2013. Ainu remains the victim of research. *Asahi Shimbun*, 3 August 2013. [In Japanese].
- Jenkins, T. 2011. *Contesting human remains in museum collections: the crisis of cultural authority*. New York, NY: Routledge.
- Kakaliouras, A.M. 2012. An anthropology of repatriation: contemporary physical anthropological and Native American ontologies of practice. *Current Anthropology*, 53 (Sup. 5), S210–S221.
- Kuprecht, K. 2012. The concept of 'cultural affiliation' in NAGPRA: its potential and limits in the global protection of indigenous cultural property rights. *International Journal of Cultural Property*, 19, 33–63.
- Martinez, D.R., Teeter, W.G. and Kennedy-Richardson, K. 2014. Returning the *tataayiyam honuuka'* (Ancestors) to the correct home: the importance of background investigations for NAGPRA claims. *Curator: The Museum Journal*, 57, 199–211.
- McKeown, C.T. 2010. 'A willingness to listen to each side': The Native American Graves Protection and Repatriation Review Committee, 1991–2010. *Museum Anthropology*, 33, 218–233.
- Merrill, W.L., Ladd, E.J., Ferguson, T.J., Cruwys, E., Downer, A.S., Feest, C.F., Frisbie, C.J., Herold, J., Jones, S., Layton, R. and Zimmerman, L.J. 1993. The return of the Ahayu:da: lessons for repatriation from Zuni Pueblo and the Smithsonian Institution. *Current Anthropology*, 34, 523–567.
- Nakamura, N. 2014. Realising Ainu indigenous rights: a commentary on Hiroshi Maruyama's 'Japan's post-war Ainu policy. Why the Japanese Government has not recognised Ainu indigenous rights?' *Polar Record*, 50, 209–224.
- National Park Service. n.d. *NAGPRA glossary*. <https://www.nps.gov/nagpra/TRAINING/GLOSSARY.HTM>, accessed 30 May 2016.
- Ogawa, R. and Takizawa, T. 2015. *Oreno uchashikuma: aru Ainu no sengoshi*. Sapporo: Jurosha. [In Japanese].
- Schillaci, M.A. and Bustard, W.J. 2012. Controversy and conflict: NAGPRA and the role of biological anthropology in determining cultural affiliation. *POLAR: Political and Legal Anthropology Review*, 33, 352–373.
- Seidemann, R.M. 2010. NAGPRA at 20: what have the states done to expand human remains protections? *Museum Anthropology*, 33, 199–209.
- Siddle, R. 1996. *Race, resistance and the Ainu of Japan*. London: Routledge.
- Siddle, R. 1997. The Ainu and the discourse of 'race'. In Dikötter, F., ed. *The construction of racial identities in China and Japan*. Honolulu: University of Hawai'i Press, 136–157.
- Thomas, D.H. 2000. *Skull wars: Kennewick man, archaeology, and the battle for Native American identity*. New York: Newraumont.
- Ueki, T. 2005. Notes on the excavations of Ainu skulls by Kodama Sakuzaemon. *Bulletin of Tomakomai Komazawa University*, 14, 1–28. [In Japanese].
- Ueki, T. 2007. Notes on the excavations of Ainu skulls by Kodama Sakuzaemon (part 4): ethic and socio-political problems. *Bulletin of Tomakomai Komazawa University*, 17, 1–36. [In Japanese].
- United Nations. 2007. *United Nations Declaration on the Rights of Indigenous Peoples*. New York, NY: United Nations.