

International Repatriation Listening Sessions and Consultations Summary

Background: In response to the requests of Tribes, the Department of the Interior undertook an initiative to solicit input from Tribes regarding their experiences, challenges, successes, concerns, and input on the subject of international trafficking and repatriation of tribal cultural heritage. In collaboration and coordination with the Department of State and the Department of Justice, the Department of the Interior hosted a series of listening sessions and consultation sessions to better understand the scope, nature, and perspectives of Tribes on international repatriation. The following information is a summary of the findings that were ascertained by the comments, examples, questions, and recommendations that were received during the listening and consultation sessions.

Due to the often sensitive nature of the comments and discussions, the information that is provided herein is structured in such a way as to be general in nature and non-identifiable or attributable to any one person, Tribe, or region.

Actions Taken: Listening sessions were held in 2016 in conjunction with meetings of the United South and Eastern Tribes in Atmore, Alabama; the Affiliated Tribes of Northwest Indians in Grand Ronde, Oregon; the National Congress of American Indians in Spokane, Washington; the National Association of Tribal Historic Preservation Officers in Ignacio, Colorado; and the Association on American Indian Affairs (AAIA) in Isleta Pueblo, New Mexico.

Information from the listening sessions helped to formulate the consultation structure and focused the subject matter on more specific categories of concerns and action steps to be taken.

Pursuant to an August 26, 2016 letter to tribal leaders, consultations commenced in conjunction with the September 2016 Tribal Nations Summit in Washington, DC, followed by consultation sessions held in conjunction with meetings of the National Congress of American Indians in Phoenix, Arizona; the Alaska Federation of Natives in Fairbanks, Alaska; and the United South and Eastern Tribes in Cherokee, North Carolina. Interior also held an additional session in December 2016 in Albuquerque, New Mexico.

Findings: Consultations were attended by Tribal leaders, Tribal spiritual and cultural practitioners, Tribal members, Tribal employees, and Tribal attorneys, as well as members of the museum and archeological professions.

Robust discussions took place surrounding the field of international repatriation. Three general categories of Tribal Cultural Heritage in need of international repatriation emerged during the consultation process.

Items of cultural patrimony and sacred objects held or marketed abroad, including in foreign museums or at auction houses;

Ancestral human remains and funerary objects held in museums

Other items of cultural, ceremonial, historic or spiritual significance held in museums or private collections or sold by auction houses

In general, Tribal priority was given to human remains and their associated funerary items for repatriation, from both museums and private collections.

Sacred objects, cultural patrimony and other items of cultural, ceremonial, historic or spiritual significance that are held abroad were also identified as very important, but if forced to choose, repatriation of human remains would be the first priority for many Tribes.

The Department of Interior provides a list of relevant offices within the Department describing roles, responsibilities, and points of contact, which can be found at www.doi.gov/sites/doi.gov/files/uploads/doi_international_repatriation_working_group_020617_0.pdf.

Comments: A majority of the commenters called for more support for Tribes from the federal government and an increased role for Tribes regarding international repatriation. The comments fell in to nine categories, with one of those categories pertaining to miscellaneous items. These categories were support for Tribes, domestic and international legal issues, the impact of overseas trafficking of Tribal Cultural Heritage, ownership of Tribal Cultural Heritage, consultations on international repatriation, education and training on Tribal Cultural Heritage, international collaboration, and Tribal involvement in international repatriation. A summary of the comments is contained below.

Support for Tribes

Many commenters noted the efforts of the Secretary of the Interior and her strong support of Tribes in their international repatriation efforts and expressed their sincere gratitude and hope for continued support from the United States.

A significant amount of comments centered on the need for the United States to provide Tribes with more support and technical assistance regarding international repatriation.

Many commenters requested that financial assistance or specific grants be made available for use in carrying out international repatriation.

Most commenters requested the United States develop a list of Federal government contacts identifying roles and authorities so Tribes and their members know who to contact and for what purpose.

Many of the commenters requested that a guide or pamphlet be developed to help Tribes understand where to go (Interior, State, and Justice Departments or United Nations), when they have questions regarding international repatriation or overseas trafficking in Tribal Cultural Heritage.

Some commenters recommended the United States develop a set of best practices in order to minimize or eliminate the looting, export, and trafficking of Tribal Cultural Heritage and to develop mechanisms that Tribes can utilize to repatriate their Tribal Cultural Heritage from abroad.

Several commenters requested a special federal law enforcement division to investigate and prosecute looters and traffickers of Tribal Cultural Heritage.

Domestic and International Legal Issues

Several examples were given by the commenters about the failures and limitations of the Native American Graves Protection and Repatriation Act and the Archaeological Resources Protection Act with respect to international repatriation.

An overwhelming majority of commenters called upon the United States to strengthen current laws that address domestic repatriation and protections of archaeological resources, as well as enact new laws to specifically address the issue of international repatriation.

Several commenters expressed frustration over the fact that alleged offenders are not prosecuted when caught and return to continue to loot and traffic in sacred items.

A few examples of current loopholes in the ability of a Tribe to repatriate domestically were identified by the commenters.

Several commenters gave examples of theft and looting at sacred sites and on federal lands.

Several examples of current laws that could be utilized to create stronger exportation documentation requirements were discussed by the commenters.

Most commenters called upon the United States to enact straightforward laws that declare the possession of Tribal Cultural Heritage without Tribal consent illegal and allow Tribes to develop their own set of certifications, standards, and protocols with respect to Tribal Cultural Heritage. These commenters also called upon the Federal government to create new laws to protect Tribal Cultural Heritage internationally.

Impact of Overseas Trafficking of Tribal Cultural Heritage

Most commenters spoke about the cultural and spiritual trauma created by the appropriation and theft of Tribal Cultural Heritage and the negative impact these actions have on their communities.

Several commenters said that putting too much emphasis on the special nature of certain items may make them more sought after by private collectors.

Some commenters expressed concern over what type of impact trying to address this problem may have on contemporary Native American artists and craftspeople in the domestic and international market.

Ownership of Tribal Cultural Heritage

Most commenters stated that the ownership of Tribal Cultural Heritage should be declared the property of the Tribe of origin and that provenance is assumed to be that of Tribe. The commenters stated that anyone in possession of Tribal Cultural Heritage must prove they have the right to possess the item through documentation from the Tribe of origin and that Tribal Cultural Heritage cannot be alienated by any individual or group from the Tribe or Tribal community.

Most commenters requested that the burden of proof of ownership of Tribal Cultural Heritage be on the person in possession of the items and that automatic domestic holds be placed on the items until the Tribe of origin clears the items for export.

The commenters gave many examples of how museums and research facilities hold onto items such as clothing, tools, and organic specimens after repatriating human remains associated with those items, which the commenters believe should have been repatriated with the human remains.

Several commenters spoke about the need to ensure that all items associated with or related to human remains be returned, including all associated documentation, studies, and notes.

Several examples of appropriation of intangible Tribal intellectual property were discussed by the commenters, and they questioned why this proprietary information is considered public information or patentable.

Consultations on International Repatriation

A few commenters wanted to ensure that the Federal government understands that a “Dear Tribal Leader Letter” is not sufficient communication regarding consultations, and that those communications need to go to the cultural arm of the Tribe as well as the governmental arm of the Tribe.

Several commenters expressed deep concern over having consultation with groups, corporations, and/or organizations in addition to Federally Recognized Tribes, noting that this issue is extremely sensitive and touches upon proprietary information.

Many commenters stated that much more consultation on the topic of international repatriation is needed.

Several commenters requested an International Repatriation Summit.

Education and Training on Tribal Cultural Heritage

Many commenters spoke about the need for greater education for international museums, authorities, and collectors regarding the importance of cultural heritage to Tribal integrity and identity.

Several commenters requested training Tribes and Tribal leaders on the subject of international repatriation.

Most commenters requested training and education for federal agencies, museums, private collectors, auction houses, and diplomats on the significance of Tribal Cultural Heritage. The commenters suggested this training be conducted by Tribal leaders or cultural practitioners.

International Collaboration

Several commenters stated the historic nature of how foreign countries obtained Tribal Cultural Heritage.

Several commenters wanted to see more collaboration between Tribes, the United States, and the United Nations.

Many commenters spoke about the importance of implementing the international Conventions for the Safeguarding of the Intangible Cultural Heritage and World Heritage and on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property as overseen by the United Nations Educational, Scientific and Cultural Organization (UNESCO).

Many commenters also spoke about the components of the United Nations Declaration on the Rights of Indigenous peoples and specifically pointed out the right to dignity (while alive and after death) as well as the requirement for free, prior, and informed consent.

Some commenters expressed the need for protocols to be developed to navigate international relationship channels.

Many commenters stated that the United States needs to do more to support Tribes' rights to have standing with foreign authorities without the United States speaking for them.

A few examples of successful international collaborations with museums, domestic auction houses, and private collectors were noted by the commenters. Several commenters suggested that good actors and success stories be publicized. It was requested that action by the federal government should not disrupt the good relationships with museums in these cases. Several examples were also given about the challenges Tribes have faced in trying to negotiate with foreign countries.

Many commenters asked about the Federal government's plans to address international repatriation such as creating policies, regulations, legislation, international agreements and use of current international investigative resources such as Interpol.

Most commenters recommended that the United States develop a taskforce, working group, or other formal entity to fully evaluate international trafficking of Tribal Cultural Heritage and develop ideas to combat these activities.

Tribal Involvement in International Repatriation

Many commenters commented that they are unaware of where their Tribal Cultural Heritage is held overseas and when it was taken.

Most commenters called upon the United States declare that Tribes are sovereign entities and that foreign countries should be negotiating directly with federally recognized Tribes in matters of international repatriation.

Most commenters also felt that museum professionals do not possess the expert knowledge necessary to determine what may be considered a sacred item by a Tribe. Rather, the commenters felt that Tribal leaders and Tribal cultural representatives are in the best position to make these determinations.

Several commenters asked if there was a way for Tribal leaders and representatives to accompany the United States delegations when those delegations go abroad to discuss international repatriation.

There also were concerns that Tribes should have input as to how repatriated items are treated during transport back to the Tribe.

Miscellaneous Comments

A few commenters expressed concern over the potential of a new definition of “Indian Tribe.”

Several examples were given by the commenters about the living spiritual energy contained within the sacred items.

Several commenters requested that Indian Affairs and the Bureau of Indian Affairs take a much more active role in international repatriation.

Several commenters suggested providing incentives for private collectors and auction houses that repatriate Tribal Cultural Heritage.

The overwhelming majority of commenters requested that international repatriation be given priority status and resources within the Federal government.