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Ethics in Anthropology
The Paseo Del Norte Extension
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Indian tribal groups in the United States and Canada are vigorously asserting cultural ownership of the content of cultures with which they identify, ownership rights that allow them to prevent others from appropriating that content, or to use it only with conditions. Additionally, they assert the right to their own cultural futures, to practice an evolving cultural form with sufficient natural and fiscal resources to be viable, and the right to be treated respectfully by the dominant society. (Greaves)

The city of Albuquerque has recently won a lawsuit which sought to prohibit the construction of an extension of the Paseo del Norte roadway. The lawsuit was brought by citizens concerned that the extension will damage or destroy sacred land by relocating important cultural artwork of ceremonial significance. The lawsuit accused the city of not following proper procedure for mitigating damages to an historically important ancient site. The city claims to have followed procedure and offered to mitigate damages to the site by relocating the artwork.

As society becomes more aware of the atrocities committed against indigenous cultures by dominating cultures, international and national laws have been enacted to ensure the rights of these indigenous cultures. A grave problem with these laws and procedural guidelines, however, is that they were prepared by the dominating culture. Some question the laws' ability to mitigate damage and help indigenous cultures. Some claim that these laws may in fact further the agenda of the dominating culture.

The city is building an extension of a highway through Las Imagines Archaeological District and Petroglyph National Monument. Native Americans consider this location to be sacred. Seven peck-marked boulders are directly in the path of the proposed highway. Natives oppose the destruction of these ancient petroglyphs. The city decided to re-locate the boulders to nearby sites, offering to maintain the original alignment. Natives oppose this re-location, claiming that the petroglyphs' original siting is crucial to their significance, and that to move them would be tantamount to their destruction as religious/spiritual objects.

The Paseo del Norte extension would improve traffic flow to new housing developments. If this extension were not created, traffic would be prohibitively heavy. The area would not be conducive to new businesses, and therefore growth would be curtailed. Without easy access routes, the future economy of the area is in jeopardy. New Mexico already suffers from serious economic problems. Development of this area has been widely touted as an answer to these problems.

There is a vociferous group of detractors to this scheme, largely comprising environmental activists and members of the Native community. Mayor Chavez referred to these detractors as "anti-business" and "anti-growth" in public statements to the Albuquerque Tribune. Chavez is thus effectively blaming natives for New Mexico's economic problems. This is reminiscent of the Nazis blaming Jews for German economic

problems, and reflects a fascistic ploy of creating an enemy in order to manipulate the majority. It sets Natives up as enemies to progress and civilization.

The destruction of sacred land will bring financial gain to certain people including a few contractors and Mayor Chavez himself. Chavez was accused and found guilty of accepting political contributions from city contractors who later put in bids for the construction of the Paseo del Norte extension. This goes directly against the Charter of the City of Albuquerque, Section 4a, paragraph 4, which states that no official of the city shall knowingly:

Accept any valuable gift, whether in the form of service, loan, thing or promise, from any person, firm or corporation which to the official's knowledge is interested directly or indirectly in any manner whatsoever, in business dealings with the Governmental Body by which the official is employed or of which the official is a member, including donors who are unidentified; provided, however, that this Subsection shall not be read as prohibiting an incumbent candidate for elective office from receiving duly disclosed campaign contributions in accordance with the provisions of Article XIII of this Charter. (City Charter, 4a, para. 4)

The City Ethics Council forced Chavez to return political contributions proven to come from city contractors, and which the Mayor used to fund family vacations and pay cell-phone bills.

The first question we must ask is “who ‘owns’ ancient Native American rock art?” Under the Native American Graves Protection and Repatriation Act of 1990, the art may be construed as a “sacred object” or an “object of cultural patrimony:”

(C) "sacred objects" which shall mean specific ceremonial objects which are needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present day adherents, and

(D) "cultural patrimony" which shall mean an object having ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual Native American. (NAGPRA, Sec. 1)

As such, the ownership of the artwork is determined thus:

(a) NATIVE AMERICAN HUMAN REMAINS AND OBJECTS.--The ownership or control of Native American cultural items which are excavated or discovered on Federal or tribal lands after the date of enactment of this Act shall be (with priority given in the order listed)-

(1) in the case of Native American human remains and associated funerary objects, in the lineal descendants of the Native American; or

(2) in any case in which such lineal descendants cannot be ascertained, and in the case of unassociated funerary objects, sacred objects, and objects of cultural patrimony--

(A) in the Indian tribe or Native Hawaiian organization on whose tribal land such objects or remains were discovered;

(B) in the Indian tribe or Native Hawaiian organization which has the closest cultural affiliation with such remains or objects and which, upon notice, states a claim for such remains or objects; or

(C) if the cultural affiliation of the objects cannot be reasonably ascertained and if the objects were discovered on Federal land that is recognized by a final judgment of the Indian Claims Commission or the United States Court of Claims as the aboriginal land of some Indian tribe--

(1) in the Indian tribe that is recognized as aboriginally occupying the area in which the objects were discovered, if upon notice, such tribe states a claim for such remains or objects, or

(2) if it can be shown by a preponderance of the evidence that a different tribe has a stronger cultural relationship with the remains or objects than the tribe or organization specified in paragraph

(1), in the Indian tribe that has the strongest demonstrated relationship, if upon notice, such tribe states a claim for such remains or objects.

(NAGPRA, Sec. 3)

While the artwork can be said to belong to the Native American tribe claiming closest cultural affiliation, this merely prevents its destruction and facilitates repatriation of the objects themselves. Their location at the site is not expressly protected. This is addressed by the National Historic Preservation Act, Section 106 which states that the government must attempt to mitigate damage to the site. If the government follows standard procedure and it is found that it is not financially feasible to allow the objects to remain *in situ*, then the objects may be moved. In the case of the Paseo del Norte extension, it was found that to divert the roadway would not be financially feasible, and so it was determined that the only possible mitigation would be to move the artwork. However, this was not determined following procedure as outline in Section 106. The city is claiming that its adherence to Section 106 during initial construction of the Paseo del Norte roadway covers any additional work such as the Paseo del Norte extension. The fact that additional artwork will be affected has not been taken into consideration.

The SAGE Council, National Trust, and local groups filed suit to block the Paseo del Norte Extension through the Petroglyphs Escarpment. The main points of the lawsuit were as follows:

... that the City of Albuquerque failed to comply with the New Mexico Prehistoric and Historic Sites Preservation Act, which prohibits the use of historic sites for any public project unless there is no feasible and prudent alternative.

The Act also states that a public project must include all possible planning to preserve, protect and minimize harm to historic sites. The Final Environmental Impact Study issued by the City is over twelve years old and does not satisfy the Act's requirement. (SAGE Council Press Release)

The lawsuit claims that the city has a history of taking shortcuts and not following proper procedure. According to section 4.10.12.11 of the New Mexico Prehistoric and Historic Sites Preservation Act,

Whenever an entity proposes to spend public funds on any program or project that may require the use of or any portion of or any land from a significant prehistoric or historic site, that entity shall, at the earliest practicable stage in planning the program or project, make a determination that there is no prudent and feasible alternative to such use. (NMPHSPA, 4.10.12.11)

The lawsuit also requests an environmental impact study as required by law:

In related news, the SAGE Council has also formally requested that the City begin its Environmental Impact Study on the Paseo Extension, as required by the State of New Mexico Department of Transportation for the \$3.3 million appropriated by the State to the City for Paseo. Spokesperson Laurie Weahkee stated, “It is the state’s policy to require a federal level Environmental Impact Study when state funds are used. We look forward to this comprehensive study of alternatives, as is required by state law.” (SAGE Council Press Release)

The city of Albuquerque was vindicated, however, and was found to be in compliance with its own laws regarding destruction of the site. In the Albuquerque Journal’s reporting of the Paseo del Norte lawsuit, Andrea Schoellkopf writes:

Judge Linda Vanzi declared the city has met its burden to minimize harm from the Paseo extension to the area, ending a year-old lawsuit by opponents of the road. Vanzi rejected a motion by the plaintiffs to halt construction— which began last week— before ruling in the city's favor to end the case. In October, she had issued a ruling that found there were no feasible alternatives to the Paseo alignment. (Schoellkopf)

The laws governing these sites were created by the dominating culture, and therefore the sites are completely under its control rather than under the control of the Native Americans who consider them important cultural locations. Control of land or objects is a very important tool in the conquering of a culture. According to Fine-Dare, Native cultures have been spacio-temporally encapsulated within the colonizer's histories in order that the colonizers may validate their claims to the land. Museums: displays of power, history re-written, manipulated. Announce, and then demonstrate the end of Indian history! So we can have their culture, claim it as our own for land rights, and then conveniently dispose of them. Encasing in time and space the American Indian. Removal of artifacts has economic and social impact

John Lock in 1690 asked "Are Indians nothing more than lazy collectivists and thus a throwback to the time before the wheels of historical progress were set in motion? Or are Indians historical beings, the creators of their own destinies?" (Fine-Dare, 39).

Basically, the artwork belongs to the Native Americans claiming cultural affiliation, but it is still very much under the control of the United States Government. The financial motivations of the city of Albuquerque clearly take precedence over the rights of Native Americans to practice religious freedom.

Native Americans and archaeologists claim that the petroglyphs' original siting is crucial to their significance. According to Lorene Willis, director of the Jicarilla Apache's cultural affairs office, the artwork 'loses its significance once it's been moved.' The

stones are not inanimate but alive, with connections to their site that can't be replicated at another location.

The Natives view of location is different from the western view in many ways. Following is a description of Australian aboriginal views of landscape that may help explain:

Mowaljarlai used Biblical references to highlight the differences between white and *indigenous* Australian perceptions of geography and history (pp. 82-83). In an example using the Ten Commandments, only the commandments were important for the missionaries, while for *indigenous* people the mountain where they were issued would be important. Importance of place includes sacred places with Wandjina painting and these are considered equivalent to the cathedrals of Europe in degree of sanctity. However the link is stronger for indigenous Australians since without the place there would be no history, no story, and no value to Aboriginal culture.

Same [importance] with the place of a Wandjina painting. If it is blown away, I am useless. No good asking me for story — who is going to listen to me then? Our story is painted in the shelters, it's on the *rock*, on the mountain and in the earth. Miners know, I know, all Aborigines know that we would become nobodies and powerless.

Obviously the Wandjina paintings form a focal point for the current attempts by contemporary *indigenous* peoples of the Kimberley to maintain links with the land and to re-establish ritual and ceremonial practices (Bowdler 1988:520; Mowaljarai et al. 1988). (Charlton, 83)

The land is spiritually significant to the native people, but also economically and socially important as well. According to Tim Fox, Australian Aborigines, through the Native Title Act of 1993, are entitled to own land which can be proven to have historical, traditional and/or sacred significance to their people. The existence of rock art is proof of that bond. Many tribes continue to create this art during modern times, proving an

extended and ancient lineage and connection with the land. This imbues the culture with a sense of belonging in the modern world as well as maintaining a lineage with their ancestors. Their right to remain on the land and have control over cultural objects and artwork enables them to interact with dignity with western cultures surrounding them.

In addition to their continuing spiritual significance to descendents of the artists, the petroglyphs are important archaeologically. Richard Bradley's experiments in Europe led him to postulate that siting or context is as crucial to understanding rock art as content. Additionally, we should consider "rock art as a system and not merely as a series of disconnected 'sites'" (Bradley 89). Bradley discusses the close association between Neolithic rock carvings and the local ecology, settlement patterns, and human movement through the landscape. Bradley finds that across the study area "...there is a consistent relationship between different kinds of design and their placing in the landscape" (Bradley 214). The placement of rock art reflects an association with paths and other features of the wider landscape, suggesting a role in the organization of land use. This is not to say that the carvings are to be considered mere signposts or markers. They are reflections of an ideology "...assigning special significance to a place" (Bradley 213), whether an actual or a mythological landscape. These findings should encourage American archaeologists to carefully study the placement in the landscape of all known petroglyphs. This study would greatly enhance understanding of ancient spirituality as well as the artists' movements through the landscape and their networks of cultural affiliation.

At the core of the issue is the fact that Native Americans and their religious objects should not be subject to the control of colonizing governments, namely the United States government. The issue of relocation is significant because it reflects an ongoing struggle for power and validation of territorial claims. By claiming control of the artwork/artifact, the city claims authority over the culture that created it.

...objects are, along with everything else, expressions of power relationships. Reconstruction involves repowering the object, investing it with the authority and privilege of those currently possessing it, who then impose upon it (and upon those whom it represents) their own histories. The process of reconstruction thus entails a shift in power and status of the object and of those formerly and presently associated with it. (Ames, 144).

In this case the city claims a legal right to move the object based on its adherence to the National Historical Preservation Act. This places the city in a position of dominance over the Native Americans who claim that the object should be left where it is according to *their* customs. The city has legal ownership of the object under its own created/imposed laws, casting the protesting Native Americans as enemies to law and order, and therefore criminals to be disposed of properly by a more reasonable and civilized society. This is an ancient dynamic in which European settlers were able to validate their claims on the land over the natives. “It takes not only territorial expansion, population growth, and ethnic cleansing to ensure the success of continental expansionism, but also some kind of ‘mass communication’ to convince the public that the possession of territories, resources, bodies, and property of natives-turned-enemies is justified” (Fine-Dare, 14).

Since Native Americans pay taxes and must adhere to federal and state laws, their ceremonial objects should be protected under the U.S. constitution. The United States government recognizes freedom of religion in the first amendment of its constitution. This entitles all citizens including Native Americans to maintain spiritual objects and activities according to their own traditions. Since the situation has changed and more artwork has come to light, the initial findings of the National Historic Preservation Act procedure should in fact be nullified. A new inquest should be held in which the new findings can be presented. In any case, it *should not*, ideally, be up to the city as a representative of the conquering society what should happen to artwork belonging to the conquered society. Every attempt should be made to avoid relocation. If this is absolutely not feasible, the Native Americans should decide what to do with it.

Finally, is the mayor's acceptance of campaign contributions relevant to the issue of the engraved boulder? While not directly relevant to the issue of the engraved boulder, the mayor's illegal conduct highlights the sinister nature of the entire project and the city's attitude toward native citizens in general. This reflects the power dynamic between oppressor and oppressed. The possible destruction of Native American artwork is clearly not a high priority in the decision-making process surrounding road improvements. The city is attempting to hide the mayor's illegal acceptance of cash, and to obscure the real reasons behind construction. The city claims that road improvements are being made on behalf of reservation residents when in fact they are being made in order to support a multi-million dollar mall construction phase, benefiting several contractors and the mayor

himself. The city appears to be ignoring the fact that all similar malls in the area have fallen into ruin.

A full disclosure of the situation should be available to all city citizens including those living at the reservation. The entire project reeks of oppression. Those who oppose the project can point to the Mayor's scandalous behaviour as reason enough to halt road construction and relocation of sacred artifacts at least until a full investigation can be conducted and a better solution agreed upon.

As expressed in the Sage Council's press release, there are many citizens concerned with the shadiness of this and other similar proceedings.

“The Mayor has shown a history of procedural shortcuts – the Universe Boulevard Extension and his promise to limit the Montañño Bridge to two lanes are stark examples. When dealing with such high impact proposals such as the Paseo Extension, which have the potential to cause irreparable damage to a treasured area, the Mayor must follow the process to a ‘t’ without any shortcuts,” said Laurie Weahkee, executive director of SAGE Council. “The Mayor appears willing to accommodate his agenda, no matter the cost to taxpayers. (SAGE Council Press Release)

It seems as if the city, as a representative of the dominant culture, is not following its own rules. The citizens impacted by this and similar decisions have no recourse, it seems.

They are told to follow the laws and procedures, and assured that the city will do the same. However, this is not the case here, and has clearly not been the case in the past.

National and International guidelines have been put in place in order to avoid the continuation of just this kind of oppression. Because control of developments of their own lands enables indigenous people to maintain and strengthen their culture, Articles 12 and 13 of the United Nations Commission on Human Rights' Draft Declaration on The Human Rights of Indigenous Peoples clearly states:

Indigenous peoples have the right to practice and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artifacts, designs, ceremonies, technologies and visual and performing arts and literature, as well as the right to the restitution of cultural, intellectual, religious and spiritual property taken without their free and informed consent or in violation of their laws, traditions and customs. (Article 12)

Indigenous peoples have the right to manifest, practise, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of ceremonial objects; and the right to the repatriation of human remains.

States shall take effective measures, in conjunction with the indigenous peoples concerned, to ensure that indigenous sacred places, including burial sites, be preserved, respected and protected. (Article 13)

The Native Americans who claim direct lineage to the petroglyphs impacted by the Paseo Del Norte Extension should be given proprietorship over the artwork. Self conservation and management of rock art by indigenous communities is crucial to preservation and understanding of ancient art for all people. The United States government and the city of Albuquerque can no longer continue to impose western values on Native cultures it seeks to dominate, assimilate and perhaps even destroy. The city has not followed procedure as it was meant to be followed. It has cut corners and misinformed the public. This alone

should have been enough to stop the project. The city's rights to a highway cannot supersede world heritage or the basic human rights of the world's peoples.

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