

The Transformative Power of T'xwelátse:
A Collaborative Case Study in Search of New Approaches to Indigenous Cultural
Repatriation Processes

by

Emmy-Lou Campbell
B.A., University of Victoria 2001

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of the Requirements for the Degree of

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ABSTRACT

This collaborative study investigates the events that led to the repatriation of the Stone T'xwelátse from the Burke Museum of Natural History, University of Washington Seattle, USA to the Noxwsá7aq people of Deming Washington, USA and to the Stó:lō people of Chilliwack, B.C. Canada. Stone T'xwelátse is the first ancestor of the Chilliwack people who was transformed to stone by the transformer This research grew out of the desire to learn about and share the positive lessons learned during the repatriation process and to investigate if these experiences could benefit repatriation processes in Canada, specifically the province of B.C. This work establishes the current legal setting for cultural repatriation processes in Canada, the United States, and internationally, tells the ancient and contemporary story of Stone T'xwelátse, and examines the impact of Indigenous law, differing worldviews, community capacity, and relationships on cultural repatriation processes. An analysis of the conflict is presented through the identification of the key challenges and successes. The events of the repatriation, as told by the research participants, support the argument for the implementation of John Paul Lederach's Conflict Transformation Theory practices in future cultural repatriation processes. Using Participatory Action Research and Indigenous Research methodologies data was gathered through participant interviews to form the result of the study: *How to Work Together in a Good Way: Recommendations for the Future for Museums, Communities, and Individuals from the Participants of the Stone T'xwelátse Repatriation Research Project and Museum Professionals*. These recommendations were formed to share the lessons learned from the Stone T'xwelátse repatriation and also to state changes that the participants would like to see implemented in cultural repatriation processes in Canada. Stone T'xwelátse is now with the Stó:lō people fulfilling his role to teach the people "how to live together in a good way."

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Dedication

This work is dedicated to all of those Indigenous communities who are seeking what they have lost and to the museum staff who work daily to reunite them.

Chapter One: Introduction

“I’d had a hole in my heart I didn’t realize was there.” These were the words expressed by a member of the Noxwsá7aq Tribe when he saw the stone man, T’xwelátse, returned from the Burke Museum in Seattle to his original home in Stó:lō Territory¹ near Chilliwack BC (Shields 2007). This same sentiment is felt by many Aboriginal people in Canada who have lost objects of spiritual, cultural, and ancestral value to private collections and museums in Canada and abroad. Stone T’xwelátse was returned through a repatriation process implementing the Native American Graves Protection and Repatriation Act (NAGPRA, 1991) with the collaboration of Stó:lō Elder Herb Joe [T’xwelátse], the Stó:lō Research and Resource Management Centre, the Nooksack [Noxwsá7aq] Tribe Cultural Committee, and the staff at the Burke Museum at the University of Washington. NAGPRA is the United States federal legislation through which federally recognized Native American Tribes can request the return of human remains and objects from federally funded museums within the United States. Through a collaboration with those involved in the Stone T’xwelátse repatriation process, this thesis will tell the history of Stone T’xwelátse and his repatriation. It will also analyze the repatriation process and the evolution of mutually beneficial relationships between those involved, with the purpose of answering the following question: What lessons were learned from those involved in the repatriation of Stone T’xwelátse, and based on those lessons, what actions are recommended to create more cooperative, supportive, and culturally sensitive processes for the repatriation of lost or stolen items of cultural, historical, and sacred importance to Indigenous communities? This

¹Stó:lō refers to the Indigenous people residing within the larger traditional territory of the Stó:lō people.

thesis will also simultaneously discuss the implementation of conflict transformation practices in repatriation processes.

Chapter One will introduce and define cultural repatriation efforts and processes and the research partners and participants. Chapter Two will define the research methodologies employed and discuss why those methodologies are important in research conducted with Indigenous people. This chapter will also introduce and define conflict transformation theory as an analytical tool to examine the issues which lay at the heart of this thesis and as a possible option for cultural repatriation processes. Following my theoretical discussion, Chapter Three will define repatriation laws and legislation in Canada, the United States, and internationally to provide the legal framework and context for repatriation efforts. Chapter Four will present the history of Stone T'xwelátse and highlight his traditional and current role and importance to the Noxwsá7aq and Stó:lō people. Chapter Five provides details on the involvement of each of the research partners and participants in the repatriation of Stone T'xwelátse to the Stó:lō. Chapter Six will provide an analysis of key challenges and successes during the repatriation process, with specific attention to the influence of Stó:lō Law, worldview differences, and the relationships between those involved in the process. Finally, in Chapter Seven, I will present recommendations for future repatriation processes, establish how my findings support the inclusion of conflict transformation practices in cultural repatriation, and summarize research findings in my conclusion.

Introducing and Defining Cultural Repatriation Processes²

Indigenous³ people throughout the world are currently engaged in efforts to repatriate objects, figures, and other forms that are not only a link to their historical past and culture but also have deep spiritual and cultural meaning in the present. Since contact, items of Indigenous cultural property or responsibility have often been viewed as objects of archaeological and anthropological study. In most cases such objects have been collected, analyzed, and put on public display, with little attention given to the emotional and spiritual connections to the communities of origin. Although some of these objects were offered for sale to museums, much harm has been inflicted when objects of spiritual and cultural significance have been removed from communities and placed in museums and private collections. These objects and artifacts have been lost from communities through coercive devices such as threat of prosecution, sale to collectors for profit (sometimes by those who did not have the right to sell them), sale or trade by people who were financially desperate, or in some cases theft (Cole 1995, vii-xiv). Aboriginal cultural property has been scattered throughout Canada and the world, where it is not accessible to the community, and its true significance is unknown or unacknowledged. The failure to recognize rightful ownership exacerbates the wounds caused by colonialism. The inattentiveness to these items' cultural and spiritual importance, and the denial of Indigenous peoples' rights to

² These processes are commonly referred to as Artifact Repatriation Processes. An artifact is defined in the Oxford English Dictionary as “1. a product of human art and workmanship 2. *archaeology* a product of prehistoric or aboriginal workmanship as distinguished from a similar object naturally produced” (Barber 2004, 74). The application of the word artifact is not appropriate in the context of Stone T'xwelátse as it does not acknowledge the unique nature of him and other Indigenous forms and figures which are not considered to be inanimate objects. Unless the term artifact is part of a proper name, legal definition, or quote it will be replaced with other terms such as cultural repatriation that more accurately reflect the nature of the relationship between the people and the form or figure from where it originated.

³ For the purposes of this project I am using the following definition of Indigenous peoples: Indigenous to the lands they inhabit, in contrast to and in contention with the colonial societies and states that have spread out from Europe and other centres of empire (Alfred and Cornthassel, 2009).

manage their historical property, perpetuates an oppressive and paternalistic environment. This further contributes to great power imbalances that exist between the parties. Aboriginal communities are now faced with the task of locating lost items, proving their connection to them, and negotiating their return.

For the purposes of this research, a cultural repatriation process is defined as any Indigenous individual, organization or group engaged in the assertion of their right to control or take ownership of objects or figures of cultural, historical, or spiritual significance that are not currently in their possession. This process can draw attention to differing world views regarding the significance of these items, the way they should be cared for, and who has the right to care for them. The recognition of Indigenous world views by museums creates the opportunity for new, mutually beneficial relationships to form. Such relationships could privilege the interconnectivity of objects to the environment, the animate aspects of sacred objects, the current relevance and meaning of historical artifacts, and the right of a People to use these objects in a manner of their choosing. A process that respects differing world views and promotes reciprocal learning has the greatest chance for a successful outcome. This thesis will demonstrate how the repatriation of Stone T'xwelátse exemplifies how positive and beneficial relationships can develop through repatriation processes.

Participants and Research Goals

The research for this thesis is supported by Stó:lō Elder Herb Joe [T'xwelátse], members of the Stó:lō community, the Stó:lō Research and Resource Management Centre, the Nooksack Tribe Cultural Committee of Deming, Washington USA, and the Burke Museum at the

University of Washington, Seattle, USA.⁴ Herb Joe [T'xwelátse] is a central figure in the story of Stone T'xwelátse's journey home. He is the descendent of T'xwelátse, who is the first man of the Chilliwack (David Schaepe 2005, 17). He was chosen by the Elders in his family to carry the name of T'xwelátse and all the responsibilities associated with it (14). Hereditary names are an incredibly important aspect of Stó:lō culture and tradition. My experience with the Stó:lō community has taught me that to be given a name is a great honour and establishes you as someone of importance and respect in the community. There are roles and responsibilities that are specific to a name that must be upheld and fulfilled according to the ancient teachings or *sxwóxwiyám*. The community's bestowal of the name T'xwelátse, on Herb Joe, gave him responsibility for the Stone T'xwelátse. Herb Joe describes his connection to T'xwelátse in the following excerpt from the repatriation report submitted to the Burke Museum:

There is a story that belongs to our people, to my family in particular. That ties me directly to the Stone T'xwelátse because of the name. And it's been my responsibility as a name carrier to try and have him brought home to our area. So that he can take on the responsibility he was originally meant to have to our tribe (Schaepe, 17).

Herb Joe was involved in the effort to bring T'xwelátse home from the beginning when he was told by his Grandmothers to "bring him home". He is also is a key contributor to this project.

Herb Joe worked collaboratively with both the Stó:lō Nation and Tribal Council's Stó:lō Research and Resource Management Centre (SRRMC), based in Chilliwack BC, and with the Noxwsá7aq Tribe Cultural Committee (NTCC) to complete the necessary work for the NAGPRA application submitted in 2005. Herb Joe is a descendent of the Chilliwack people and a member of the Tzeachten First Nation, which is a member of the larger organization of Stó:lō Nation who provides services to eight member bands in the Fraser Valley area. The Stó:lō

⁴ For geographical reference please refer to Appendix 1 - Geographical Map of of Stone T'xwelátse's Journey

traditional territory stretches from the area of the lower Fraser Canyon down the Fraser Valley along the US border to the coast and reaches as high as the northern end of Harrison Lake and across to Mount Garibaldi. Within this territory are many separate communities. It is within Stó:lō Territory that the SSRMC operates (Stó:lō Nation website, 2009⁵). The SSRMC is a research group that conducts and supports research initiatives in the areas of archaeology, history, culture, land use and aboriginal rights and title (SRRMC website, 2009⁶). David Schaepe, a non-Indigenous staff member and SRRMC Manager and Senior Archaeologist during the repatriation efforts, along with Herb Joe completed the research and writing of several extensive research reports detailing the history of Stone T'xwelátse, his connection to the Stó:lō, and the familial connections between the Stó:lō and Noxwsá7aq people as required for a repatriation request under NAGPRA (Schaepe 2005, 2006). The completion of these reports was supported by SSRMC staff including Sonny McHalsie and Tia Halstad. Years of support, provided by the SSRMC, were integral to the completion of the NAGPRA application and therefore the success of the repatriation. David Schaepe was a key contributor to this project.

The NTCC had an important role in this repatriation claim because NAGPRA only applies to federally recognized Native American Tribes within the United States and museums which have received federal funding. The Stó:lō were separated from the Noxwsá7aq people when the Canadian border was drawn between their communities. Because the Stó:lō are Canadian they are not eligible to submit a request for repatriation under NAGPRA. The Noxwsá7aq assisted in the claim request by supporting the Stó:lō in establishing their familial connection and hereditary caretaking responsibilities, submitting the NAGPRA request to the

⁵ www.stolonation.bc.ca

⁶ www.srrmcentre.com

Burke Museum staff, and receiving T'xwelátse from the Burke Museum on their behalf. Peter Joseph, his wife Sandra Joseph and her son Lawrence Bailey participated in this research project as members of the NTCC. Sandra Joseph is also a matrilineal descendent of Stone T'xwelátse and one of the women who is currently a caretaker of Stone T'xwelátse. The assistance of the Noxwsá7aq was vital because repatriation through NAGPRA is only applicable to federally recognized Native American Tribes.

Several of the staff at the Burke Museum were key figures in the repatriation process and research partners in this project. Some of these key people were: Dr. Peter Lape, Professor of Anthropology and Curator of Archaeology, Megon Noble, Archaeology NAGPRA Coordinator, Laura Phillips Archaeology Collections Manager, Julie Stein, Director and former Curator of Archaeology, and Dr. George MacDonald, former Director. Aside from George MacDonald, all of these individuals contributed their knowledge and experiences in interviews for this project. Dr. James Nason, former NAGRPA Committee Chair and former Curator of Ethnology and Native American, was involved in meetings and consultations up until the NAGPRA request was submitted. Unfortunately, he was only available to participate in this project in a limited way via correspondence and was unavailable for an interview. These individuals were involved in the repatriation, on behalf of the Burke Museum, at different times in the process. James Nason, Laura Philips, and Julie Stein were present at the Burke when Herb Joe first visited in 1991. George MacDonald assisted in furthering conversation on the matter when Megon Noble and Peter Lape became involved in 2001. Noble and Lape were the key contact people during the NAGPRA repatriation process and during the repatriation ceremony planning. The relationships that formed between these individuals, over the period of the process from the early 1990's to

the repatriation in 2006, are an integral piece of this story. The development of positive relationships, through the repatriation of Stone T'xwelátse, is one of the key elements of the research question this project seeks to answer.

The story of Stone T'xwelátse's return contains many lessons and experiences that may assist other Indigenous communities engaged in repatriation efforts. These lessons may also assist staff at other museums and cultural institutions, who work with Indigenous collections, and provincial and federal policy-makers who have the opportunity to improve the relationship between museums and Indigenous communities through the establishment of legislation and public policies. Herb Joe refers to Stone T'xwelátse as a teaching icon because his transformation to stone is meant to remind Stó:lō people of “how to live together in a good way” (Interview with Herb Joe [hereafter HJ] March 10, 2009).

The personal experiences and knowledge of the research partners is compiled and presented as a set of recommendations to improve repatriation processes, establish positive relationships between museums and Indigenous communities, and argue for what is needed to work together “in a good way”. While all of the stories and recommendations shared by the research partners are specific to the individual experiences and cultures of the participants, the actions and events that led to positive relationships at the end of the process provide valuable lessons to anyone involved in cultural repatriation. In addition, the experiences of everyone involved in the Stone T'xwelátse repatriation qualifies them to speak about what makes for a good repatriation process, which laws and regulations are helpful or harmful, and what should be done to improve the current status of repatriation actions in Canada.

This chapter has introduced the research question and the research partners and provided some context to the research project. I have also defined the term of cultural repatriation. In the



Figure 1. Campbell, 2009

next chapter I will present the research methods that influenced the research design and process and will introduce, define and discuss conflict transformation theory.

Chapter Two: Research Methodology, Process, and Conflict Transformation Theory

Research methodologies are the principles and guidelines that help a researcher navigate through the research process while seeking answers to the research question. Conflict transformation theory is a method used to manage and work through a conflict. The methodologies used in this project inform the research actions and conflict transformation theory is a tool for the analysis of the research data and a recommended tool for future repatriation processes. As Stone T'xwelátse is a reminder to the Stó:lō of how they should “live together in a good way”, the research methodologies I will present were implemented to ensure that I conducted the research for this project “in a good way”. When choosing a methodological approach, I considered my own belief systems and the forms of knowledge that I privilege and also the implications of different methodologies for the research partners involved. I introduced the research question and participants in the last chapter. In this chapter I introduce the research methodologies used and discuss how these methods influenced the research process. I will first introduce qualitative research methodologies, define the methodological approaches of collaborative participatory action research (PAR) and then present the related Indigenous and Holistic methodologies. All of the methodologies discussed fall under the umbrella of qualitative research. The Indigenous and Holistic approaches are very similar to elements of participatory action research but are specific to work done with Indigenous people. I will then state how these methodologies guided my actions during the research and data analysis. I will present the methodological challenges I faced during research and state the steps taken to address them. I also state the necessary ethical considerations required not only by the University of Victoria's required guidelines, but also those that must be personally considered when conducting research

with Indigenous people. Lastly, I will introduce and define the theory of conflict transformation and discuss how this theory was used in the research analysis.

Research Methodology

Qualitative research is an important tool for Indigenous communities because it is the tool that seems the most able to wage the battle of representation; to weave and unravel competing storylines; to situate, place, and contextualize; to create spaces for decolonizing; to provide frameworks for hearing silence and listening to the voices of the silenced; to create spaces for dialogue across difference; to analyze and make sense of complex and shifting experiences, identities, and realities; and to understand little and big changes in our lives.”

Linda Tuhiwai Smith (2005, 103)

The field of dispute resolution, which is interdisciplinary in its nature, does not ascribe to a particular research methodology. Rather, scholarship in this field draws from the methodologies that best fit the research question and participants. Methodologies also define the ideological approach to the analysis of the acquired data. I have taken elements from multiple qualitative methodologies to construct a mosaic of methodologies that work together within the frame of qualitative research practices. The combining, restructuring and deconstruction of traditional research methodologies have been labeled as “emergent methodologies” by Hesse-Biber and Leavy (2008). They argue that “working with emergent methods is not about abandoning our disciplinary training but rather taking that training, adapting it, applying it, modifying it, and working beyond it as appropriate with respect to our research objectives” (2). Heather D’Cruz calls this a fractured lens methodology which “poses methodological and ethical considerations, particularly of researcher objectivity and subjectivity, and the relationship between the researcher and the researched” (2001, 19). This methodological approach is especially useful for this project, which includes interdisciplinary research, with participants

from different cultures. I have constructed a methodology that reflects both my own and the participants' different research values.

Qualitative Research Methodology

All of the methodologies implemented during this research are qualitative. Robert Stake (1995) describes the characteristics of a qualitative study as:

- Holistic – resists reductionism and elementalism and seeks to understand its object more than how it differs from others;
- Empirical – field oriented, emphasis on observables, strives to be naturalistic, non-interventionistic, preference for natural language description, sometimes disdains grand constructs;
- Interpretive – researchers rely more on intuition, on-site observers keep attention free to recognize problem relevant events, attuned to the fact that research is a researcher-subject interaction;
- Empathetic – issues are emic, progressively focused (47-48).

Qualitative studies emphasize ethics and respect when dealing with human subjects often by involving the participants in the research through interviews or collaborative research planning.

Qualitative research practices are the most culturally appropriate methodology choice for this project as the story and experiences of the research partners are able to be told in their own voices, information may be analyzed in a holistic manner, and research partners are collaboratively involved.

Some critique qualitative studies as unpredictable and subjective because they often produce more questions than answers and have the potential to pose substantial ethical risks.

Qualitative studies can also be time consuming if research participants are equally involved in the research process and responsible for elements of the research outcome (Stake, 45). I chose a qualitative methodology in my work with Indigenous people as a means of fostering an anti-

oppressive and culturally appropriate environment. The research goal was to investigate the research questions through collaboration with research partners, unafraid of the possibility that the result would contain a new host of questions. It is my view that the outcome of this research will be positive if others are inspired to answer the additional questions that arise. While qualitative research has many challenges, these challenges are worth approaching and working through when the result is an ethical and inclusive project that respects the knowledge and experiences of those who participate. In spite of these criticisms the qualitative approach of Participatory Action Research and Indigenous methodologies is most appropriate for this research project.

Participatory Action Research

“Participatory action research should, in principle, create circumstances in which all of those involved in and affected by the processes of research and action (all of those involved in thought and action as well as theory and practice) and the topic have the right to speak and act in transforming things for the better.” (Kemmis and McTaggart 2005, 579)

In this section I will define Participatory Action Research (PAR) and discuss the attributes of PAR, and those related Indigenous methodologies most relevant to this research project. PAR research has been defined by scholars as having some of the following attributes (Kirby, Greaves, and Reid 2006, Neuman 1997, Reitsma-Street, 2002, Stringer 1996, Wallace, 2005): research, education, and action; collaborative; hermeneutic approach to evaluation; implementation of research results that promote empowerment; community building; transformative; democratic; supports social change/justice; emphasis on equality. PAR is further defined as the following: “research which involves all relevant parties in actively examining

together current action (which they experience as problematic) in order to change and improve it. They do this by critically reflecting on the historical, political, cultural, economic, geographic and other contexts which make sense of it” (Wadsworth, 1998⁷). The model for change is developed by the people affected by the problem. In constructing my emergent methodology I am taking some aspects from PAR but not following the methodology in its entirety. The elements of PAR employed in my methodology were community participation, researcher – subject equality, collaborative research, and action for change. PAR is based in the community-based research approach where the participants are involved in the formation of the research question and present the problem or issue that is in need of investigation. Rather than exploring a research question presented by a research partner’s community, I invited the partners to participate with me in developing a research question, inviting them to comment on and construct the research question and then assist me in seeking its answer. While I facilitated the project and compiled the information, I acknowledge that it is the research partners who have the most experience in repatriation processes. They are in a more knowledgeable position to contribute recommendations for change and positive lessons that were learned.

PAR is an excellent a research methodology for working with Indigenous communities because it promotes the participation of anyone affected by the topic of research and acknowledges all voices as equal. As noted, research has historically been conducted “on” and “to” Indigenous people, which has resulted in some victimizing research projects. A strength of PAR is that it is sensitive to cultural differences, existing power imbalances, and aims to empower participants through inclusion and equal participation. My goal when approaching this

⁷This article was accessed from an online journal and did not have separate pages. Please see the Works Cited for more information.

work was to learn from the participants, both Indigenous and non-Indigenous, and to be exceptionally aware of my role in the process so as to limit any perceived or unintentional power imbalances. I did not want to be perceived as the RESEARCHER with a personal agenda and clearly formed research plan prior to my engagement with the research partners.

PAR is “geared to action, with the premise that participation increases the interest in implementing research results” (Reitsma-Street 2002, 69). PAR is inherently concerned with enacting social change starting at the participant, or ‘grass-roots’, level. In practice, the goal is to have the research partners invested in the long term effects of the research project because of their involvement in the completion of the research results. Someone who uses PAR is referred to by W. Lawrence Neuman as a “critical researcher who conducts research to critique and transform social relations” (1997, 74). In the same way that conflict transformation theory looks at the long term result of resolution and seeks to transform an undesirable conflict into a desirable relationship, PAR looks beyond the immediate problem or research question and seeks to address the social cause of the problem and engage research partners in social change through the research project. The level of action that will occur after the completion of this research will be informed in part by the motivation or desire of the research partners to seek implementation of the recommendations by governmental entities and cultural institutions.

Indigenous Methodologies for a Non-Indigenous Researcher

There are a few methodologies that have many of the characteristics of PAR but are designed specifically for research with Indigenous persons. Indigenous methodologies that I have considered have been developed by Indigenous people, often in relation to their own work.

I am not an Indigenous person and am not a member of the Stó:lō nation. This being said, I do not think that this precludes me from implementing elements of Indigenous methodologies in research. These methodologies help me to acknowledge differences in world views, social power dynamics, modes of learning, history, culture, and the inclusion of knowledge from Indigenous participants involved with the research. In constructing my research methodology I have drawn guidance from the Indigenous scholars Linda Tuhiwai Smith and Fyre Jean Graveline. Their work seeks to decolonize research practices between Indigenous and non-Indigenous people, and I have tried to implement their approaches in this project.

Linda Tuhiwai Smith's (1999) work *Decolonizing Methodologies: Research and Indigenous Peoples* examines the damaging impact of research conducted "on" Indigenous people. She recommends a shift in research practices where Indigenous people are moved from the position of the "researched" to the position of the "researcher". Smith's intent is to reveal the many overt and subtle ways that outsider research has been used as a tool of imperialism and colonialism. It has silenced Indigenous ways of knowing and denied rights to land resources and self government, and challenged Indigenous ways of being (1). While Smith's work contains excellent criticisms of past and present research practices, her work also provides important lessons about how to engage in culturally sensitive research that transfers power over the use of Indigenous knowledge back to the Indigenous community.

Smith outlines a list of strategies for non-Indigenous researchers conducting research with Indigenous communities. These are offered to ensure that research does not perpetuate the mistakes of the past.⁸ Her first strategy advocates that non-Indigenous researchers avoid

⁸ In this instance Smith is speaking specifically of Maori people but the theory could be applied to other Indigenous communities.

Indigenous research completely. I believe this position is taken to highlight the differences of world views between Indigenous and non-Indigenous peoples. I do not completely accept her point, as I believe that very positive relationships can result from collaborative research projects. Smith herself states that her first strategy is “not helpful to anyone” (177). While I disagree with the stance of avoidance, I believe that her remaining strategies are very important. I have followed them during this research. They are: 1. Personal development; learning the language, culture, and concerns of the people. 2. Consultation; seeking support and consent for research. 3. Making space; to recognize and attempt to include Indigenous voices in the research project (176-177).

This project sought to understand people’s experiences during the repatriation process. I wanted to understand these experiences in their own words, so that I could appreciate why certain events and actions were meaningful in either a positive or negative way. For this reason, I am also using a First Voice Narrative Methodology in telling of the history of the process. Métis scholar Fyre Jean Graveline’s (2000) and non-Indigenous historian Julie Cruikshank’s (1991) works challenge traditionally accepted “western” forms of research and knowledge presentation. Graveline’s work on methodological approaches to Indigenous research “seeks to engage qualitative researchers from all disciplines in an ongoing dialogue to recognize and resist the oppressive eurocentric attitudes and practices currently shaping research norms” (2000, 361). She argues that the voice of experience, the “First Voice”, is the only voice qualified to speak about that experience. The following is an excerpt from her work and is presented with the original formatting intact:

Who should research
Speak about Native peoples ’ Culture

Oppression

Social movement experiences ?

To Elders only those who have Experienced an Event
are Empowered to Speak about it.

Embrace First Voice as Methodology.

Only those who Are Aboriginal
can speak about Being Aboriginal. (362)

Cruikshank (1991), as a non-Indigenous researcher, provides another example of the narrative approach in her non-interventionist approach which, aside from an explanatory introduction, presents the stories told to her, by Indigenous women of the Yukon Territory, without analyzing, contextualizing or reorganizing them—to maintain the authenticity of their telling. She states her process as:

Instead of working from the conventional formula in which an outside investigator initiates and controls the research, this model depends on ongoing research collaboration between the interviewer and interviewee. Such a model begins by taking seriously what people say about their lives rather than treating their words simply as an illustration of some other process (1).

The result of the first voice narrative approach in this project is the inclusion of longer sections of uninterrupted interview transcriptions which allows the participants to speak for themselves.

Carolyn Kenny, an Indigenous Studies Professor (2004), developed the framework for a “Holistic Approach to Aboriginal Research”. This framework includes the following actions for researchers to consider: honouring past, present and future in interpretive and analytical research processes, including historical references and intergenerational discourse; honouring the interconnectedness of all of life and the multi-dimensional aspects of life on the Earth and in the community in research design and implementation; and honouring the spiritual, physical, emotional and mental aspects of the person and the community in research protocols,

methodologies and analyses (8). A holistic approach, to this research, meant consultation with community members, inclusion of traditional knowledge from oral history and contemporary in-person interviews considered in advance of historical records from outside the community.

Case Study scholar Robert Yin (2003) argues that holistic research design is problematic as the “nature of the case study may shift, unbeknownst to the researcher, during the course of the study” and that “the entire case study may be conducted at an abstract level, lacking any clear measures or data” (45). This view is somewhat positivist in that it privileges the researcher as the director and the data as inherently measurable against a standard of what qualifies as data. It also assumes that to engage the research partners in the research process and design would somehow lead to an unfocused project with poor data results. As noted, in any research involving Indigenous people, it is imperative that they be included in the research planning as equal partners. While I approached the community with the topic, planned interviews, and constructed the final product, the research partners from all groups were invited to provide input, offer new ideas, and to review and approve the research results.

Research Strategies, Actions, and Challenges

This section will describe how the chosen research methodologies discussed were employed during the research planning, data gathering, and data analysis stages.

Research Planning

I felt I had to give up some control of the research project to allow the study to happen in collaboration with the research partners. While this left me with less control over timelines and

research structure, it allowed the study to be positively influenced by the research partners' alternate ways of knowing and learning. During this process I strove to ensure that the varying forms of knowledge brought to the project were treated as equally relevant. This is what Graham Smith refers to as "power sharing". Power is shared when the researcher "seeks the assistance of the community to meaningfully support the development of a research enterprise" (G. Smith cited in L.T. Smith 1999, 177). For me, power sharing meant that I had to remove myself as the sole decision-maker and planner of the research process. I had to be open to other goals that were not necessarily my own when the project began. Throughout the planning process, I included members of the Stó:lō and Noxwsá7aq community, individuals from the SSRMC, and staff of the Burke Museum. I also consulted with each group to understand what they would like to achieve from this project, what would be of most benefit to their community or field, and included people they recommended as participants.

The Researcher

Linda Tuhiwai Smith's (1999) work greatly influenced the planning of my research from the very early stages. It is important that I situate myself in the context of my background in relation to the research project. I knew that I wanted my thesis research to build bridges between my community as settler,⁹ outsider, and student and the Indigenous research partners because I have studied the history of Indigenous people in Canada, worked for Indigenous communities on land claims research, and grew up with a knowledge of the effects of colonialism on a small Indigenous community. When I heard about the repatriation of Stone T'xwelátse I felt that there

⁹ When used in this context the term "settler" refers to non-Indigenous inhabitants of colonized Indigenous territory.

may be a positive story and lessons to be learned from those who were involved. I hoped that this story could be useful to repatriation processes generally in Canada and British Columbia.

My first step was to fulfill what Smith referred to as “Personal Development” (1999, 176-177). For me, this was to introduce myself to the community, before engaging in this research project, by attending the Stó:lō Ethnohistory field school course. The course was co-taught by Sonnie McHalsie and David Schaepe, staff at the Stó:lō Research and Resource Management Centre (SRRMC), Prof. John Lutz of the University of Victoria, and Prof. Keith Carlson of the University of Saskatchewan. The field school is a community-based research project that connects graduate students to research projects requested by the community. Students live in the Stó:lō community for one month and reside with a Stó:lō family for one week. There is a strong emphasis on ethnohistory and learning from the people, rather than others’ interpretations of the past and culture. I spent much time interviewing my research partner, Stó:lō elder Ray Silver. I also participated in community events and received a glimpse of Stó:lō life and culture. The work that resulted (Silver and Campbell 2007) is as much Mr. Silver’s work as it is mine because they are his stories and words. I also formed relationships with the SSRMC staff and community members that would later form the basis of my relationships for this research. My experiences in this collaborative project changed how I viewed academic sources. I reconsidered who I thought was an expert or teacher. I was also taught about Stó:lō culture in a first-hand way. I never would have learned this by reading someone else’s experiences. The field school was my “personal development” stage of this research project. When I returned to request collaboration on this thesis research, I was known.

People had a sense of my earlier work and earlier contribution. I was still an outsider but I was not a stranger.

Choosing the Research Partners and Participants

Linda Tuhiwai Smith also emphasizes the importance of consultation by seeking support and consent for research before any research with an Indigenous community commences (1999, 176-177). When I first heard the story of Stone T'xwelátse's return, I knew that I was interested in exploring the possibility of completing research on this topic. After my positive experience during the field school I contacted David Schaepe, SSRMC, to inquire whether the topic of Stone T'xwelátse's repatriation was of interest to the community and those involved. The beginning of the project was contingent on two key events: the participation of Herb Joe and his family and permission to do this research from the SRRMC¹⁰. The purpose of this application is to ensure that outside research is respectful of Stó:lō culture, history, and community members. It is also important that the topics researched are of interest and benefit to the Stó:lō and are not just for the benefit of the researcher. To ensure that knowledge is not taken from the community, researchers, including myself, are requested to submit all transcripts, interviews, and final research products to the SSRMC for inclusion in their growing archives so that the information is available for the community.

One of the tenants of PAR is that it is based on the assumption “that all stakeholders – those whose lives are affected by the problem under study – should be engaged in the process of

¹⁰ The SRRMC has a formal research application and approval process that must be completed before anyone is approved to begin a research project with the research branch or other community members. The Stó:lō are a nation who have been heavily researched by anthropologists, historians, and archaeologists for more than a century. The list of publications and scholars who have studied and published research on and about the Stó:lō people is too long to discuss within this work. Rather than reject further research from outsiders the community has instead embraced research by taking control and ownership through community-based projects like the field school and the SSRMC research application process.

investigation” (Stringer 1996, 10). Before I completed my thesis proposal, I first submitted a research request to Herb Joe, David Schaepe, and Tia Halstad, of the SRRMC. I also requested the collaboration of both David Schaepe and Herb Joe as principle partners in this study. After their approval and commitment to participate was established, I then requested that they forward the names of those who were involved in the process so that I could invite them to participate. I contacted Megon Noble, NAGPRA Coordinator at the Burke Museum, explained the project, requested her assistance, and asked if there were any formal research application processes. I was required to submit a research application and proposal requesting approval by the Burke Museum and the participation of key staff. When this application was approved I was then able to start the process of planning the research project. As a result, I invited all of those identified by the principle participants, among each research partner group, to participate in the research project. Participation meant that they were supportive of seeking answers to the research question, were willing to meet with me to share their knowledge, and were willing to provide comments and feedback when the research results had been compiled in written form. As a research partner they were also encouraged to contact me at any time to talk about any aspect of the project and were assured that their input was valued. I also requested each of them to advise me of anyone who may have information or knowledge valuable to the project or of anyone whose voice was missing from the project so that they may be contacted and invited to contribute.

I was fortunate to accompany Herb Joe on a trip to Deming, Washington where he introduced me to George Swanaset Sr. and George Swanaset Jr., past and current head of the Nooksack Culture Committee, to request their permission and participation. George Swanaset Sr.

was involved in the repatriation process for the Noxwsá7aq and was supportive of the project but was unavailable for an interview. Permission was granted, by the Nooksack Culture Committee, to request the participation of those from the community who were involved in working with the Stó:lō on the repatriation request. Had any group been opposed to this project it would not have proceeded. Consultation is not just asking permission, it is working with and for the benefit of the community. Space was created for not only the inclusion of Indigenous voices in this project but also to receive their knowledge and input in the desired goals and outcome of this project.

Data Collection, Presentation and Analysis

The majority of the research data collected is emic, in that it comes from accounts within the participant communities rather than outside sources. In keeping with the first voice narrative research methodology (Graveline 2000, Cruickshank, 1991), I conducted numerous personal interviews with 11¹¹ research participants: members of Stó:lō Nation, the Noxwsá7aq Tribe and staff from the Burke Museum and the Museum of Anthropology (MOA) at the University of British Columbia (UBC). All of those interviewed, with the exception of Sue Rowley from MOA, had direct involvement in this repatriation case at some point between the discovery of Stone T'xwelátse in the early 1990's until he was returned to Stó:lō territory in 2006. First voice narrative methodology was implemented in this project through the emphasis on oral accounts and in person interviews with research partners. Interview transcripts were recorded and transcribed as they were spoken, without

¹¹ Dr. James Nason, the 12th participant, is the only research participant to complete a research consent form but was only able to participate via several statements sent by email. He did grant permission to quote his comments and correspondence found in the Burke Museum's Noxwsá7aq Tribe NAGPRA File. Although every effort was made to accommodate him his schedule and current residence in Arizona meant that he was unavailable for an interview either in person or via telephone.

editing for “readability” or brevity, being mindful that each word has meaning and is spoken with intent.

Interviews were conducted at locations chosen by the participant which, in most cases, were at the individual’s office. Interviews were one to two hours in length and with Herb Joe, David Schaepe, and Megon Noble, a second interview was held either the following day or several weeks later on the second visit. Numerous trips were made to Chilliwack BC, Deming and Seattle, WA and a single trip was made to MOA at UBC in Vancouver BC. All interviews were transcribed and provided to each participant for approval. Any outstanding questions, requests for minor edits or addition of comments from participants were followed up via email or telephone. When quoted, within the text of this work, individuals’ comments are presented exactly as recorded and any editing for readability or clarification was done so only at the request of the participant.

The interview process incorporated Carolyn Kenny’s (2004) holistic approach by focusing on respecting the value of participant’s knowledge through a narrative and storytelling environment. Elements of a holistic research approach were practiced through consultation with community members, inclusion of traditional knowledge from oral history and the contemporary in-person interviews. I also practiced an awareness and respect for Stó:lō law, culture, and for the differing world views among research partners by treating all knowledge from interviews as equally true. Interviews were somewhat structured, in that a list of open ended questions was prepared for interviews. However, the topics discussed, and additional questions that emerged during the interview, were not confined to the prepared questions (Appendix 2). Research partners were encouraged to speak as much or as little as they chose. They were advised that

they were free to decline commenting on any subject or to add information outside of questions asked. As a scholar and non-Indigenous person, I may communicate differently, expect the recollection of past events in a linear form, and listen and respond to interview responses in ways that differ from the participants. An open question format with the freedom to engage questions as they emerge during the interview is more appropriate when working with participants from different cultures. The conversation style of the interview allowed participants to revisit topics already discussed, add information that they thought was relevant even if it was not asked, and to take as much time as needed to form their responses. This process was chosen over specific restrictive questions, answer forms or surveys that limit responses and can be difficult for cultures with different styles of communication.

First Voice Narrative methodology is about hearing the voice of the speaker and not the interpretation of the researcher. Linda Tuhiwai Smith (1999, 177) argues that the voice of the researcher and that of the participants or research partners should be considered equal. I was very careful in my analysis of the interviews not to place the forms of knowledge that I am used to, i.e. academic, published or “expert”, above the forms of knowledge presented by the research partners. More weight was given to the lived experiences and knowledge of those who were interviewed. While secondary source information was reviewed, and in some cases utilized, the published work of outsiders was considered after that of the information gathered from participants. Oral history about the distant past has been quoted from the Stone T’xwelátse Report and First Supplemental Report (Schaepe 2005, 2006) and was gathered from interviews and historical research accepted by the community. There are some sections in this work where the interview

quotes are quite long and detailed. This was done to ensure that the context and meaning of the quote is captured in its entirety and the meaning is not altered through the use of reduced statements. These interviews are the primary source of information for the collection of information regarding the events, actions, and experiences related to the repatriation of Stone T'xwelátse.

The Recommendations for Repatriation Processes were formed through the analysis of the participants' experiences and comments and have been submitted to all participants for their review, comments, and approval before being finalized in this work. To compile the recommendations I reviewed all participants' comments regarding what actions benefited or hindered the process, what they would change about the process they experienced and/or other processes available to them, what services would assist them in completing repatriation processes, and what process would benefit them the most. I compiled all of the themes from each participants' comments, used these common themes to draft the list of recommendations, and forwarded it to all participants and requested that if there was anything that they wished to add or did not represent their views that they please provide feedback to me. None of the participants requested that any part of the recommendations as they are presented in this thesis be removed. The recommendations reflect the common views of all participants.

Rationale for the Inclusion of Interdisciplinary Research

Understanding how the repatriation of Stone T'xwelátse occurred and why it was successful requires the inclusion of disciplines outside the study of dispute resolution.

The interdisciplinary nature of this event has led to the inclusion of history, to understand the relevance of the event, and law, to understand the public policies governing the event and the different legal environments to which those who were involved were accustomed. The inclusion of aspects of history and law in this project honours the “past present and future” (Kenny 2004, 8) aspect of a Holistic research methodology. The inclusion of the oral history teaching, *sxwóxwiyám*, in the telling of the distant past of Stone T’xwelátse, is important in order for the reader to understand who he is and to know why the Stó:lō and Noxwsá7aq people wanted him returned. I cannot discuss Stone T’xwelátse’s repatriation story without also explaining his story and how he is linked to *sxwóxwiyám*. I have also included commentary on the current status of repatriation laws in Canada as this is the environment in which the Stó:lō are currently navigating present and future repatriations. In our first meeting Herb Joe said that after the repatriation of Stone T’xwelátse many other Indigenous people from different communities, primarily in BC and elsewhere, had asked him “How did you actually do it?” (HJ, March 24, 2009). For this reason I have included Chapter Three: Review of the Literature: Repatriation Processes and Legislation to provide the current status of repatriation laws and policies not only in the United States but in Canada and internationally through the efforts of the United Nations. It is hoped that this work will become a tool to share with policy makers, Indigenous communities, and others who approach the Stó:lō with this question.

Approaches to Methodological Challenges

I have argued that PAR, and the qualitative research methods I have presented, are the best approach to Indigenous research but I am also aware of their limitations. The key challenges with these forms of qualitative research are community participation barriers, participant flexibility and controlled timelines, unknown outcomes, and unconventional data analysis (Wallace 2005 and Wodsworth 1998). I will discuss and explain my approach to addressing each of these challenges.

Because of PAR's inclusivity there is the potential that a significant number of people could become involved in the research project. Inclusiveness is a benefit but also introduces the risk of not being able to timely complete the research goal. As I mentioned above, I identified research participants through consultation with the research partners—beginning with Herb Joe and David Schaepe. The list of participants was determined based on their level of involvement, availability and willingness to participate, and also on their current work in the area of cultural repatriation. The main barrier to participation was researcher and participant availability. I do not live in the same geographic location as the participants and overnight travel was required for all interviews. In order to ensure that anyone who was invited to participate was able to meet with me, I made numerous trips to the Vancouver, Chilliwack, Deming, and Seattle areas to meet with participants when they were available. Anyone who was unable to meet in person was invited to participate via written or verbal correspondence.

There were several occasions when individuals from the Noxwsá7aq Tribe would have had much to contribute, were willing and interested, but unable to participate given their own busy schedules. At some point, for the sake of the rest of the research partners, the project

needed to move forward and as a result some voices were unable to be included. In these cases other members from the Noxwsá7aq Tribe were contacted so that their experience would be represented in the research. Every attempt was made to accommodate participants' schedules through a willingness to be flexible.

I had to demonstrate flexibility, as the facilitator of this project, and I also had to acknowledge the level to which participants were able or unable to be flexible in their participation. Like conflict transformation theory, I had to let go of establishing hard deadlines when working with the research partners. I afforded as much time as possible for participants to respond to my requests, questions, and portions of completed work which required their feedback. There was also the potential that any research partner could have removed themselves and their contribution to the project at anytime. The consent form for this project clearly stated the project goals, community affiliations, the expectation of the participant, and the encouragement to contact me at any time with questions so that the role of both the research partners and myself, the facilitator, were clear (Appendix 3). I also made sure to check back with participants, after interviews by providing copies of interview transcriptions and drafts of portions of the work, so that any problems participants may have had could be discussed and resolved before the project was completed.

A commonly identified challenge in PAR is that the research outcome is unknown at the outset. Quantitative research usually begins with a hypothesis - an assumption to be proven or disproved by the data results. This project started with the research question I first presented to Herb Joe and David Schaepe. Had they not been interested in seeking an answer to my questions this project would never have happened and I would have had to start anew on a different topic. I

also faced the possibility that my question would bring about unexpected individual responses; responses which may not provide a cohesive answer from the community as a whole and would be difficult to summarize in a thesis. Some participants could potentially disagree with others' opinions or experiences which could threaten relationships. My initial consultations with Joe and Schaepe were essential as it allowed me to explore these potential challenges, assess the relationships between the participant communities, gauge their potential willingness to participate, and identify any future areas for concern so that I could prepare a plan for managing any problems that may have arisen.

Qualitative methods of data collection and analysis could be accused of being too relative and subjective to be considered reliable because of its flexibility and varying forms of data analysis. The key form of data collected in this project was the personal experiences of participants. It is acknowledged that everyone experiences the same events in different ways and therefore no two experiences will result in a concrete definitive account of an event. In keeping with one of the tenants of PAR, I sought to ensure that the varying forms of knowledge brought to the project by the participants were viewed as equally relevant and true. I tried as much as possible to leave participants' words intact and to include as many aspects of people's experience as possible to protect the data from being altered through my own interpretation. Instances where research partners presented differing information is discussed with both sides represented. I sought to fully respect each account, by not regarding one account as more or less true or by including one account and disregarding the other. As a result, the reader will find that while the chronology and details of the events of the repatriation process differ in some cases, the overall result is a collaborative telling of the event. In some cases, where dates or the sequence of events

were difficult to remember, these details were able to be confirmed using the correspondence kept by the Burke Museum staff in the Nooksack NAGPRA File. I was given permission to view this file by all three research partners and, in cases where different dates for the same event were recorded in the interview documentation, information from this file is cited to clarify the sequence of events.

I also acknowledge that the length and quantity of the interviews precluded my ability to include everyone's words in their entirety. There is a point where I had to choose what to include and quote and what not to quote. As much as possible I included any comment or opinion within the original research question or that was of great importance to the participant.

Ethical Considerations

Because this research involves human subjects it was subject to review and approval by the University of Victoria Human Research Ethics Board¹² (HREB). I was required to adhere to the guidelines stated in the Canadian Institute of Health Research, Natural Sciences and Engineering Research Council of Canada, Social Science and Humanities Research Council of Canada "Tri-Council Policy Statement: Ethical Conduct for Research Involving Humans" (1998 with 2000, 2002, 2005 amendments). In addition, the involvement of Indigenous research partners also required that I submit written evidence, with the HREB application, demonstrating that I had requested and received the permission and cooperation of both the Stó:lō Nation and the Noxwsá7aq Tribe before commencing research and interviews. I also constructed a consent form for potential participants that was, in my view, more approachable and easier to interpret

¹² University of Victoria's HREB forms, applications, and policies may be viewed at <http://www.research.uvic.ca/ethics/ethicsmain.htm> (accessed November 10, 1008)

than the template form suggested by the HREB (Appendix 3). Consent forms were signed by all research participants who provided information either through interview or written correspondence. The consent form clearly states that involvement is voluntary, may be withdrawn for any reason, and that all information provided by a research participant will be sent to them for verification before project completion. The research ethics that I employed were also guided by the research methodologies previously discussed.

Conflict Transformation Theory - Definition and Relevance

Part of the analysis of the research interviews involved the identification of actions that demonstrated that the application of conflict transformation theory could be useful in cultural repatriation processes. Before discussing the results of this analysis in Chapter Seven I must first define this theory and place it within the larger field of Dispute Resolution. There are many different approaches to working through a dispute. Indigenous people are increasingly finding themselves engaged in various forms of negotiations, mediations, settlements, arbitration, and other forms of dispute resolution processes. In Canada and the U.S. negotiations between Indigenous communities and other parties are permeated by significant power imbalances to the detriment of Indigenous peoples. This is a result of the history of colonization and current laws that often fail to acknowledge Indigenous laws and rights.

There are many approaches to conflict management. One of the more prominent approaches is the practice of conflict resolution. Conflict resolution is a facilitated process wherein the desired outcome of a conflict or dispute between two parties is an end to the immediate conflict or dispute. Conflict transformation is a process that focuses first on the

relationships of those in conflict and looks beyond the immediate conflict to provide the opportunity for long term individual and societal change.

Conflict transformation author and practitioner John Paul Lederach (2003) provides the following definition: “Conflict transformation is to envision and respond to the ebb and flow of social conflict as life giving opportunities for creating constructive change processes that reduce violence, increase justice in direct interaction and social structures, and respond to real-life problems in human relationships” (14). He further argues that conflict transformation is a process that “seeks to create a framework to address the content, the context, and the structure of the relationship” between the two parties who are in conflict with each other (12).

Transformative practitioners and theorists Robert Bush and Joseph Folger (2005) argue that transformative approaches to conflict are based in a relational worldview in which conflict is a normal human interaction that when properly and patiently supported can result in outcomes that are long-lasting. The outcomes are considered to be “more just and reasonable in the parties’ own eyes and therefore will bring real satisfaction and closure” (250). Transformative processes provide opportunities for empowerment and connection between parties. When the interactions and relationships between parties are humanized the outcome will have a different meaning because “they will see the situation and each other in the light of their common humanity, regardless of their differences” (250). A transformative mediation approach views conflicts as opportunities for growth, as the objective is not to *improve the situation* the parties find themselves in, but to *improve the people* involved in the situation through empowerment and recognition (Bush and Folger 1994, 84).

The field of conflict resolution contains varying definitions and practices which are the foundation of conflict transformation. The process of reaching desired outcomes and views of what makes a process successful is where debate about the differences between conflict resolution and conflict transformation is most pronounced. They see conflict as negative and the resolution of that conflict as the desired end point. Lederach (2003) states “at its most basic, the language of resolution implies finding a solution to a problem. It guides our thinking toward bringing some set of events or issues, usually experienced as very painful to an end.” The word ‘transformation’ indicates a different goal. It suggests the idea of something changing and growing into something new; it is a beginning rather than an end.

Lederach argues that conflict resolution’s primary objective seeks to answer the question of “how do we end something that is not desired?” This query focuses attention on the substance and content of the immediate problems and seeks a solution. Alternately, he poses the guiding question of conflict transformation as “how do we end something that is not desired and build something we do desire?” This question acknowledges and addresses the present situation but goes further in that it seeks the creation of a new situation in its place (29-30). Resolution is concerned with de-escalating and ending conflict by negotiating solutions to immediate problems, whereas transformation is more concerned with the relational/societal causes of conflict that extend past immediate solutions: “Conflict transformation is a process of engaging with and transforming the relationships, interests, discourses and, if necessary, the very constitution of society” (Miall 2004, 4). Conflict transformation contemplates that conflict may have periods of escalation that are necessary to move the parties towards constructive change; a conflict may need to escalate to move it to the next phase towards a new relationship. Resolution

processes seek to understand and solve the boulder right in front of us, but conflict transformation steps back to see the mountains in the distance which reveal the larger societal causes of the immediate conflict. It is for this reason that I prefer the approach of conflict transformation in cultural repatriation processes.

This chapter has provided the research map that guided my actions, decision making, and collaboration with the research partners. I have explained the research methodologies used and they were employed during the research. I have identified the methodological challenges that arose during research and provided the actions taken to work through those challenges. I have stated the ethical considerations and requirements that were fulfilled in compliance with HREB. Finally, I introduced conflict transformation theory as an analysis tool which will be further discussed in the research results. I have stated my argument for the inclusion of law and history as a result of the interdisciplinary nature of the repatriation process. The following two chapters will examine the legal and historical contexts of this case to provide a deeper meaning to the repatriation of Stone T'xwelátse.

Chapter Three: Review of the Literature - Repatriation Processes and Legislation

I have argued that to understand the position of those involved in the repatriation of Stone T'xwelátse there must be a discussion of the legal environment that is presently guiding cultural repatriation processes. Local or national cultural repatriation processes are often created or developed through government legislation. NAGPRA is important in this case study because Stone T'xwelátse was repatriated through this legislative process and involved parties within both Canada and the US. Legal regulations in both countries greatly influenced this case and determined the process under which Stone T'xwelátse was repatriated. Before we can consider lessons learned, we must first understand the legal context in which the research partners were operating. Cultural repatriation processes most often involve a legal process which may become part of the conflict transformation process. This chapter provides an overview and explanation of current repatriation processes and legislation in Canada and the United States. It also provides a brief discussion of the United Nations' role in international repatriation regimes to better understand the global legal climate within which the repatriation of Stone T'xwelátse occurred. This legal context is included to state the domestic and international legal challenges facing Indigenous people participating in repatriation efforts. In addition, its inclusion is an important contribution to the research participants to fully understand the basis for cultural repatriation processes.

Each museum in the United States has its own policies and procedures for processing repatriation requests. These procedures vary by ideology, and are too numerous to discuss within this project. However, in the US all museums who receive funding from the federal government are responsible for meeting the requirements of Native American Graves Protection and

Repatriation Act (NAGPRA) (1990). Museums must consider repatriation claims they receive in compliance with the legislation.

This chapter's section on Canadian legislation will focus on federal laws and recommendations and examine specific laws and processes in the provinces of Alberta and British Columbia. It is outside the scope of this paper to review how each Canadian province or territory approaches repatriation issues. However, British Columbia and Alberta are discussed because the Stó:lō reside in the former and the latter has passed specific repatriation legislation which is the first of its kind in Canada. I will also briefly discuss the United Nations' role in repatriation efforts through its recognition of Indigenous rights and the formation of a committee to assist member states in international repatriation.

Comparison of Domestic and International Repatriation Legislation and Recommendations

Canada and the United States have approached the issue of repatriation in very different ways. While the United States has enacted legislation in the form of NAGPRA, the Government of Canada has chosen not to create national legislation pertaining to cultural repatriation. Canada has instead left the matter for provinces to determine individually. There are pros and cons to both of these approaches. NAGPRA requires museums to prove ownership of items in collections, determine their community of origin, and to notify that community of the items in their collection. The legislation also provides government funding options to communities to facilitate the work required to return the claimed items. Repatriation under NAGPRA is applicable only to federally recognized Native American Tribes within the United States. NAGPRA fails to acknowledge the rights of individual or family ownership by only returning

items to the Tribe as a whole. The denial of individual or family ownership assumes communal ownership and in some cases forces communities to conform objects to fit into required categories. In addition, NAGPRA does not directly support the return of items from international origins.

With no federal repatriation legislation some provinces have created their own policies. While the province of British Columbia has an Act that protects heritage and archaeological sites, it does not address repatriation. Alberta, however, has taken the first step in enacting repatriation legislation, though it is limited to Alberta First Nations and applicable to only two provincial museums within Alberta. In Canada, the lack of legislation has provided communities with the opportunity to create and define their own approach to repatriating their lost cultural objects. Where there are no repatriation laws or funding programs Indigenous communities are left with no legal or financial support. In any process Indigenous communities are forced to prove rights and ownership to the items in question largely at their own expense.

United States and the Native American Graves Protection and Repatriation Act (NAGPRA)

The Native American Graves Protection and Repatriation Act is federal law passed by the US Congress in 1990. NAGPRA provides a process for museums and Federal agencies to return certain Native American cultural items: human remains, funerary objects, unassociated funerary objects, sacred objects, or objects of cultural patrimony. The beneficiaries of the legislation are lineal descendants, and culturally affiliated Indian tribes and Native Hawaiian organizations. Any museum in the United States that receives federal government funding is required by law under NAGPRA to return items and human remains in their collection to federally recognized

Native American Tribes should those tribes submit a request establishing their historical or ancestral link to the claim. NAGPRA includes provisions for unclaimed and culturally unidentifiable Native American cultural items, intentional and inadvertent discovery of Native American cultural items on Federal and tribal lands, and penalties for noncompliance and illegal trafficking. The law also authorizes federal grants to Indian Tribes, Native Hawaiian organizations, and museums to assist with the documentation and repatriation of Native American cultural items. Claim reports are submitted directly to the museum, reviewed by their staff and ultimately either approved, denied, or more information may be requested. When a claim is approved, the claim report and recommendations for repatriation from the museum are forwarded to the national NAGPRA review committee for approval. The national NAGPRA review committee's role is to monitor the NAGPRA process and facilitate the resolution of disputes, between claimants and museums, that may arise concerning repatriation through NAGPRA. While the review committee's recommendations are non-binding, it is expected that their recommendations be followed.

The criteria for the repatriation of “cultural patrimony” items will be discussed in greater depth because that is the category under which Stone T'xwelátse was repatriated¹³. The definition for what items qualify as an object of cultural patrimony is stated in the NAGPRA Regulations (1995 S. 10.2(d)(4)) as follows:

Items having ongoing historical, traditional, or cultural importance to the Indian tribe or Native Hawaiian organization itself, rather than property owned by an individual tribal or organization member. These objects are of such central importance that they may not be alienated, appropriated, or conveyed by any individual or organization member. Such objects must have been considered

¹³ Stone T'xwelátse was also originally claimed under the category of human remains. The Stó:lō understandings of Stone T'xwelátse and how this affected the NAGPRA claim in relation to the definitions of human remains and items of cultural patrimony will be discussed in Chapter 4.

inalienable by the culturally affiliated Indian tribe or Hawaiian organization at the time the object was separated from the group.

Items repatriated under this category are considered to be of significant cultural importance to the community as a whole and may only be repatriated by the Tribe and not an individual.

The principle steps of the NAGPRA repatriation process for items of cultural patrimony include the following (NAGPRA FAQ n.d.¹⁴):

- Federal agencies and federally funded museums must identify cultural items in their collections that are subject to NAGPRA and then prepare inventories and summaries of the items in their collections to submit to the communities where the items are believed to have originated. Completion of the summaries of collection inventories were to be completed by the end of 1993.
- Federal agencies and federally funded museums must consult with lineal descendants, Indian tribes, and Native Hawaiian organizations regarding the identification and cultural affiliation of the cultural items listed in their NAGPRA inventories and summaries.
- Federal agencies and federally funded museums must send notices to lineal descendants, Indian tribes, and Native Hawaiian organizations describing cultural items and lineal descendency or cultural affiliation, and state that the cultural items may be repatriated. The law requires the Secretary of the Interior to publish these notices in the Federal Register.
- Federally recognized Indian Tribes wishing to repatriate an item from a federally funded museum must establish the following: that the item falls within the stated categories applicable under NAGPRA, that the claimant has a cultural affiliation to the item, the claimant is a direct lineal descendent of an individual who owned or controlled the object, and that the museum does not have the legal right to ownership in that the item was not abandoned or lawfully purchased or gifted.

When a repatriation request is granted, the intent to repatriate is posted with a limited amount of time for other groups to contest the claim. If no other claims come forward the repatriation is approved and notice is published in a national registry of completed claims that is publicly accessible on the NAGPRA website. Museums have no control or influence over what the community chooses to do with the returned items or

¹⁴ The following information is a summary of information provided on the National NAGPRA official website under the heading “Frequently Asked Questions”. <http://www.nps.gov/nagpra/FAQ/INDEX.HTM>

remains after repatriation. For example, if the community chooses to rebury funerary objects, put sacred or ceremonial items into present day use, or sell or give items away outside of the community these choices have no bearing on the success of the claim and the museum cannot place any restrictions on what is returned.

Generally, the implementation of NAGPRA has been considered positive because Native American Tribes now have the opportunity to claim their ancestral remains and cultural property from museums that otherwise may not have been willing or legally able to return them because of state/institutional laws or policies. Megon Noble, Burke Museum NAGPRA coordinator, now has new relationships with many tribes as a result of NAGPRA. She has also witnessed a shift in the way that local tribes view the Burke Museum after visiting the museum, seeing the collections, and meeting with staff. She credits NAGPRA with this change because the museum had to approach the Tribes, submit the summaries, and invite them to view their collections to identify repatriation possibilities. In many cases, the sharing of information and in-person meetings throughout the repatriation process has removed misconceptions and suspicion previously held towards the Burke. Without NAGPRA, Noble thinks that many Tribes may not have ever had the desire to visit the museum and come to know the staff through the repatriation process (Interview with Megon Noble [hereafter MN] April 15 16, 2009).

However, there are some notable complaints with NAGPRA that have surfaced since its implementation. Problems include, but are not limited to: the exclusion of non-federally recognized tribes and Indigenous people within and outside

of the United States, restrictive categories that items must be fit into to be eligible, requiring that requests are only considered from communities and not individuals or individual families, and limited instructions or guidelines on how to complete a request and the accompanying report (Tweedie 2002; MN April 16, 2009; Peter Lape [hereafter PL] May 19, 2009; Sue Rowley [hereafter SR] May 21, 2009).

In the process of this research, NAGPRA's failure to include non-federally recognized tribes, especially within the United States, was stated by participants as a negative aspect of the legislation. This was confirmed by everyone I interviewed from the Burke Museum, the Noxwsá7aq Indian Tribe, and Stó:lō members and staff. Megon Noble stated that the exclusion of non-federally recognized tribes has created a negative atmosphere between recognized and unrecognized Tribes. If non-recognized Tribes are able to repatriate items the process would include a statement demonstrating their connection to a physical location which may compete with the land claims of a recognized Tribe. This has caused many recognized Tribes to resist the inclusion of non-recognized Tribes in the NAGPRA process (Personal correspondence with Megon Noble, August 31, 2009). Dave Schaepe, Senior Archaeologist and currently SRRMC Co-Director, argues that the exclusion of all others defines these Indigenous peoples' identity by saying "you don't exist" and have no rights to items they should be entitled to (Interview with David Schaepe [hereafter DS] March 10, 2009). The failure to recognize the claims of all Indigenous people, especially within the United States, could worsen relationships with museums and

cause significant emotional and societal harm for those whose claims are not acknowledged.

Scholar Ann Tweedie (2002) worked with the Makah people, of Neah Bay, Washington, to learn about their experiences with the NAGPRA process. She notes that the concept of cultural patrimony, one of the NAGPRA categories, which requires items to be repatriated by the Tribe as a whole and not by individuals, was very foreign to Makah understandings of ownership. Because communal ownership was not a part of Makah culture, the category of “objects of cultural patrimony” would be difficult to apply to most objects originating from their community (16,17). In addition, this definition does not recognize items that may have significant cultural and spiritual significance to the entire community but may have been individually owned or managed by a person or family.

I have defined the terms of NAGPRA and will now provide analysis of the legislation and its impact on cultural repatriation. There is an assumption that the ownership of culturally or spiritually significant items was and is communal. This assumption is incorrect. Under NAGPRA, a returned item can only be given to the community as a whole. This caused internal strife, in the case of the Makah people. Individual families knew what belonged to them. In some cases, individual families with rightful traditional ownership of an item did not want it returned to the tribe, as a communally owned item, because they would only be one voice among many in determining post-repatriation decisions. To request an individually owned item through NAGPRA’s cultural patrimony provisions undermines the community’s

knowledge of individual ownership, thus forcing the tribe or family to redefine how that object fits within the community.

The NAGPRA process can be difficult to navigate. It requires significant effort to identify what museums have in their possession because of the general nature of collection summaries. There is also little guidance on how to construct an acceptable claim. The NAGPRA website does not provide instructions, templates, or guidelines on how to complete the necessary documents. Significant research is required to establish the historical connection necessary for a successful claim. Some Tribes have received their summaries from the Burke but have not pursued a repatriation claim because the summaries are too general in nature. Many Tribes do not have the necessary resources or capacity available to complete the necessary research on each item (MN April 15, 2009). The Stó:lō were fortunate to have the resources available in an experienced archaeologist, David Schaepe, on staff at the SRRMC. He completed the research presented in the “Stone T’xwelátse Repatriation Report” (2005) and subsequent additional supplemental report (2006) in support of the Noxwsá7aq’s repatriation claim to Stone T’xwelátse. In the United States, there is funding available for Tribes for research and workshop training related to NAGPRA. However, the community also requires knowledgeable people who have the time and skills to complete a report of this nature. The Noxwsá7aq and Stó:lō opted not to apply for NAGPRA funding because “the process would have been too cumbersome, too complicated, taken too long, potentially been too difficult to manage among all the communities and people involved in funding” (DS March 10, 2009). Many at the Burke Museum commented that David Schaepe’s report, submitted by the Noxwsá7aq, is the most comprehensive and detailed claim report they have received.

A final concern with NAGPRA is that the power and rights over cultural items still rests with museums. Although museums must submit their inventories, and identify the communities that objects and remains have come from, Indigenous peoples bear the burden of proof. They must demonstrate an historical connection to an object or remains through the application process. Anne Tweedie's research found that the categories under which items may be claimed through NAGPRA forced the Makah to make what she refers to as a "negotiated compromise". They had to fit items into one of the categories required by NAGPRA in order to submit an acceptable repatriation claim (14). As noted, the definitions do not accommodate individual cultural complexities. Items that may have been individually owned but significant to the entire community are not appropriately dealt with under NAGPRA. Another form of negotiated compromise arises when Tribes are faced with having to document their repatriation claim. Megon Noble (MN May 15, 2009) has worked with Tribes who found it culturally, spiritually, or politically inappropriate to publicly document the history or story associated with the item they want the Burke Museum to repatriate. Oral history is recognized as valid evidence in the NAGPRA process but in some cases it may not be possible for a community to share that history or story openly. Megon Noble also stated in general terms that while over 100,000 funerary objects had been returned nation-wide only about 700 objects of cultural patrimony had been repatriated in part because of many of the problems I have raised (MN May 15, 2009). While it is acknowledged that there must be some form of verification, to ensure that objects and remains are repatriated to the correct community, the limiting categories and forms of evidence accepted mean that in many cases it is the Indigenous claimants that must compromise. Although problems with NAGPRA have been raised by all participants, both Indigenous and non-

Indigenous participants, state that NAGPRA is a positive change because museums are now giving back to communities.

It is important to note that NAGPRA is not the only process by which museums in the United States may choose to engage in repatriation with Indigenous communities. NAGPRA does not restrict what repatriation policies museums may practice; it does state what those museums who receive federal funding must do. The requirements stated in NAGPRA do not apply to any museum that does not receive federal funding. Those museum who are not required to adhere to NAGPRA are free to choose whether or not to engage in repatriation. NAGPRA does not prevent any museum, federally funded or not federally funded, from repatriating items not covered in the act. The ability or willingness of museums to engage in repatriation outside of NAGPRA is dependent on the laws, policies, and procedures applicable to each individual institution. These complexities are individual to each museum and outside of the scope of this research.

Repatriation Processes in Canada: Government Recommendations and Legislation¹⁵

Canadian Federal and Provincial Legislation

There is currently no federal legislation governing repatriation claims or processes in Canada¹⁶. Most matters pertaining to Aboriginal people are governed by the *Indian Act* under section 91(24) of the *Canadian Constitution Act* of 1967. Section 91(24) permits the creation of federal laws governing “Indians and lands reserved for Indians”. The federal government has delegated much of their legislative power in relation to Indians to the provincial legislatures. Section 88 of the *Indian Act* specifies that provincial laws of general application in force in any province are applicable to Indians, unless the provincial law is inconsistent with the *Indian Act*. None of the federal laws governing Aboriginal people include any terms addressing the repatriation or protection of Aboriginal cultural property. Therefore, provincial laws regarding cultural property apply to Indians.

The Department of Canadian Heritage Act (1995) was created to “initiate, recommend, coordinate, implement and promote national policies, projects and programs with respect to Canadian identity and values, cultural development and heritage” (s.4). This Act does not specifically mention Aboriginal people in any context and also does not address the protection of

¹⁵ I completed a directed studies, in the spring of 2007, under the Supervision of Dr. John Borrows on the topic of Aboriginal Rights and Title in Canada. The following section contains some excerpts from the research paper in which I define the legislation and processes related to artifact repatriation Canada and the United States (Campbell 2007: 1-10).

¹⁶ Section 4(2)(a,b) of the *Federal Cultural Property Export and Import Act* gives the Governor in Council control over and the power to deny the export of any objects of Canadian origin that are of “archaeological, prehistorical, historical, artistic” value and are made by Aboriginal people (1974-75-76, c. 50, s. 4(2)(a,b)). Section 30 of the Act provides a “delay period” in the export of such items to allow “an institution or a public authority of Canada” an opportunity to submit an application to purchase the objects at fair market value from the owner. As an incentive, those who sell objects to applicable institutions and public authorities receive a receipt for tax credit purposes. Unfortunately, access to purchase objects under this legislation is only open to institutions and public offices. If an Aboriginal group does not have an institution representing their claim they are not able to purchase items through this process. The Act limits the autonomy of Aboriginal communities and forces them to be connected to a “designated institution or public office” in order to gain access to the object in question.

objects or sites of heritage value. Therefore any laws pertaining to Aboriginal cultural property and repatriation, should such laws be enacted, are the jurisdiction of the provinces.

Each province has its own legislation covering heritage and conservation. While it is outside the scope of this thesis to address how each province or territory has or has not addressed repatriation in the form of legislation or public policy, it is important to note that there is little existing legislation at the provincial level. Most provinces have legislation that prohibits the interference with cemeteries but this does not always extend to items found at historic aboriginal burial grounds. The provinces of British Columbia and Alberta have legislation that addresses either the protection or repatriation of Indigenous cultural property. The British Columbia *Heritage Conservation Act*¹⁷ (1996) is one of the only provincial acts to specifically protect Indigenous cultural items. The Act prohibits museums from claiming ownership of unclaimed items of Aboriginal origin (19(1)(6)); protects items from being removed from an archeological site without a valid permit (14(1)) and prohibits the export of items outside of BC classified as heritage objects (13(1))¹⁸. If a person or corporation is found to have contravened any of the regulations, monetary fines are to be applied accordingly.

¹⁷ In addition to the BC Heritage Act, the Province of BC passed the First Peoples' Heritage, Language and Culture Act in 1996 (RSBC 1996, c. 147). This Act established the crown corporation First Peoples' Heritage, Language and Culture Council. This organization funds language, culture, and arts programs being developed by First Nations' cultural centres in BC. The Council also advises the provincial government "on the preservation and fostering of First Nations languages and other aspects of cultural development of First Nations peoples throughout British Columbia" (s.6(1)(d)). It is not known how much funding has been directed to repatriation processes.

¹⁸ The Act also prohibits anyone from doing the following: "damage, desecrate or alter a burial place that has historical or archaeological value or remove human remains or any heritage object from a burial place that has historical or archaeological value; damage, alter, cover or move an aboriginal rock painting or aboriginal rock carving that has historical or archaeological value; damage, excavate, dig in or alter, or remove any heritage object from, a site that contains artifacts, features, materials or other physical evidence of human habitation or use before 1846; damage, alter, cover or move an aboriginal rock painting or aboriginal rock carving that has historical or archaeological value" (s.13(2)(b)(c)(d)).

While the British Columbia *Heritage Conservation Act* may appear to be a clear protection of Indigenous archaeological sites and items taken from them, the implementation of the Act has been criticized. It is claimed that this Act is too soft on those found to have knowingly damaged Indigenous archaeological sites (Campbell, 2007). In addition to stating protection regulations, section 4(1) of the Act also states: “The Province may enter into a formal agreement with a first nation with respect to the conservation and protection of heritage sites and heritage objects that represent the cultural heritage of the aboriginal people who are represented by that first nation.” This section indicates a willingness on the part of the provincial government to work with First Nations to establish agreements which could address the specific needs of a community on an individual basis. While this act provides some protection to conserve historical sites and newly discovered items, with support from the provincial government, it does not address the issue of repatriation from museums or private collections.

The *Museum Act* (2003) is the legislation that provides the operating guidelines for the provincial Royal BC Museum (RBCM). As a provincial museum and Crown corporation the BC government has legislative power over its operations. Section 7 of the Act permits the governing body of the RBCM to repatriate items of Indigenous origin in its collections through agreement or treaty between the BC government and “an aboriginal people”. The Act states:

- (7) On the request of the government, the corporation must transfer all of its legal interest in and possession of an artifact in the collection to an aboriginal people if
 - (a) a treaty or other agreement with the government provides that the artifact is to be transferred to the aboriginal people, and
 - (b) the terms and conditions, if any, specified by the government for the transfer of the artifact have been met, over the museum as it is a crown corporation.

Normally the collections of a provincial museum are owned by the province of BC and therefore difficult to legally de-accession, the act of removing of items from a museum collection, and

therefore repatriate. Section 7 provides the legal means to return items in its collection to Aboriginal groups based on agreements or treaty negotiations with the provincial government and, in theory, for the Museum to repatriate items with the government's permission¹⁹. What is interesting about s.7 is that it essentially removes control of what can or cannot be repatriated from the museum management and bases the criteria for repatriation on individual negotiated agreements or treaties between First Nations and the government of BC. This can be a positive or a negative situation for Indigenous people as both government leadership and museum management is subject to change. In one respect s.7 allows for creative negotiations that are free of limiting regulations. However, without more specific repatriation legislation, future approaches to repatriation will be dependent on the policies and practices of future provincial and museum leaders.

In 2000, the Alberta provincial government passed legislation that would allow the Glenbow Museum and the Royal Alberta Museum to repatriate sacred ceremonial items to First Nations. This legislation is called the *First Nations Sacred Ceremonial Repatriation Act* (R.S.A. 2000, c. F-14)²⁰. The goal is stated in its preamble as the desire "to harmonize the role museums play in the preservation of human heritage with the aspirations of First Nations to support

¹⁹ One example of the use of s.7 of the *Museum Act* concerns the agreements that have been made to increase museum access and involvement, and to repatriate specific items agreed upon through the BC Treaty process. The Nisga'a Final Agreement was the first treaty to include terms for the repatriation of cultural items as terms in the agreement (Nisga'a Final Agreement, 1999). Within the Agreement there is a chapter titled "Cultural Artifacts and Heritage" which outlines the terms for the recognition of the "integral role of artifacts in the continuation of Nisga'a culture, values, and traditions" (c.17). This chapter of the treaty also specifically details what items are to be returned from the Museum of Civilization (MOC) and the Royal BC Museum. The treaty also provides options for the establishment of custodial agreements with these institutions. The inclusion of repatriation in the BC treaty agreements may be viewed as evidence that there is either insufficient resources/support to facilitate repatriation, via the previously discussed Task Force's recommendations (1991, Ap. 6a). It may also suggest that the Task Force recommendations are lacking or not being implemented, as the Nisga'a opted to establish their repatriation claims treaty, rather than directly negotiating with the RBCM and MOC.

²⁰ Prior to the enactment of this legislation the *Glenbow-Alberta Institute Act* (R.S.A 2000, c. G-6, s. 20(2)) prevented the museums from deaccessioning their collections, which were legally held for the people of Alberta. This made it difficult to obtain Ministerial approval.

traditional values in strong, confident First Nations communities.” The *Repatriation Act* created a legal framework through which applications for repatriation could be submitted to the Minister of Community Development for approval. Such approval is granted unless for some reason the repatriation of the requested item is deemed to be inappropriate. This landmark legislation is the “result of a partnership that was built on trust and understanding, not legal rights and obligations” and a positive starting point for repatriation in Alberta. Unfortunately, it has been hampered by years of delays while agreements are worked out on how to regulate the transfer of title, rules, and processes with individual communities (Bell et al. 2008, p.238, 239). The Act itself does not define who qualifies as a “First Nation” or what the specific regulations or processes are for completing a repatriation request except that the “Lieutenant Governor in Council may make regulations” with respect to these topics (R.S.A. 2000, c. F-14, s.5). Participants of a research project on the repatriation experiences of the Blood Tribe of Alberta varied in their opinions of the “desirability of legislative intervention” at a national level because of the concern “that relying too much on white man’s ways can, if the Blood are not careful, undermine internal processes and that, despite their unique cultures, all First Nations might be treated the same” (Bell et al. 2008, p.239). While this legislative process allows for the return of sacred ceremonial items, the delay in implementation means the success of this Act is yet to be determined.

Government Recommendations

Indigenous cultural heritage and repatriation from Canadian museums was brought to the world’s attention in 1988. The Lubicon Lake Indian Nation, later joined by other Aboriginal

communities across Canada, protested “The Spirit Sings” exhibit at the Glenbow Museum in Calgary Alberta during the 1988 Olympic Games. The Lubicon protested because they felt the exhibit presented Indigenous culture in a romantic and stereotypical way (Baele 1988, C.1). They were joined by the Mohawk and Mi’kmaq people who were also seeking the return of items featured in the exhibit. The Mohawk Council was especially angry at the public display of a sacred “false face” mask, intended only for ceremonial purposes, which was loaned to the exhibit from the Royal Ontario Museum (Cox 1988, A.4). The boycott of the Glenbow exhibit, which occurred well before the introduction of Alberta’s *Repatriation Act* in 2000, demonstrated the need for change in the way that museums handle and view Indigenous artifacts, cultural objects or forms, and sacred items and approach current Indigenous culture. In response, the Government of Canada held a conference with museum and Indigenous leaders. They met to discuss the relationship between Canadian museums and Indigenous people and this resulted in the establishment of the Task Force on Museums and First Peoples (Bell and Paterson 1999, 196-197).

The Task Force created a report titled “Turning the Page: Forging New Partnerships Between Museums and First Peoples”. The Report included a set of recommendations for forging a new relationship between museums and Aboriginal communities. Unfortunately, the Report only addressed the issue of repatriation in the context of museums (Task Force on

Museums and First Peoples, 1991, Ap.6a²¹). The Report recommendations were not legally binding, and no legislation addressing these issues has been passed at the federal level since the recommendations were published. While the results of the Task Force have been useful to some groups there are others who are still in conflict with museums over the control and presentation of important cultural and spiritual pieces especially when these items are privately owned but held by the museum.

Despite several legal challenges, the Mohawk still did not have control of the false face mask ten years after the Glenbow exhibit and after the release of the Task Force recommendations.²² The conflict over the mask demonstrates the recommendation's failure to influence museum staff, exhibit curators, and the legal system. There are still grave misunderstandings of the sacred significance of this mask in the current practices and beliefs of the Mohawk people.

Despite these failures, many Aboriginal communities have been successful in having items repatriated to them within Canada. There have been cooperative relationships between museums and Aboriginal peoples. Unfortunately, it is not possible to know the extent to which the Task Force's recommendations are being implemented. There has been no formal review of museum practices in this regard. While it is outside the scope of this project to research the level

²¹ The recommendations addressed issues of Aboriginal inclusion in exhibit planning and display. They stated that museums should return items acquired illegally. They suggested that legally acquired items should also receive appropriate treatment and recommended that museums "should consider supporting the requests by Aboriginal communities and community-based Aboriginal museums for the transfer of title of sacred and ceremonial objects and of other objects that have ongoing historical, traditional or cultural importance to an Aboriginal community or culture" (3(b)(i,ii)). The Report also recommended that museums consider other strategies as alternatives to repatriation. These alternatives could include: the loan of sacred or ceremonial items for use by Aboriginal communities, the replication of items in their collections, and increasing access within the museum through shared management of the collections.

²² In the case of the Glenbow exhibit and the Mohawk mask, Shannon J. of Alberta's Court of Queen's Bench allowed the mask to remain on exhibit because it had been displayed in the past. Therefore, he was of the opinion that its further display could cause no additional harm (Cuk 1997, 160-161).

to which museums across Canada have embraced and implemented the Task Force recommendations, I will briefly discuss the impact of these recommendations in British Columbia, namely at the Museum of Anthropology (MOA) at the University of British Columbia and the Royal BC Museum (RBCM) in Victoria. Both of these museums have developed repatriation programs and have made efforts to include Indigenous perspectives in planning and exhibit displays. RBCM responds to repatriation requests from the provincial government via BC treaty negotiations and have stated their repatriation policy in their Aboriginal Material Operating Policy (2008):

- 1) The return of human remains and directly associated burial materials, upon the request of an Aboriginal community with a demonstrable claim of historical relationship to those objects in question.
- 2) The return of objects that may have been acquired under circumstances that render the Museum's claim invalid, at the request of an Aboriginal community with a demonstrable claim of an historical relationship to those objects in question.
- 3) Negotiating with Aboriginal communities on the return of material culture of spiritual significance or essential to cultural survival, at the request of an Aboriginal community, bearing in mind the Provincial interests, and in the context of ongoing treaty negotiations.

MOA has initiated the Reciprocal Research Network (RRN) which involves Indigenous communities and other museums in projects, exhibits, planning, and repatriation. Both the Burke Museum and the Stó:lō are involved in the RRN (Reciprocal Research Network, 2007), “a technology supported research network comprised of communities, researchers, and cultural institutions” which will “facilitate the reciprocal sharing of information between users and the institutions holding objects associated with the cultural background of those users.” The reciprocal nature of relationships, within this network, is “based on the principles of respect for the cultural values, customary laws, and cultural knowledge of the originating communities”

While the Task Force's recommendations are not legally binding, the efforts of these two institutions indicate that they have successfully improved the relationships between many museums and Aboriginal communities. There are, however, no standardized approaches to repatriation. Each museum establishes its own policies, procedures, and guidelines and Indigenous communities must then familiarize themselves with them. There is also no evidence that any of the funding recommendations have ever been implemented. The level to which communities may engage with museums on repatriation issues is heavily dependent on their financial and human resource capacities.

Arguments for Aboriginal Legal Right to Cultural Property in Canada

There is no federal or provincial legislation in Canada, aside from the *Repatriation Act* in Alberta, which addresses the issue of Aboriginal rights to access to cultural property. Legal academics Catherine Bell and Robert Paterson propose that the legislation and Canadian case laws that have recognized Aboriginal rights and title, in cases involving land and resources, may be applied to the argument for recognition of Aboriginal rights to cultural property.²³ Section 35 (1) of the *Constitution Act of 1982* states: existing Aboriginal rights are “recognized and affirmed.” Bell and Paterson (1999) argue that “consideration of federal legislation makes it clear that a common-law right to ownership and control of Aboriginal cultural property, if it

²³ Catherine Bell teaches Law and Dispute Resolution at the University of Alberta. She heads a research project called Project for the Protection and Repatriation of First Nation Cultural Heritage in Canada. The group is comprised of international scholars of Law and Anthropology as well as First Nations partners in the provinces of BC and Alberta. The group has concluded research and has recently published two volumes of collected works on repatriation case studies, laws, and policies in Canada (Bell and Paterson, 2009; Bell and Napoleon, 2008). <http://www.law.ualberta.ca/research/aboriginalculturalheritage/> (accessed March 20, 2007)

existed prior to 1982, has not been extinguished by federal legislation” (188)²⁴. They also apply the establishment of Aboriginal land rights to repatriation in the following argument:

“Aboriginal title, however, may be a broad enough concept to include ownership of Aboriginal cultural property that is proved to be intimately related to a particular piece of land” (185). Bell and Paterson do acknowledge that the “importance and complexity of potential repatriation claims” would likely result in the first case going to the Supreme Court of Canada (195). A trial of this level of complexity could cost time and money that many Aboriginal groups do not have and also includes the risk that an adverse judgment could set precedents limiting future claims.

Indigenous Approaches to Repatriation Claims in Canada

In response to the lack of repatriation legislation and policies, Aboriginal communities and organizations have creatively tried to regain control of their historic cultural property in other ways. Some communities have acted on their own, or with the support of non-government organizations, to recover items lost to their communities²⁵. The Nisga’a, and other First Nations

²⁴ They also argue that the test for establishing an Aboriginal right used in *R. v Van der Peet* (1996) could be applied to argue that access to historic cultural property is an Aboriginal right (183). The case *R. v Delgamuukw* (1997) established that Aboriginal title is recognized as a broad and flexible right to land for various uses. Bell and Paterson assert that the *Delgamuukw* decision’s recognition of oral testimony as evidence, to support the assertion of Aboriginal title, could be used in repatriation cases.

²⁵ The Haida Nation has created the Skidegate Repatriation and Cultural Committee committed to returning ancestors and cultural objects and forms to the community. The Committee is run by the Haida people and much of the funding is generated from organizations within the Haida Nation with some funding also coming from Indian and Northern Affairs Canada (Skidegate Repatriation & Cultural Committee, n.d.). The Haisla Nation, located near Kitimat BC, successfully brought their totem pole named G’psgolox home from the Museum of Anthropology in Stockholm Sweden in June of 2006 through thoughtful and diplomatic negotiations. The pole was stolen from a seasonal village in 1927 and taken to Sweden. The repatriation process began in 1991 and included the efforts of many members of the community. The successful negotiation was made possible through the amazing relationship that was formed between the Haisla and the museum officials in Sweden. As a show of appreciation for the return of the pole, the Haisla carved a replica of the pole and it was erected where the original pole had stood in the museum in Sweden. A key sponsor named as a participant in the process is the non-government organization Ecostrust Canada. There is no mention of government support or funding for this project on the Haisla website although provincial government politicians were present at the homecoming ceremony (Na Na Kila Institute, n.d.). Aboriginal communities have also sought the help of non-government organizations for funding as a result of not receiving enough support from the provincial and federal governments.

involved in the BC treaty process, have reached repatriation agreements through treaty negotiations. An additional section of the Nisga'a Final Agreement (1999) that is of particular interest is Paragraph 35 which states: "From time to time, at the request of the Nisga'a Nation, Canada and British Columbia will use reasonable efforts to facilitate the Nisga'a Nation's access to Nisga'a artifacts and human remains of Nisga'a ancestry that are held in other public and private collections." This term of the Agreement commits the Province of BC to assisting the Nisga'a with gaining access to "artifacts" and human remains in private collections but does not go as far as to commit the province to assisting in the repatriation of those items and remains back to the Nisga'a people. This is the only type of legal document that I have identified that includes reference to government assistance with historical cultural items in private collections. It will be interesting to see how the Province fulfills this role if requested by the Nisga'a Nation.

The Stó:lō people have formed a repatriation committee named "The House of Respect Caretaking Committee." This committee is administered by the SRRMC and comprised of cultural leaders from different communities in Stó:lō territory, and also includes David Schaepe and Herb Joe. The committee was formed in response to involvement with the Laboratory of Archaeology (LOA) at the University of British Columbia's human remains repatriation project "Journey Home". They formed the committee in response to being provided an inventory of human remains from LOA with a request asking them how they would like LOA to proceed with the remains and if they were interested in repatriation. They are also involved with the Reciprocal Research Network at the Museum of Anthropology at the University of British Columbia which is closely linked with LOA. Although the House of Respect was not involved directly in the repatriation of Stone T'xwelátse it was supportive of the effort (Schaepe March

23, 2009). The committee represents communities' interests in repatriation, heritage policies, and also acts as leadership in how to handle the return of human remains. These are just a few examples of how Indigenous communities in British Columbia are moving forward with cultural repatriation.

International Recommendations: The United Nations

Indigenous peoples' repatriation efforts have gained international attention through acknowledgement by the United Nations Commission on Human Rights. The need for government support of Indigenous repatriation is stated in both the "Principles and Guidelines for the Protection of the Heritage of Indigenous People" (E/CN/Sub.2/1994/31), presented to the commission by Erica-Irene Daes in 1994, and in one of the clauses of the United Nations Declaration on the Rights of Indigenous Peoples²⁶ (2007). In summary, the Principles and Guidelines, under the heading "Recovery and Restitution of Heritage", state that governments, with the assistance of international organizations, should assist Indigenous people in the recovery, control, and possession of their moveable cultural property; that cultural property should be returned wherever possible to its traditional owners (particularly if shown to be of significant cultural, religious, or historical value to them); that objects or other elements of an Indigenous people's heritage should not be publicly displayed unless deemed appropriate by the concerned people; and lastly, when the traditional owners of cultural items removed in the past cannot be identified that the "traditional owners are presumed to be the entire people associated

²⁶ Canada was one of several nations voted against adopting the Declaration on the Rights of Indigenous People. Numerous reasons, in a statement on the Indian and Northern Affairs Canada website, include but are not limited to ambiguous clauses, rights regarding land use and self-government are inconsistent with the Canadian Constitution Act, and that individual rights of all Canadians are already guaranteed in the Canadian Charter of Rights and Freedoms (INAC March 16, 2009).

with the territory from which these objects were removed” (s.19, 20, 22-24). In addition to these guidelines, Article 31 of the UN’s Declaration on the Rights of Indigenous People states that “Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage” and states the need for governments to work with Indigenous people to “take effective measures to recognize and protect the exercise of these rights”.²⁷ While these are only recommendations, containing no means of domestic enforcement, they have brought greater international attention to Indigenous cultural property.

The varying legal approaches to repatriation presented here demonstrate the different challenges Indigenous communities encounter when they enter into a repatriation process. Complications deepen, in cases like Stone T’xwelátse, when trying to retrieve something from an international location where laws are different from the originating country and can exclude international claimants.

This chapter defined the legal processes in which the research partners were either operating within or were familiar with and addressed the larger issue of the movement to establish access to cultural repatriation as an Indigenous right. The next chapter will provide the historical context to Stone T’xwelátse and his role in the Stó:lō and Noxwsá7aq communities.

²⁷ The UN has not only acknowledged Indigenous rights and through its recommendations, it will also advocate for those engaged in international repatriation efforts. Member states can request support for international repatriation claims from the UNESCO Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in case of Illicit Appropriation (2007; accessed March 4, 2009). When the return of certain cultural objects of “fundamental significance” is desired, and international conventions cannot be applied, UNESCO member states may call upon the committee to promote “the return of cultural property to its countries of origin or its restitution in case of illicit appropriation”. Even though there is no international law forcing countries to repatriate cultural heritage to its location of origin, the UN’s actions and recommendations calls for all countries to respect the rights of Indigenous people and support them in their repatriation claims.

Chapter Four: Making the World Right: The Story of T'xwelátse

The meaning of the return of Stone T'xwelátse to the Stó:lō and Noxwsá7aq people can only be understood by an outsider through learning about the story of T'xwelátse before he was taken to the Burke Museum. Stone T'xwelátse is a central figure in the way that Stó:lō people view the world around them. He is not an historical artifact but rather he is a physical and supernatural bridge between the historical and supernatural past and the present time. His transformation to stone by Xexá:ls, the transformers, ties Stone T'xwelátse to sxwóxwiyám, the Stó:lō oral history, teachings, and knowledge of what is true²⁸.

Herb Joe defines sxwóxwiyám as:

Old stories about who we are as a people. They all talk about the connectedness of us all, including all of those that walk on four, those that crawl on ground, those that swim and those that fly. And all that our creator gave us here in the form of mother earth, it's all connected. All connected. And that's what sxwóxwiyám is all about. It gives us what our ancestors give us. It's the legacy if you will, that our ancestors left us. And if we were to study sxwóxwiyám, understand sxwóxwiyám, and then live by sxwóxwiyám we'd be very healthy people. So that's to me what sxwóxwiyám is all about" (Schaepe 2006, 15)."

Stone T'xwelátse's connection to sxwóxwiyám makes him a central figure in past and current Stó:lō teachings and situates him in a position of great importance to the Stó:lō people. Stone T'xwelátse's role in Stó:lō life and purpose for being is not fixed in the past but is very relevant to the present day. He exemplifies Stó:lō law in both his transformation from man to stone and the ongoing teachings he represents. His return home marks the restoration of a significant aspect of Stó:lō culture and life teachings.

²⁸ Halq'eméylem is the traditional language of the Stó:lō people. I have tried to incorporate Halq'eméylem words and spelling when possible throughout the text. Halq'eméylem words were used with the assistance of Herb Joe and David Schaepe, the Stó:lō Historical Atlas (Carlson et. al 2001) the Stone T'xwelátse Repatriation Reports (Schaepe 2005, 2006) and work by Sonny McHalsie (2007).

Birth

The origins of T'xwelátse in the form of a man is told in an 1895 collection of stories collected by Anthropologist Franz Boas, "Legends from the Lower Fraser River" (in Kennedy and Bouchard 2002, 103-104). The following is the account of the supernatural birth of T'xwelátse:

The Tc'ilwQue'uk (Chilliwack).

In Ts'uwa'le (Soowahlie), on the lower Chilliwack River, there lived a Chief who had a very beautiful daughter. Kai'q, Mink, wished to have her for himself. So he assumed the form of a handsome young man and walked upriver on the shore opposite the village. He carried a harpoon in his hand and fish on his back so that it appeared as if he had just caught them. At just this moment an old man had sent all the young girls to bathe, among them the Chief's daughter. The girls saw the young man, who kept calling "Ps Ps!" and when they noticed the fish that he was carrying, they asked him to throw one over to them. He fulfilled their wish; the fish fell into the water, swam into the Chief's daughter and made her ill. Her father searched for a Shaman to heal her. So Mink assumed the shape of a Shaman. In the evening he went to the village and when he was seen by an old woman, she said, "Surely he will be able to heal the girl." They called into the house and he promised to heal her. First, he sent all the people out of the house, leaving only an old woman sitting outside the door to accompany his song with the rhythmic beats of the dancing stick. To begin with, he sang, but then he slept with the girl and she gave birth to a child right away. So Mink leaped at once out of the house. The old woman heard the child's crying and called the people back. They became very angry, took the child and threw him out of the house. But Mink was standing outside with his mountain goat cape spread wide; he caught the child in it and went away with him. After a while the girl's father became sad that he lost his grandson. So he sent to Ka'iq and begged him to send him back. Mink granted his wish and sent the boy back. He became the ancestor of the Tc'ileQue'uk.

The creation and birth of T'xwelátse is the first of the supernatural occurrences in his life. This event marks him as a person of importance and supernatural power to have been birthed in such a remarkable way. This story also identifies him as the first ancestor of the Chilliwack people.

Transformation

A chaotic world resulted from such events as Mink turning himself into a human and through the ability of animals to assume human form and speak with people. Chichelh Siya:m, Creator/God, decided to send the three sons and one daughter, of Red Headed Woodpecker and Black Bear, as Xexá:ls the transformers, to “make the world right” through transformations. They travelled down the Harrison River and up and down the Fraser River transforming those who acted wrongly into stone and rewarding others by transforming them into resources such as cedar and sturgeon. Many of those who were transformed are ancestors of the Stó:lō people (McHalsie, Schaepe, and Carlson 2001, 6-7). The transformations fixed the world into the physical state that it is today and connect the people to the landscape and resources in a very close way, as these transformed features are present reminders of how the world came to be and how the Stó:lō and their environment are connected. These transformation sites are among the most important and valued spaces in Stó:lō culture.

Herb Joe [T'xwelátse] told the story of the transformation to David Schaepe in the Stone T'xwelátse Report (Schaepe, 2005). The following are excerpts from interviews which provide details on how T'xwelátse was transformed:

The Stone T'xwelátse is a creation of, a transformation of one of the T'ixwelátsa (s). The story goes that Xa:ls [an alternate singular reference to Xexá:ls] the great transformer that was sent to our territory to make things right came upon a man and a woman by a river side. This man and woman were arguing with each other. Xa:ls being given the mandate or the responsibility for making things right as he traveled through our lands asked this man and woman if they would consider not arguing and that there was better ways of resolving conflict and resolving problems. As a result of his interference or intervention there ends up being a bit of a conflict between the man, [whose] name happened to be T'xwelátse and Xa:ls. And because of our history, our people had devised other ways of resolving conflict other than violence, other than fighting each other. And one of the ways that they resolve conflict was through contests. Xa:ls being the great transformer

and created by our God, Chichelh Siya:m, to make things right in our land. And T'xwelátse, who was a medicine man, a shaman, they decided to have a contest and they tried to transform each other into various things: salmon, mink, a twig, a tree. Finally, Xa:ls was successful in transforming T'xwelátse into a stone statute... Because the wife wasn't a part of the conflict she was not affected by the contest. Xa:ls then gave the Stone T'xwelátse or gave the responsibility for the Stone T'xwelátse to T'xwelátse's wife. And ... the Stone T'xwelátse was to be brought home and placed in front of their home as a reminder to all of the family that we had to learn to live together in a good way. And the family's responsibility from that point on was that the responsibility for caring for the Stone T'xwelátse was given to one of the women in our family. They were to be the caretaker of the Stone T'xwelátse throughout their lifetime and which time they would pass it on to one of their daughters or granddaughters. Who would then be responsible for caring for the Stone T'xwelátse for that generation. (Schaepe 2005, 17-18)

Herb Joe describes T'xwelátse in his stone form as being about four feet high, one-half to two feet in diameter and weighing over 700 pounds (Schaepe 2005, 42).

T'xwelátse's Role in the Community

Stone T'xwelátse is a physical connection to the time of Xexá:ls and a present reminder to the Stó:lō people of where they came from, how they came to be and how they should live and treat each other. The Stone T'xwelátse is passed down by the women in the family to their descendants. The people who are chosen to carry the name T'xwelátse carry the responsibility of caring for him and living in a way that fulfills the meaning of his name. Herb Joe describes T'xwelátse's role in relation to the transformer story (19):

Human beings were transformed from these other living beings and because we were transformed last we were always called 'Us poor weak human beings.' And we had our frailties, we had weaknesses, and our role in life, purpose in life was to learn and to struggle and to keep on learning so that we could carry the knowledge back home to us in the other world where our ancestors lived. So that's in essence what the statute was for. It was used as a way of reminding our people that we did need to learn to live together in a good way."

Stó:lō Elder Ray Silver, who hosted the homecoming ceremony for T'xwelátse in Sumas, BC, when he was returned from the Burke Museum, defined T'xwelátse as the following: “ I think he was some kind of a like, good and bad like maybe like ... I mentioned it down here at the long house I said that he must have been like Jesus Christ. Something like that because they told us stories, told me stories never to be lazy, never lie, and all those good things, the things that we're not supposed to do. If I did those things I could be turned into a rock (Interview with Ray Silver [hereafter RS] June 29, 2007).”

The connection of the Stó:lō to the land is more than the general “connection” that is often stated about Indigenous people. Those people that Xexá:ls transformed into stone figures, landmarks, rivers, animals, trees all contain the Shxweli, spirit or life force, of the person that was transformed (McHalsie 2007, 103). In an interview of Stó:lō elder Rosaleen George, Sonny McHalsie (104) asked what shxweli is and she responded: “‘Shxweli is inside us here,’ And she put her hand in front of her and she said, ‘Shxweli is in your parents.’ She raised her hand higher and said, ‘then your grandparents, your great-grandparents, it’s in your great-



Figure 2. (Campbell, 2010)

great-grandparents. It's in the rocks, it's in the trees, it's in the grass, it's in the ground. Shxweli is everywhere'.” The importance of T'xwelátse is even greater than the life lesson he represents. He is a vessel for the life spirit of the man who was transformed, as his Shxweli is within the Stone T'xwelátse. When asked to describe the importance of T'xwelátse to the community, in contribution to the report submitted for the NAGPRA request, anthropologist Bruce Miller stated:

For one thing an object like that is irreplaceable, there can't be another. Secondly, it is in effect a living being. It's an animated entity in the universe, so it's critical that way. Thirdly, it reminds the people who see it of the fundamental issues they have. So it constitutes a reminder of all that. Fourthly, it's a mnemonic device which embeds in it a specific notion of location, place, name, and relations with non-human beings. So all of that is contained within that [object]. And so in the Coast Salish world there are a small number of well-known Transformer sites of different types, and all of them are deeply revered by contemporary members of the community. They're protected by the members of the community and they're regarded as inalienable and truly significant features that connect them to their mythic past, to their historic past, to their present, and ultimately to their future. So this is of great significance. (Schaepe 2005, 28-29)

T'xwelátse's Journey

T'xwelátse remained with the Chilliwack people until a conflict between the Chilliwack and Sem:ath (Sumas) people in the mid 1800's. At this time, the warrior and leader of the Chilliwack people, also named T'xwelátse, killed the well known Sem:ath warrior Xeyteluq²⁹. A marriage was arranged between a Chilliwack woman and Sem:ath man to mend the conflict between the two communities. The woman was the caretaker for Stone T'xwelátse and so he moved with her to the Sem:ath village (Schaepe 2005, 35).

This event indicates a fulfillment of Stone T'xwelátse's purpose to act as an example of

²⁹ Xeyteluq is also the name given to Sem:ath Elder Ray Silver. It was in his long house in Sumas that the homecoming ceremony was held for Stone T'xwelátse.

“how to live together in a good way”. He was transformed as a result of conflict, acts as a lesson of how to live to the Stó:lō people, and is used to heal a conflict between communities.

T’xwelátse remained with the Sem:ath people in the area of Sumas near the Washington State border until the late 1800’s. The Indigenous people of the Fraser Valley area on both sides of the border were facing many challenges at this time. Their population had undergone multiple rounds of smallpox. In British Columbia the Potlatch ban criminalized the practice of important ceremonies which interfered with the cultural and historic transfer of knowledge to future generations. Problems were also created as children were being removed from communities and placed in residential schools. Furthermore, non-Indigenous settlers were increasingly encroaching on traditional territory forcing the people to be confined to reserves. The Noxwsá7aq Tribe in Washington State, who have strong familial ties to the Stó:lō communities of the Chilliwack and Sem:ath in BC, had at one time been connected but were separated by the U.S/Canada border.

Louis Sam, a young Stó:lō man from the Sumas, was wrongfully accused of robbery and murder at a trading post in Whatcom County Washington, in 1884. A group of vigilantes from the Washington side of the border came into the Sumas area and took him from the protection of the Indian Agent. He was then taken to the border and was murdered by hanging (Carlson, et al 2001: 63-79). David Schaepe (2005) cites this event in his NAGPRA request report, and gives it as one of the causal events leading to the abandonment of Stone T’xwelátse (45). Stó:lō Elder Ray Silver stated the community

moved, as a direct result of this event, further away from the border out of fear of the American settlers. Stone T'xwelátse is several feet high, solid rock, and significantly heavy and difficult to move. Stone T'xwelátse was left behind: "He came from here ... when the people left there they left that there. They didn't have time to take it, T'xwelátse (RS, June 26, 2007.) The Stone T'xwelátse was found in 1892 on the Sumas Prairie by a farmer. It was then acquired by the Young Naturalists Society, the original organization that founded the Burke Museum. They displayed the figure in a "dime store museum" until it was transferred to the museum at University of Washington, later becoming the Burke Museum, in 1899. (Schaepe 2005, 45, 51). It is here that he would wait for almost 100 years before he would be found and returned to his home.



Figure 3. (Campbell, 2010)

Chapter Five: The Journey Home

The river, Stó:lō, has given us our identity and has been our perpetual provider since the beginning of time. At times our river has also been our disciplinarian when we have chosen to disrespect her. The river has connected us to the rest of our world and the rest of the world to us. In other words, our river has impacted on every part of our lives since the beginning of time.
Herb Joe 2009

Rivers are important and meaningful features of the landscape in Stó:lō people's history, culture and identity. In the Halq'eméylem language the word Stó:lō translates into English as "river". Rivers are what connect and separate communities. They bring the first salmon. They are the origin place of ancestors and important modes of transportation. The Chilliwack River is where T'xwelátse was transformed to stone. Symbolically Stone T'xwelátse was placed in a cedar canoe for his journey from the Burke Museum to Stó:lō territory. Because of the strong connection the Stó:lō people have to rivers I will use the metaphor³⁰ of a river when presenting the history and analysis of the repatriation of Stone T'xwelátse.

This chapter will tell the story of how the repatriation of Stone T'xwelátse happened. The timeframe for the case study of the Stone T'xwelátse's repatriation is 1991-2006. Herb Joe [T'xwelátse] first learned of the location of Stone T'xwelátse at the Burke Museum in 1991 and the Stone T'xwelátse was welcomed home by his descendent, T'xwelátse, at a homecoming in Sumas in 2006. As discussed previously, information was gathered through interviews with staff and community, members of the Stó:lō Nation and

³⁰ Michelle LeBaron states that metaphors are "windows into worlds - the parallel, continuously evolving and intertwining worlds in which we live (2003, 261). I employ metaphors because they are useful tools when discussing conflict. They are especially important in creating bridges between different cultures and worldviews, because they "contain our ideas about relationships and connections to others and to the big picture, they are useful tools for bringing connected ways of knowing into processes" (LaBaron, 261).

Noxwsá7aq Tribe and staff of the Burke Museum, and is presented using the first voice narrative methodology with reliance on interview transcripts and efforts to minimize summarization of oral testimony. Information has also been included from documents within the Noxwsá7aq NAGPRA file at the Burke Museum³¹. This chapter focuses on the chronological events leading to the repatriation. The following chapter will provide analysis of the key events that led to repatriation, including a discussion of the development and change in relationships between those involved. The chronological history of the repatriation is told in three stages: 1. The location of Stone T'xwelátse and the initial meetings and efforts to repatriate with the Burke Museum staff; 2. The renewal of repatriation efforts in the late 1990's and the completion of the NAGPRA request; 3. The repatriation ceremony, homecoming and impact on the communities.

The Grandmothers to Herb Joe: “Bring him home”

It is often said “time stops for no one” and in the same way neither do rivers. The water is always moving sometimes fast and forward, other times circling back in eddies and whirlpools, or moving so slowly the current is barely noticeable. The headwaters of the river that carried Stone T'xwelátse home flowed from the moment Herb Joe was given the name T'xwelátse. The name T'xwelátse is an hereditary name given by the elders to Stó:lō men. Hereditary names carry a great weight in Stó:lō culture as those who receive these names are given a great responsibility to respect the elders who named them by

³¹ The Noxwsá7aq Tribe NAGPRA file consists of correspondence between members of Stó:lō Nation, the SRRMC, the Noxwsá7aq Culture Committee and Burke Museum staff as well as internal Burke Museum memorandae and staff correspondence. Access to the file was obtained through the permission of George Swanaset Jr., Chair of the Noxwsá7aq Culture Committee, Herb Joe, David Schaepe SRRMC, and Megon Noble NAGPRA Coordinator, Burke Museum.

living in a way that honours the origins of the name. These names are also connected to *sxwóxwiyám* and therefore it is a great honour to be named by the elders. In her research on Stó:lō ancestral names Anastasia Tataryn found that “an ancestral name does not belong to that person; rather the person belongs to the name ” and also that “one must live carefully to do the same justice and neither dishonour the elders that gave the name, nor the ancestors implicated and reflected in that name” (2005, 20-21). To be given a name is to know one’s history, as the name requires you to know the person for whom you are named, their actions, their characteristics, and role in the community. In Stó:lō culture to know your history is your wealth and this establishes your place in the community.

The passing of this hereditary name from the elders to Herb Joe and other chosen descendants is one of the ways that the story of Stone T’xwelátse and the teachings he represents have survived during his absence. When Herb Joe was given the name of T’xwelátse by the Elders in his community he was charged with learning the history of the past carriers of the name. He was told to learn this so that he would know how he would need to live to fill the name. Herb Joe said when he was given the name, years before he learned of Stone T’xwelátse’s presence at the Burke Museum, he was told “you are now T’xwelátse, you need to understand who T’xwelátse is, what T’xwelátse represents to the people, and from this day onward that’s who you are” (HJ March 24, 2009). His name would carry another task:

As the name carrier T’xwelátse I assumed that waiting, what they’re waiting for, was part of the legend about being brought home and reunited with our people. So that’s where I learned that part of my task in life was to in fact bring T’xwelátse so he could once again be the teacher of our people, and also be a statute of spiritual value to our people because he is directly

related to the Xexá:ls legends and all of those legends became sacred sites in Stó:lō territory (Schaepe 2005, 43).

The Stó:lō Elders gave Herb Joe the name T'xwelátse and the Grandmothers gave him the responsibility of restoring Stone T'xwelátse to his intended role and purpose with the people

Archaeologist Gordon Mohs, who worked with the Stó:lō in the 1990's, had been reviewing the collections of the Burke Museum and identified a stone figure he believed to be the Stone T'xwelátse, who had been lost for about 100 years. In 1991 he was at a gathering at the Yeqwyeqwí:ws long house near Chilliwack when Herb Joe was called to be a witness by his name T'xwelátse. The following is Herb Joe's account of first learning the whereabouts of Stone T'xwelátse:

He [Gordon Mohs] came over and he was quite excited and he sat down and he said, "Herb," he said, "You've got to go to Seattle and bring your relative home." That sort of puzzled me. "Well, Gordon, I've got a number of relatives who live in Seattle, which one are you talking about?" And he says, "Oh, no, no. You misunderstand me. You've got to go to Seattle and bring your ancestor home." And I said, "That's great, Gordon, now you're talking about my dead relatives. Who are you talking about?" And he said, "Oh, no, do you remember the story about your name and the transformer Xa:ls?" I said, "Yes, I think so," because I had heard the story once or twice. He said, "It's the story of your ancestor being turned into stone." Oh, yes, now I remember, yes." He says, "Well, I found him." I said, "Wow, really!" I knew of course that he had been lost. He said, "Yes, I found him and he's in Seattle in the museum in Seattle, the Burke Museum in Seattle. You've got to go down there and you've got to bring him home." And that's how it all started. (HJ March 10, 2009)

The next step for Herb Joe was to take this information to his Aunties, who are also referred to as the Grandmothers, and tell them of this discovery.

Some of the Grandmothers, at the time Stone T'xwelátse was found, were the sisters of Herb Joe's grandmother: Auntie Nancy Philips, Auntie Rosie Roberts, and

Auntie Flora Julian. The caretaking responsibilities of Stone T'xwelátse are held by the women in Herb Joe's extended family. These women come from both the Stó:lō and Noxwsá7aq communities as they were part of a larger shared community before they were separated by the Canada-US border. Even though the location of Stone T'xwelátse had not been known for some time, this responsibility was still transferred from the previous generations of women. The adherence to Stó:lō law, through the continuation of the traditional transference of caretaking responsibilities, is another important indication of how important and relevant Stone T'xwelátse continued to be even after having been separated from them for 100 years.

The 1st Supplement to the NAGPRA request (2006) states: "That customary law is now, as it was then, fully intact and specifically applicable to the recognition of ownership, control, and caretaking responsibility attached to the Stone T'xwelátse" (16). Because of their position as caretakers, Herb Joe had to first take the information to the Grandmothers before considering any other action. They were all gathered at Auntie Nancy's smokehouse in Chehalis, BC, when Herb Joe approached them:

But they were all sitting together in a little group facing each other, facing away from the uh... the smokehouse fires and everything else that was going on, and they were just having a little chat like they had, they didn't get together that often, I guess. But they were speaking our language, talking to each other, and they were laughing and joking. I sort of stood sort of behind them and waited until I had a chance to sort of get their attention, and then finally one of them noticed me standing there, and they said, "Yes, honey, do you want something." And I said, "Yes, I'd like to have a talk with you. I've got some information that I need to give to you." They said, "Okay." So they just sort of turned their heads and listened. I told them that Gordon Mohs had found our ancestor. And they just sort of looked at each other, didn't say a word to each other, then one of them – I think it was Auntie Nancy – turning around like this, and she had her back and she just turned around like that, and she said, "Sonny, you carry the name, you bring him

home,” and she turned around and started talking to her sisters again. And they all started talking to each other. It was like, okay, you’ve got your direction... You’re dismissed now. And that was it. That was it. (HJ March 10, 2009)

The Grandmothers did not give Herb Joe any instructions other than the order to “bring him home”. There was no timeframe, process, or guidelines given. They did not ask him if he wanted to carry out this work; they simply told him that he was to bring Stone T’xwelátse home. The Grandmothers gave this task to Herb Joe with these simple instructions because they knew what his name T’xwelátse meant. They knew the *sxwóxwiyám* about Stone T’xwelátse and that the lesson to be learned from him was “how to live together in a good way”. For Herb Joe to begin this work, to start down this river, was not a choice but a direction given to him by the Grandmothers. Herb Joe believes now that his purpose in life as the name carrier was to bring Stone T’xwelátse home.

The Burke Museum staff knew little about Stone T’xwelátse before Herb Joe visited him. They believed that he was a carved figure from the Marpole period.³² They knew he had been found in a farmer’s field in 1892 and shortly afterwards arrived at the Burke Museum. He had been on display intermittently since his arrival at the Burke in 1904 (Schaepe 2005, 38). Without the knowledge of the true history of Stone T’xwelátse, the museum had trouble classifying him as he was moved on different occasions between the ethnology and archaeology departments.

³² Archaeologist Colin Grier (2003, 176-177) provides the following definition of the Marpole phase and its relevance to stone scarvings: The Marpole phase (2500-1000 BP) is considered by many researchers as the period during which Gulf of Georgia societies developed many of their core cultural institutions that persisted into the historic period. ... Marpole artifact styles and assemblage patterning are broadly similar across the Gulf of Georgia region, suggesting a level of homogeneity to Marpole phase cultures that may be the product of intraregional social interaction and exchange of material resources. ... Examination of the distribution of representation in sculpture and elite mortuary practices indicates that significant exchange of information as well as material resources occurred during the Marpole phase in the Gulf of Georgia region.”

The Burke Museum's NAGPRA coordinator Megon Noble explains the movement between departments:

He was on exhibit for the first couple of visits that the Stó:lō and Noxwsá7aq representatives were here, and then... He originally actually was in ethnology, and that's something else that's important as part of the record is that even within the museum he was treated differently as an ethnographic object versus an archeological object. Some time when he was on exhibit, then it became clear that this is really an archeological object and should go down to archy, and it came down to us and was in the curator's office for a year or so, a little bit, and then moved into one storage space that is all storage. Then once we started having these discussions, we moved him into the other storage space where there's also a meeting area. We had those meetings in the room where he was stored as well. ...

Ethnographic objects are collected from individuals typically. They are passed down or purchased from an individual where that collection's history can be known and shared and passed along whereas archeological objects are typically found in the ground and they're usually not in the context of that community knowledge or that individual knowledge of the object. I think that Stone T'xwelátse was treated as an object of art really originally. He was this magnificent example of a stone statue and it was upstairs. At one point we had no divisions, so the Burke was all anthropology. So over the years there are a number of different artifacts that are still upstairs that are sort of being passed down, saying, oh, you know it looks like this one was actually dug out and should be returned to archeology. (MN April 16, 2009).

The Burke does not have a full record of the decisions made regarding when and why Stone T'xwelátse was moved between the archaeology and ethnology departments but it is known that he was moved between 1997-1999 (Interview with Laura Philips [hereafter LP] August 24, 2009). He ultimately ended up in the archaeology department because his history and identity was not known to any staff at the Burke, and because he had been found partially buried and was dug up from the ground. This distinction between collections at the Burke are important because the archaeology collection at the Burke manages human remains and funerary items. The Burke

staff did not know that the Stó:lō did not consider him to be a carving but a transformed ancestor, a different form of human remains. This distinction is meaningful, as the Stó:lō originally requested his return as human remains and because he is the ancestor of the Chilliwack people, that he was classified under the archaeology department that also held the remains of ancestors.

Herb Joe visited the Burke Museum three times in the early 1990s to identify and visit his ancestor as Stone T'xwelátse, to share his story with the Burke Museum staff, and request his return. Joe's wife Helen Joe said that it took Joe almost a year to "get up the nerve" to travel down to the Burke Museum in 1992 to the Stone T'xwelátse (Interview with Helen Joe [hereafter HLJ] March 26, 2009). They did not contact the museum in advance, they just arrived with Helen's father and step-mother to see if it was the Stone T'xwelátse, as Gordon Mohs had reported. When they arrived, they asked the clerk at the information desk if she knew where any stone statues were. They were shown several collections of rocks and other items but none resembled what they were looking for. Helen began to walk through the museum again until she noticed an open door into another room. The following is her account of when they found Stone T'xwelátse:

So we were kind of walking around and off of the main floor there was kind of a small lecture hall off from the main area. And the door was open. And I was walking by and I kind of looked and I went, "Oh, my god." And I just stood there. My dad said, "What's the matter?" And I said, "I think that's the statue right there." And he said, "Well, I'll go find Herb," so off he went and I just kind of stood there looking, you know, at the statue and I'm not sure if I wanted to go into the room or wait for Joe, so I just kind of stood there. Pretty soon Herb and my dad came to where I was, and I asked Joe, "Is that it?" And he said, "Yes." So we went in and we closed the door. Then somebody came in and asked us, you know, if we needed help or whatever. Herb just said, "Well, we think this statue is from our family and we just wanted to kind of spend some time with it." So they said that was fine, you

know. They closed the door behind them and they let us sit in there for a while by ourselves.

And Joe was there for a little while and he said, ‘I can’t stay here.’ You know. He got up and he left, and I couldn’t leave. You know, I just tried to get up and I would just kind of sit there, so I was just kind of looking at the statue. There was an old, old piano in the corner. Where it was situated was it was in the... Like there was one wall, and then the piano, and then there was a big long window, glass-coloured window, on the other side of the statue. Well, the statue was between the piano and the window. So I finally got up and went over and I put my hand on the statue and I was just kind of running my hand down the side of the statue, and there were different places on the statue where it was warm and other places where it was getting cold, like a, you know, stone, and then another warm spot. So I’m kind of looking at the mirror, looking at the direction of the sun and everything, and I thought, well, maybe this is from the sun and then I realized that there’s no way the sun could have touched that stone from the way it was sitting situated by the window and where the sun was, and everything. And I’m going, this is weird, this is really weird. So, okay, I’m out of here, and I told my dad, “Let’s go.” (HLJ March 26, 2009)

The first encounter with Stone T’xwelátse is described by Herb Joe as being intensely emotional.

I was sort of overwhelmed and very emotional there with my connection to him. It would be like I think someone going to a mausoleum... It was almost like going to a mausoleum and going into the mausoleum and there is the casket with your ancestors. Initially I think that’s probably how I felt. I remember feeling sad, and then the emotions sort of welled up in me, and I thought, oh, got to get out of here. So I left (HJ March 10, 2009).

Herb Joe explained to the staff that day that he believed that this stone statute belonged to his family but the staff he spoke to did not “recognize the name, didn’t understand” or the history that he came from (HJ March 10, 2009). Herb Joe spoke to the reception staff on his first visit, but he did not notify curatorial staff of his visit.

On June 17, 1992 Gordon Mohs, Heritage Advisor for the Stó:lō Nation, wrote a letter from the Stó:lō Tribal Council, on behalf of Herb Joe and his family, to Dr. James Nason, who

was then the Chair of the Repatriation Committee at the Burke Museum. The purpose of the letter was to make “further inquiries about your museum’s policy on the matter of repatriation or long term loan” of Stone T’xwelátse (Noxwsá7aq NAGPRA File, June 17, 1992). The letter gives a brief history of Stone T’xwelátse and his importance to members of the Stó:lō community and offers the option of receiving Stone T’xwelátse at either the Stó:lō Tribal Council office or the Chilliwack Museum until a planned “Stó:lō Indian Museum” had been completed. In his summary of the Burke Museum’s position, James Nason states: “The Stó:lō did not operate a facility that would have met any of the professional standards required of a potential recipient of a loan” (Personal Correspondence James Nason [hereafter JN] July 24, 2009). Herb Joe returned to the Burke Museum after his first visit to meet with the staff to tell them what he knew about Stone T’xwelátse and to request his return. Both Helen and Herb Joe gave accounts of what happened after they returned home from the first meeting and their experience at the second meeting in different ways. The following are each of their accounts:

Helen Joe (March 26, 2009)

So he thought, “Well, I need to go talk to the grandmas.” So he called one of his cousins and set up a time where we could pull everybody together. And he talked to them and told them, you know, that he had found the statue and he has information that shows that their family is a direct line from this statue. So they just kind of said, well, you carry the name, you bring him home, and then he thought, so how am I going to do this, you know, we’re going to go down there, pick him up, put him on a truck and, you know, bring him home, sort of thing. So he thought, well I need to get more information, so then he started working with Gordon some more, and pretty soon David Schaepe starting working with the Stó:lō Nation, so then it was the two of them and then Gordon left, so then Schaepe kind of picked up where Gordon had left off and just kept working at it. Our first... Oh no, we left and after Herb had talked to the family, he went back down to the Burke Museum and talked to some of the people, talked to the curator and whoever else was there and said that, you know, we have proof that this statue belongs to our family and we would like to bring him home. They just said, well, I don’t think that’s possible. You know, so then Joe thought, oh man,

now what do we do. So he was kind of discouraged again and before we left, they said can you give us some information on what the statue was for, you know, what was the purpose of having the statue in the family. So Herb gave them the history and all the information that he had, and he said that this is just information that has been passed down from our ancestors and from our family from one generation to the next as to how this statue is there to show the people that you need to live together in a good way, and that when you don't there are consequences. He told them the story of how he became a stone statue. Once he became a stone statue, then what happened to him. He was, they were told to put him either inside the door or outside the door of the longhouse, and as the people come, you know, and go they would see the statue and be reminded that you have to live together in a good way.

Herb Joe (March 10, 2009)

The next time we went down, it was probably about six months later, I took a healer down with me, and my wife and my little grandson. We all went down together. I phoned ahead and the curator of archeology, his name was Dr. James Nason, he agreed to see me. When I got down there, I had a short meeting with him and then he introduced me to the director of the museum. His name was Karl Hutterer. So I had a meeting with them and told them what my aunties, my grand-aunties, or my grandmas, had told me that I was supposed to do. I was asking at that point what do I need to do to bring him home. So that was the start of it. That was in 1992. I arranged for another meeting because Dr. Nason and Dr. Hutterer didn't really know what to do, I don't think, so I suggested to them that I could bring my grandmas down and they could give them information if that's what they needed.

The most important part of that trip for me was that I brought along a healer, a traditional healer. He went and did hands-on meeting with our ancestor and confirmed that, yes, you're right. He's alive. That spirit is still there.

Herb Joe returned to the Burke Museum a third time, with two of the Grandmothers, to share more information about his ancestor that could facilitate the repatriation of Stone T'xwelátse.

These first few visits were like eddies in the river that catch you in their current, making you circle back, before releasing you to the current that carries you forward. Each visit moved forward a little bit with new knowledge shared. However, each visit resulted in Joe returning home to consult with his family, plan another meeting and move forward to that meeting in the

hopes that progress would be made. Herb Joe's cousin and member of the Noxwsá7aq Indian Tribe, who is now one of the current Grandmothers, was with the group at the third meeting. She describes her feelings when she first visited her ancestor:

There was a feeling when we went in there... You know when you go into a relative's home, you feel... I don't know how to explain it. A warm feeling. A welcome feeling. I guess that's kind of how I felt, and I'm sure that my mother felt the same way. Because you knew that was part of us. (HLJ March 26, 2009)

Herb Joe's experience and the result of the third meeting (EC-Emmy Campbell, HJ - Herb Joe):

So I brought, I think I brought two of my aunties down there. It was Aunt Nancy and Auntie Rosie. Then Pat Charlie, who was Aunt Nancy's daughter, and I think Sandra Joseph, who was Auntie Rosie's daughter. I think they came along. So we had this meeting with the director of the museum. I don't remember if Dr. Nason was there then, but I remember that the director of the museum was there. We sat down. There was a group of about ten of us. We sat down and had this meeting with the director. At that time, of course, we made it clear that these were our intentions. I actually remember one of the incidents that happened there was after we had the meeting, our aunties.... Of course, Dr. Karl Hutterer says we'll give you a tour of the museum. We'll show you your ancestor. By that time, they had moved him out of that room and he was in one of the other offices, I guess. Yes. Oh, I remember now. At that time, they had an exhibit. They had constructed an old cedar plank house, like one that would have been built 500 years ago along the coast. Well, they built one of those, a model of one of those, and right in front of the door to the longhouse, that's where T'xwelátse was, just like in the transformer story. That's where he was put, right in front of the door. I remember one of the, I guess one of the people who was asked to give us the tour, was asking if there was anything that they could do to accommodate the statue. Where did you want to put him, and all this kind of stuff? I went over to one of my aunties, and I can't remember which one it was, and I said, "Auntie, they're asking if there's anything that they can do for our ancestor." And she said, "What?" I said, "Our ancestor, the statue." "Oh, you mean that rock?" I said, "Yes, Auntie, that rock." She says, "Oh, yes, okay." So she walked over to where this – I think it was a young lady – and she said to the young lady, "Well, you know, you got to cover him up at night when it's time to go to sleep. When you

close up here and you put him to sleep. You cover him with a sheet so that he can go to sleep. Then, tomorrow morning, when you get here, you just take the sheet off.” And, she said, “That’s because he’s a human being, you know.” So I thought, oh wow, I never really, I had never really... Personally I had never looked at it from that historical or cultural perspective or spiritual perspective. I had never really looked at it. I knew that the old stories were quite clear to me that the statue was the vessel or the holder for the spirit of our ancestor, shxweli. That I was told many times, so I knew that, but I had never ever until that point in time viewed him, or any kind of thoughts of him, being a human being until my grand-auntie said, “He’s a human being, you know.” Well, oh, that’s sort of neat. Around that time, I also had a meeting with Dr. Nason and it was him... He was on a national committee, I believe, to firmly establish the brand new NAGPRA act.

EC: So this was just before, while they were developing it?

HJ: Yes. Then it was at that point in time that he asked me if I would consider holding off our application for repatriation for a couple of years until we had time to establish the policies and protocols that would flow out of the brand new act, because it came into... I think it was enacted in 1992 legally, so nothing had been done to establish it as a vehicle for repatriation. So I said, “Well, okay, I’ll wait,” because he’s been a hundred years now. A little longer is not going to hurt. So I actually waited for a couple of years before I actually formally started the process again, so it was probably 1994, 1995 when I actually re-started the process. (HJ March 10, 2009)

After three visits to the Burke Museum, two of which involved Burke Museum staff, the history and importance of Stone T’xwelátse had been shared and two of the traditional caretakers of Stone T’xwelátse had been introduced, but it appeared that only a small amount of progress had been made towards the goal of repatriation.

At this point a number of barriers preventing the Burke Museum staff from repatriating Stone T’xwelátse formed a dam and brought movement to a near standstill. Dr. James Nason, the curator of ethnology under which Stone T’xwelátse was managed at that time, was unavailable for an interview but the following is a point form summary of information he provided regarding the Burke Museum’s position before the NAGPRA process began: 1) The Burke Museum could

never repatriate the stone object to the Stó:lō because US law does not apply to Canada. As a state agency it is illegal for the Burke to give away, through repatriation nor any other process, any object in its possession since all of the collections are a public trust - the only exceptions being in cases where an object was illicitly collected in the first place, or where a Federal law (in this case NAGPRA) allowed or required repatriation if conditions were met; 2) There was never any evidence to indicate that the object had been collected outside US territory or illicitly; 3) The Burke would not ordinarily consider any exchange or loan of any material that was likely to be subject to a further consultation and/or repatriation request from any Federally recognized tribe. In addition, the Burke staff noted that the Stó:lō did not operate a facility that would have met any of the professional standards required of a potential recipient of a loan; 4) There was no evidence to indicate that the stone object, in the Burke's possession, was the same as the stone object from their oral history. There was also no data that was presented to establish by NAGPRA standards cultural affiliation in any event; 5) It was almost certainly not the case that the Stó:lō could have been eligible for a loan or exchange unless the Noxwsá7aq, the nearest culturally affiliated US tribe (by territory), permanently resigned all of their interests in the object which would not have been advised. (JN July 24, 2009)

When there is a dam, the water is prevented from moving through its intended course, it backs up, spreads out forming a lake and waits for an opening. The response that Herb Joe received from the Burke Museum staff and James Nason was “no”, there is no possible way to return Stone T'xwelátse at this time. All of the Burke staff that were interviewed described the legal barrier in the same way - that the Burke Museum as a state institution is legally bound by law to hold all collections in trust for the people of Washington State. They could not de-

accession items from collections without breaking the law. It is unclear what specific suggestions were provided to Herb Joe at this time. He remembers being asked by James Nason to consider “holding off on our application for repatriation for a couple of years until we [the Burke] had time to establish the policies and procedures that would flow out of the new act [NAGPRA] (HJ March 10, 2009).” As a member of the committee that formed NAGPRA, James Nason most likely would have known that the law would only be applicable to federally recognized Native American tribes. This aspect of the law may not have been developed at this time or it is possible that the way the information was communicated was unclear. Herb Joe and those who accompanied him returned home and waited, patiently, for an opportunity to break through.

The Right People – The Right Time

A few years of waiting passed before the right combination of people emerged and started to dislodge the dam, allowing Herb Joe and those around him to move forward. In the mid- 1990’s, the family once again approached the Burke Museum on a number of occasions to renew the conversation regarding repatriation possibilities but were met with the same response. On March 12, 1996 Grand Chief Clarence Pennier, who was then the Executive Director of Aboriginal Rights and Title at Stó:lō Nation, wrote a letter to Carl Hutterer, Director of the Burke Museum, requesting the Burke’s cooperation to move forward with repatriation. The letter states that repatriation or loan was especially important as “some of the family members are experiencing some spiritual problems that are strongly linked with the statute”. The letter stated that Mr. Pennier believed the “spiritual problems the family is experiencing will subside once the spirit of ‘T’xwelátse’ is satisfied” (Noxwsá7aq NAPGRA File, March 12, 1996). James Nason

replied to the letter on behalf of the Burke in which he explained that while a loan to an approved establishment, subject to fee, and for a maximum of one year may be a possibility there was no legal way for the Burke to repatriate to Canada as a result of Washington State Laws and because NAGPRA applied only to Federally recognized U.S. tribes. He also stated, "Given the collection history of this particular 'Marpole' period prehistoric carving and the oral history presented by the family, it is not clear that it would be possible to clearly establish cultural affiliation" (Noxwsá7aq NAGPRA File, March 20, 1996). A short term loan was not the desired outcome for Herb Joe's family. Shortly after Nason's reply, Helen Joe contacted the Burke Museum staff to set up another meeting to discuss the possibility of repatriation. Nason was not supportive of planning a meeting as the conditions had not changed and unless they could provide "valid and appropriate" reasons "there is and can be no useful purpose in such a meeting" (Noxwsá7aq NAGPRA File April 22, 1996). A meeting was planned between Julie Stein, Curator of Archaeology, and Robin Wright, Curator of Native American Art, but the details of this meeting are not known.

On December 20, 1996 members of the Noxwsá7aq Cultural Committee, Peter Joseph and George Swanaset Sr., met with Burke Museum staff including James Nason and Laura Philips, Collections Manager, to show them the Burke collections and discuss which items are subject to repatriation through NAGPRA. During their visit "All participants went up to the exhibits to view the Noxwsá7aq ethnographic objects on display and in particular to see the Sumas statue. G. Swanaset took photos of the statue. He discussed with Nason whether it might be a sacred object or an item of cultural patrimony" (Noxwsá7aq NAGPRA File, December 20, 1996). After this visit to the Burke, Peter Joseph, Culture Committee Representative of the

Noxwsá7aq Indian Tribe, wrote a letter to James Nason stating: “There is one item that a family would like to retrieve or repatriate from the Burke Museum, the Stone Statue. Please send us information on the repatriation process of this item” (Noxwsá7aq NAGPRA File, November 24, 1997). The response from the Burke Museum staff was that in order for a Noxwsá7aq Tribe family to repatriate they would need to prove, through documentation other than their own word, that the Burke did not have the right of possession. The response also suggested that if they wanted to apply NAGPRA to this case, the figure would need to meet the criteria for an object of cultural patrimony and be claimed by the community and not an individual family. To do this they would have to provide evidence that Stone T’xwelátse was formerly in the Noxwsá7aq tribe’s possession, was owned in common by all tribe members where none had the right to relinquish it, and was removed from the tribe’s possession without their permission (Noxwsá7aq NAGPRA File, March 30, 1998).

All of these events, continued correspondence, and meetings were slowly working to dislodge the barriers keeping them from moving forward and bringing Stone T’xwelátse home. In 1997, David Schaepe was hired as an archaeologist at Stó:lō Nation’s Aboriginal Rights and Title department. He soon heard about the story and the repatriation efforts. Herb Joe recalls; “I connected with Schaepe and he got interested in the project right away and became the backbone of this whole process. It was his direction, based on the research that he had done.” (HJ March 10, 2009). David Schaepe’s early involvement in the project started with research related to the publication of the Stó:lō Historical Atlas (Carlson, et al 2001):

In 1999, we started, folks in our department started working on the Stó:lō Coast Salish Historical Atlas. At that time, one of the plates that I wrote for the atlas was “Ancestral Relations with the Material Past.” We were working out the Stó:lō heritage policy at that time, re-working it, and

looking at, addressing some questions about ownership of the past, issues of who owns objects, who has caretaking responsibilities, and so on. Those questions translated into that plate into the atlas. One of the examples that we thought would be really good to include would be Herb's case study as one of the three case studies in that plate in the atlas, Herb's case study with his ancestor down in the Burke. We thought let's work on that, talk to Joe about it, including that as an element of that plate, and he agreed. We thought it would be... For me it was an opportunity to get more information, to learn more about that whole issue, the whole case, and also to publicize it, to get it out there, and to put some, just to bring it out into the public realm as something that's been ongoing for... At that time, it was even a very long time since 1991, 1992 to 1999. We're still talking seven years. So it's an issue that had been outstanding for quite a long time at that point. This seemed like a way to get going back on it and to get it out there in the public realm and maybe bring it to the attention, put some pressure on the Burke to kind of keep it active in any case. (DS March 10, 2009)

Around 2001, shortly after the atlas was complete, Schaepe and Joe became aware of staffing changes at the Burke Museum, which motivated them to approach the Burke again to see if the possibility of repatriation may also have changed. George MacDonald, formerly the Director of Canada's Museum of Civilization, was now the Director of the Burke Museum and Peter Lape had replaced Julie Stein as the curator of archaeology. Because George MacDonald had experience at a Canadian Museum they thought that this might help their cause. A meeting was scheduled later in the year, as David Schaepe states, to answer the following questions: Is there a degree of willingness that the museum has to explore the possibilities for repatriating T'xwelátse, and if so what are the opportunities? What options exist? (DS March 10, 2009). This meeting, that will be discussed further in this section, became a pivotal movement forward in the repatriation process.

Peter Lape's involvement with Stone T'xwelátse began on his first day at the Burke Museum. Stone T'xwelátse had been removed from display after the Stó:lō had stated their desire to repatriate him. This was done as a show of respect according to Burke Museum policy

(Interview with Julie Stein [hereafter JS] interview April 16, 2009). After spending time in different storage areas he was now in Peter Lape's new office which was not something Lape had expected. The following is Lape's recollection of his first meeting with Stone T'xwelátse, Herb Joe and David Schaepe:

OK, let's see. In a way it goes back to my very first day on the job, which was August 15, 2000, and I arrived here with my U-Haul truck with my books to move into my office over at the Burke, and in my office actually was this desk and Stone T'xwelátse. Those were the two items in there; otherwise it was an empty room. So Laura Phillips, the collections manager at the time, was helping me move in. I asked her about this stone object, and she told me a little bit about it and said, you know, it had been on display and it was taken off and it is this very large heavy object, and this was the place where it got stuck. Because there was no other place to put it. So it was really actually the first artifact I encountered when I started my job, and frankly I was – I have told other people this too – a little creeped out by this object. Just, I did not really know anything about it, but I did not really like having it in my office. I asked Laura to see if we could find another place for it. I am not sure but we moved it out and put it somewhere else. Then about – and I cannot remember the exact dates, but probably about -- a year and a half later I was in my office and I got a call from the director at the time, this guy named George McDonald, who said he had some visitors from the Stó:lō nation who wanted to talk about this object and asked me if I could come up right then and meet with these people. So I could, and I did. I went up to his office and met Herb Joe and a number of other people, and in the meeting were George and Dr. James Nason, who was at the time the curator of Native American Ethnology at the Burke. Jim Nason is Native American and recently retired, I do not know, about four years ago retired, but he had a much longer history with the Burke since the seventies and knew a lot more about the collections. So in the meeting, Herb was the main speaker and he told the story about his relationship to Stone T'xwelátse, his name, and his interest in claiming this object. I did not talk much at this meeting because I did not really know.... Apparently Jim had met Herb before, a few years earlier before I started my job. But my feelings as I was sitting there listening to the story were that Joe had actually a quite a compelling claim to the object and my kind of gut feeling was that it was legitimate and that we should move toward helping him claim the object. There are also a number of complications in that, well, which I am sure you know all about, but the main one was that we did not have any legal process specifically to guide repatriation to a non-US Native American group, so we

did not have.... NAGPRA did not apply in this case, so Herb, or his band, or the Stó:lō nation could not make a NAGPRA claim directly to the Burke Museum, which is unfortunate because that is quite a straightforward process. It is guided by very fairly well accepted guidelines and one that we are comfortable working in. So the alternatives that we presented to Joe at the time were, one, that one way to take an object from the Burke's collections, which are legally owned by the people of the State of Washington, was to get the Washington State legislature to basically approve a bill that transfers the object to the Stó:lō nation. That is one option, which seemed pretty difficult to me. Another one was that we could make an exchange of any object in the collection if the director of the museum agrees to it. Typically that has involved an exchange of an object of equal value or equivalent value. This also seemed to me quite challenging because determining value is fraught with problems and complicated, not something we would like to do generally. I did not really see an easy way for that to happen. The other option that Jim Nason proposed is that Stó:lō work with a Native American group, who could have a legitimate NAGPRA claim, and that they make the claim and then once, if we approve the claim and transfer ownership to this US-based group, then they have ownership and they can do whatever they want. They will be guided by their own laws. So the meeting ended and everyone left. At the time I felt like we did not provide a lot of help, but we did provide some options and Herb left saying that he would approach the Noxwsá7aq Indian Tribe because he had relatives in the tribe and had there was a history of a relationship across the recently declared international border, and that might be the way that they would go. (PL May 19, 2009)

It was also at a meeting around this time that Joe again requested that Stone T'xwelátse be covered at night and woken up in the morning as his Auntie Rosie had requested. Megon Noble, the NAGPRA Coordinator for the Burke, recalls:

So there was one meeting with George McDonald and Jim Nason, and then Lape [Lape], our curator, also became involved at some point and had a meeting, and that's when Herb said, you know, we would really like it if you could put him to bed at night and wake him up in the morning. That's when we started doing that practice and just kind of being a little more sensitive to the other issues that are involved (MN April 15, 2009).

I think we all enjoyed it. I mean, I think that was our ritual. It was what you did before you left, and it kind of signified the end of your day, signified the beginning of your day, and brought a humanness to it. We had a muslim

sheet around here already, so that's what we used. We didn't actually have very much guidance on how to do it, so I think the request came from Joe to Lape and then to me, and I didn't have any direct contact with Herb at that point. So we had actually been draping it entirely over the object, and it wasn't until the object, Stone T'xwelátse was transferred back that I saw that it was done kind of more over the shoulders as a cape, and I thought, "Uh oh, I've been doing it wrong for all these years." And everyone knew. Even the students. We have a lot of students in and out of here, and everyone knew that it was part of anyone's responsibility, if you were the first one in there and you turned on the lights, that you were to wake him up and remove his sheet. So I think that people adjusted to that very quickly and very easily and just thought about it as an area of responsibility we have down here. It was important and needed to be done. So I think people really respected that quite easily, and enjoyed it. I mean, I think it was, "Good morning," the same way they would greet a coworker in the morning (MN April 15, 2009).

From this time in 2001, the staff at the Burke Museum continued placing a covering over Stone T'xwelátse until the time of his repatriation.

For Joe and Schaepe the 2001 meeting signaled a shift in the current, an opening in the dam. Where the previous meeting left no other real options to pursue, this meeting gave hope that they were going to be able to move closer to their goal. They felt this was possible through the involvement of the Noxwsá7aq. David Schaepe states:

So that was a really significant meeting in sort of getting back on a different track than the process had been on before, and to move along with the plan of, okay, let's then find out about NAGPRA. How does this NAGPRA thing work? What are the details of NAGPRA? And pursue that with the assistance of some legal advice and other folks in the department here and elsewhere to say, 'okay, NAGPRA is what?' and then 'how do we engage it?' and learn about the details of that legislation in terms of what can be repatriated. What are the definitions of the objects that can be repatriated, and what do you have to do to meet those definitions, to meet the qualifications, the criteria, that NAGPRA requires of the engagement with the museum and the engagement with the law and the definitions under the law? (DS March 10, 2009)

The Stó:lō would need the support of the Noxwsá7aq Tribe to move forward with a NAGPRA request. The request would also need to demonstrate that the repatriation process could not be halted by the emergence of an additional community claiming an interest in Stone T'xwelátse. Herb Joe states: "Then we started the process, well how can we get an application accepted? Of course, Auntie Rosie was a member of the Noxwsá7aq Indian Tribe, and I happened to be a member as well, so I thought, well, I told Schaepe that we have biological descendants of T'xwelátse's in Noxwsá7aq, members of the Noxwsá7aq tribe. So Schaepe said, 'Well, why don't we ask them?' Okay, let's go ask them" (HJ March 10, 2009). Schaepe was confident that because of Stone T'xwelátse's unique history as an ancestor of specific communities and because Joe had family members in the Noxwsá7aq Tribe that these concerns could be overcome. (DS March 10, 2009).

Joe and Schaepe contacted the chairman of the Noxwsá7aq Tribe in Deming Washington and arranged a meeting with themselves, some of Joe's relatives, and the Noxwsá7aq Tribe Culture Committee. This is Herb Joe's account of the meeting:

So the chairman there, I forgot which one it was at the time, but we had a meeting with him and we made our proposal. We said this is what we want to do. We're trying to get our ancestor back home to Stó:lō tribe, to our family, and I can't remember which of the Roberts family were with us. Probably Sandra and Peter, her husband. Because I don't remember Auntie Rosie being there. But we approached the chairman and he said, 'Yes, by all means, we will support your application. You write it, give it to us, we'll write a covering letter supporting it and send it off to the Burke.' Well, great. So it was from that point on it was a matter of developing the actual application. (HJ March 10, 2009)

Peter Joseph, current chairman of the Noxwsá7aq Culture Committee and husband of Sandra Joseph who is currently one of the matrilineal caretakers of Stone T'xwelátse, explained how the Noxwsá7aq received Herb Joe and his request: "Herb is a descendent of the Noxwsá7aq Indian

Tribe. So for him to come here and ask for assistance, Council had to hear him because he was a descendent of the Noxwsá7aq Indian Tribe. So it wasn't from the outside" (Interview with Peter Joseph [hereafter PJ] March 26, 2009). The involvement of the Noxwsá7aq allowed an alternate channel in the river to open around the barrier that excluded the Stó:lō from submitting a NAGPRA request. With the cooperation of the Noxwsá7aq in place the process began with David Schaepe completing research and collecting oral history from Herb Joe and others to begin compiling the information needed to satisfy the requirements of a successful claim under NAGPRA. Herb Joe refers to Schaepe as "the backbone of this whole process":

It was his direction, based on the research that he had done. Actually he had had several of summer students, grad students, coming in here for the summer. He had a couple of them work for us on this project, one a law student, who did some research around the legal aspect of the repatriation process. I remember another of the students did another part of the research as well. So there were a number of people that we had involved over time in the project, people from MOA, that I recall having come to talk to me. I talked to my grand-aunties. There were other archeologists, other experts, that were invited in and sort of were in and out of our lives during the process. Like for me, I have a great memory, but it's really, really short. All of the recent stuff, just forget it. I can remember things that happened you know a long, long time ago, but I can't remember stuff that happened yesterday. Part of it, what I was saying, senility is setting in. Okay, well that's something that I've got to look forward to. In any case, through this whole process, there were little parts to the process where I felt I was just along for the ride. Like we're on this bus and I was sitting in the middle of the bus somewhere. There was somebody... Dave was driving the bus. He had invited various people that were experts to come along and give their advice as to what we needed to do (HJ March 10, 2009).

The process of compiling the information and writing the first request report titled "Stone T'xwelátse Repatriation Report" (Schaepe, 2005) (hereafter referred to as the report) was lengthy and involved many participants. The river was beginning to move them forward as Schaepe and Joe worked through collecting the oral testimony and faced the challenges of

navigating the NAGPRA requirements and collaborating with the family members and the Culture Committee in Noxwsá7aq. For David Schaepe the process involved years of research, consultations, interviews, and meetings with those involved from the Noxwsá7aq and through them staff at the Burke namely Megon Noble and Peter Lape. David Schaepe states:

...2002 to really 2005. It was a very, very regular part of the year to be meeting with Herb and us talking things over. I spent a lot of time working on (it)... and just by chance had that time then, which doesn't exist now, to invest in putting the (report together)... We had been working on the report, or what I call the report, working on the application, I think, as Joe tends to call it, which is what it is. It's the application essentially to the Burke saying we're requesting this back.

I had the opportunity, then, to work on this until 2002, 2003. Things unsettled here a little bit in 2004 ... The department essentially collapsed and I was able to stick around through some of the archeological work that supported us --me and one other person more or less at that time -- which opened up the door... I actually had time, which was fantastic. So I spent a lot of time putting the report together, working with people, a lot of individuals..., a lot of people involved. Look at the recognition list that we read out in 2006, and there are 70 people there. So there was a lot of input in supporting, getting advice on the meaning of the law, on how to best address and build an argument that meets those definitions, which is the key point. Also working with the folks down in Noxwsá7aq (was) a key part of this whole thing too. It's not going to happen... It's absolutely not going to happen to build the application up here and submit it, as it just won't get accepted. So the key part is to work with the community down in Noxwsá7aq to the point that they're comfortable with this, have the information they need to effectively engage it and pursue it (DS March 10, 2009).

The years spent working on the report and building the information and knowledge needed were an important stage of relationship building the between the Stó:lō, the Noxwsá7aq, and the Burke Museum staff. The research and writing of the report was not an easy task and took not only time and effort, but also patience in knowing when the report was complete and when all of the right knowledge and relationships were in place to move forward.

An eddy is an opportunity on the river to move out of the current, to circle back, get your bearings or catch your breath, and plan your next movement forward before heading back out into the current. David Schaepe had completed a draft of the report in 2003 and submitted it to the Burke Museum staff for internal review and feedback feeling that the time for final submission was approaching (Noxwsá7aq NAGPRA File, May 30, 2003). Around this time, he attended the Haida Repatriation Conference. At the conference he was able to meet with people there who were experienced in international repatriation processes. When he returned it was decided that the current draft report needed more work and time before the final submission. Schaepe and Herb decided to be patient, rework the report, and submit it when all of the relationships between those involved were firmly in place:

I had gone up to the Haida repatriation conference in 2003 and had talked about this there in a forum on international repatriations --. Just talking about the process, where we were at that time --and got a lot of just excellent input from their experience; Haida's experience, on the whole repatriation process and their advice on things like communication strategies, clarity on who is doing what, preparation in the event of a repatriation for crossing the border, for making sure committees are in place. They were great. Fantastic input. If we had put the report forward in 2003, as it was possible to have done (and which was a more likely timeframe)³³... it wouldn't have been as good and we wouldn't have been as prepared to deal with everything. It wouldn't have been set on as solid foundation as it was when it was put forward in 2005. Part of the rationale for the additional time it took was, again, based on relationships not being fully in place. Understanding wasn't fully there. Support still needed to be built through folks here and down at Noxwsá7aq. There was still work to be done there. As that was carrying on, the report was kind of sitting there. It ended up receiving this information, input, which caused a revision of the report itself, and strengthened it. By the time that got strengthened, the support to deliver it was in place, and it all kind of just went forward all at once in 2005 (DS March 10, 2009).

³³ Text within () are additional clarification of the interview transcript provided by David Schaepe.

There was some consultation with staff at the Burke while the application was being written but it was not until the final report was completed and submitted to the Burke that the staff there became more formally involved by reviewing the request and consulting with Schaepe through the Noxwsá7aq applicants.

Dr. James Nason retired around 2005 and was no longer involved in meetings or consultations. Informal meetings and consultation now occurred between Schaepe, Joe and the Burke staff, namely Peter Lape and Megon Noble. Because the Noxwsá7aq were the formal applicants all formal consultation and correspondence between the Stó:lō and the Burke Museum staff had to pass through the appropriate individuals from the Noxwsá7aq Tribe. George Swanaset Sr., Sandra and Peter Joseph, and other members of the Noxwsá7aq Culture Committee and those who specifically worked on NAGPRA cases were involved with this effort. This process required careful communication strategies and patience to keep the process on track.

A fork in the river emerged as Schaepe and Herb had to decide how to move forward with the request by choosing whether or not to specifically request Stone T'xwelátse under the category of human remains. Section 2, "Definitions" of the Act (NAGPRA, 1990) uses the term "human remains" within the definitions of other terms and claim categories but does not provide a clear definition of what is considered to be human remains. The NAGPRA Final Regulations (1995) make several references to human remains, as the physical body of a deceased person, and address cases where human remains have been incorporated into other objects or sacred items. However, NAGPRA does not limit what could be considered human remains or state that any person transformed into another form is or is not considered to be human remains and

therefore applicable for repatriation under the Act. In October 2005 Herb Joe, David Schaepe, and those involved in compiling the first Stone T'xwelátse Report submitted as the NAGPRA request, chose to claim Stone T'xwelátse under the NAGPRA categories of both cultural patrimony and human remains. After review of the first request report Megon Noble and Peter Lape recommended that, because the claim of human remains would be difficult to approve, they modify the application and submit the claim only under the category of cultural patrimony. Herb Joe explains the submission and response to the claim under the category of human remains:

We got some feedback saying that basically there wasn't enough information to support the application because we had talked about it extensively, of course, and we decided that given the information from our Elders of the family, he was a human being, so we were going to submit the first part of the application under the terms of the return of human remains.

And we got a response saying that no, we understand what you're saying, the application is well written, but we're not going to set precedence by accepting the application under this particular category. And Dave had also been developing the application under the category of cultural patrimony. So that part of the application was accepted (HJ March 10, 2009).

Peter Lape's comments regarding the Burke's response to the claim under the category of human remains were:

One of the things about Stone T'xwelátse was that under NAGPRA there are various categories of materials that can be claimed, human remains, sacred objects, objects of cultural patrimony, grave goods, and from our end it looked like the objects of cultural patrimony would be the most fitting for Stone T'xwelátse. But it is interesting because as a human who has been transformed to stone, he could also be seen as human remains. I think there was a bit of debate about kind of what is the most expedient way to make this claim under NAGPRA and then also symbolically how do you want this claim to happen. My impression was, although you probably will get this from your Stó:lō informants or from Dave, is that claiming as a human remain was important to them symbolically, to validate the story of T'xwelátse and to them it felt like the more true way to do it. We advised them, on consulting with national NAGPRA, the office in Washington DC,

that claiming a non-human bone, a stone object, as a human remains would cause all kinds of problems at the DC level and would hinder the speed at which we could make the claim happen. So we advised them to go under the cultural patrimony class of objects, which they eventually did, although in their claim they kept language in there saying that this is also human remains, so that is also an interesting little twist. The cultural patrimony claim, that was the first one I have ever dealt with, and I think it might have been the first one the Burke has ever dealt with... [PL May 19, 2009]

David Schaepe's comments on their response to the rejection of the claim under the human remains category:

So of the two categories we put forward, they said no to one, andyes possibly on the second one. So we felt 'okay let's not worry about (it)' We made it clear in the response to say.. we understand you do not recognize stone T'xwelátse as ancestral human remains; the Stó:lō community does. We're not going to pursue that. We have a difference of opinion there, and we're not going to work to try to resolve (it) because we don't think it's necessary. So what we are going to do is concentrate on 'object of cultural patrimony', which is enough to serve as a foundation for repatriation. And we're going to clarify those two questions (posed by Peter Lape), work that argument out to the point where we're going to make that connection and we're going to get T'xwelátse back. So we did (DS March 10, 2009). (DS March 10, 2009).

The process was still moving forward in a positive way but there was now a requirement to go back and alter the request under human remains and address the question of abandonment and right to ownership. Schaepe and Herb had to adjust their course to address the Burke Museum staff's questions. The end result was the decision to forward an argument for repatriation as an item of cultural patrimony. Although the argument for consideration as human remains was removed, the final supplemental report still contained the assertion that Stone T'xwelátse was a person transformed to stone and not a carving or piece of artwork when it states that he is "the physical remains of a human in granite form, retaining his life force (*shxweli*) and soul (*smestiyexw*)" (2005).

The First Supplemental Stone T'xwelátse Report (Schaepe 2006) requesting the repatriation of Stone T'xwelátse and addressing the questions raised by the Burke staff after review of the Stone T'xwelátse Report (Schaepe 2005) was completed by David Schaepe and submitted by the Noxwsá7aq Indian Tribe in February of 2006. Schaepe describes the process of completing the supplemental report:

Here's this substance, this thing of substance that you send down and you're going to get a response of substance, another 'yes or no'... and it's not going to be 'maybe.' It's going to be a 'yes or a no'. So, after all this time – now we're talking 2005 – we're back up to 14 years. And the consistent movement and activity over the past four years, five years, everyone is very well and very heavily and deeply invested in this, so the anticipation of a response is kind of nerve-racking. When we did get a response (on the initial report), it was positive... It was positive in that it wasn't an axe coming down saying no. It was definitely in line with (what) I think (was) the attitude that the museum had with us all along...our relationship since 2002. It was a response that was positive in that it clearly reflected willingness to continue this discussion and needed some clarification, some additional information and clarification. It was very encouraging to see, 'yes, they agreed that...', I think that's kind of how it started out. We agree with you that what you're describing and arguing as an object of cultural patrimony in fact is an object of cultural patrimony. Now their questions linked to 'how can you be certain that...', an issue of certainty between the object they had and the object we're talking about...which was halfway there. So we made it halfway there.

....So what you guys (us) are describing and saying, this stone T'xwelátsa you're talking about in the report is an object of cultural patrimony. Yes. We can check that one off. That's a positive. Now the second one is: if you can show... if you can give us more information that elaborates on the question of 'are you talking about this guy, this stone object in the museum, is that stone T'xwelátsa' that's the next question. Now if you can link those together, the thing you're talking about and the object here (at the Burke), it's going home. Right. There were a couple of questions in there that led to a second report dealing with those two specific questions, one on identity and one on an issue of 'the abandonment.'...The apparent abandonment, which has particular legal connotations of 'giving something up with no intention of ever coming back for it' or 'it's no longer yours.' So some guy finds it, they have legal ownership.. It's a process of legal transfer of

ownership. So even if you could prove that this is stone T'xwelátsa in the museum is an object of cultural patrimony' then the second point was that if you abandon it in the past, then there is still a legal right for the museum to hold it in their collections, as they own it.. So the museum can still house and hold an object of cultural patrimony, but if they have a legal right to ownership, then my understanding of that would be, well, it's up to them ... They're not obliged to return it. That's still a question that we never had to get into those details of the legal view on that, but certainly the issues of ownership and identity were the two basic points in the final report. (DS March 10, 2009)

The Stone T'xwelátse Supplemental Report (2006) would need to demonstrate that Stone T'xwelátse had not been abandoned because he was taken from within Stó:lō /Noxwsá7aq traditional territory and that the statue taken from the field in shared Stó:lō /Noxwsá7aq traditional territory was the Stone T'xwelátse.

While David Schaepe and Herb Joe were working on the first supplemental report, political events were occurring that, while they were intended to expedite the return of Stone T'xwelátse, had the potential to negatively impact the NAGPRA repatriation request. I have previously mentioned the murder of Louis Sam and how the Stó:lō and Noxwsá7aq communities response to this event may have been a causal event in Stone T'xwelátse's disappearance. Parallel to these repatriation events there were also political actions between the governments of British Columbia and Washington to make amends with the Stó:lō for never bringing the murderers to justice. The British Columbia Lieutenant Governor Iona Campognolo applied pressure to the office of the Washington State Lieutenant Governor Brad Owen to acknowledge their failure to prosecute those who had been found by provincial police to have been the perpetrators. The efforts to repatriate Stone T'xwelátse were also made known to her as they were viewed as being linked to the Louis Sam case (Cernetig, Feb 28, 2006).

Campognolo raised the issue of Stone T'xwelátse and argued for his return in an effort to help move the repatriation claim forward. As the ceremony for the apology approached, the media began to report on the case of Stone T'xwelátse. On January 13, 2006 it became known to Julie Stein, Director Burke Museum, that, in response to the media's question posed to the Stó:lō "what restitution would you accept", they requested the return of an object presently in the Burke Museum" (Noxwsá7aq NAGPRA File, January 13, 2006). Brad Owen then publicly stated that he was engaged in efforts to have Stone T'xwelátse returned to the Stó:lō. The Burke Museum already had an active NAGPRA request for Stone T'xwelátse with the Noxwsá7aq Indian Tribe and I have previously presented the other legal reasons that the Burke could not repatriate directly to the Stó:lō. This placed the Burke Museum's staff in the awkward position of having to respond to the media reports and political pressure while still continuing with the plans to return Stone T'xwelátse to the Noxwsá7aq. Julie Stein states:

Okay, so this all came forward right when I first became the director. When an assistant to the Lieutenant Governor called and said that as part of this negotiation in retribution for the hanging, lynching of one of their tribal members, the Stó:lō wanted the return of T'xwelátse. And they just wanted to know if we would just give it back. We pointed out that there were laws and that we couldn't do that because as a state institution, we could not give away objects without going through a legal process. So I became involved as the go-between with the Lieutenant Governor's office and the archeology division. Because it was a very unusual circumstance for the state museum of Washington to be negotiating with the Lieutenant Governor's office over the illegal return of an object to a foreign country. It was a delicate balance. I didn't want to tell the Lieutenant Governor that he was doing something illegal. There are procedures by which somebody – and it could only be the Governor – would be able to make an exception to the law, but it would require the attorney generals of the governor's office to say if that is true, and it's a federal law. So I don't think a state can overturn a federal law. So this took quite a long time to get the Lieutenant Governor's office to realize that the stone could not be returned to the Stó:lō as part of the retribution for the lynching of a member a hundred years ago. So that... I was right in the middle of that and they did come to understand that that was the case. At the

same time, that gave us impetus to work more concertedly on that NAGPRA request. (Interview with Julie Stein [hereafter JS] April 16, 2009)

Although those involved in this event were well-meaning in their attempts to expedite the process for the Stó:lō, they were obviously unaware of the relationship between the Noxwsá7aq and the Stó:lō and the way in which they were working together on this claim (JS April 16, 2009). Efforts to enact a law to allow the Burke to repatriate Stone T'xwelátse directly to the Stó:lō would have been a long and complicated process, especially considering the active NAGPRA claim that had been submitted by the Noxwsá7aq. Alternately the Washington State Lieutenant Governor's office stated that if the NAGPRA request had not been granted the state would have worked on a law to repatriate Stone T'xwelátse directly to the Stó:lō (Interview with SR May 21, 2009). As this step was never necessary, it is unknown if this would have been possible.

While the political action was bringing Stone T'xwelátse into the media limelight, David Schaepe was working to complete the supplemental response to the questions requested by the Burke Museum's staff. This report would add an additional layer of historical context and a further explanation of Stó:lō law that the first report had been missing. In particular, it addressed the questions of how the Stó:lō and Noxwsá7aq could be certain that Stone T'xwelátse was who they claimed he was. More information was sought about what had happened to separate Stone T'xwelátse from his people. There were questions about whether these issues created a right of ownership on the part of the Burke Museum. In response to the first question, Schaepe provided anthropological evidence gathered by Charles Hill-Tout and Franz Boas through "oral histories that they recorded from Chilliwack and Stó:lō people, archaeological evidence and accounts of

other stone sculptures that could be ruled out as other possible matches to Stone T'xwelátse, all based on the descriptions of his size, weight, and last known location of Stone T'xwelátse on the Sumas Plain. In response to the second question part of the answer is stated as follows:

In view of the Burke's response, the Noxwsá7aq maintain their position that the Stone T'xwelátse is currently held by the Burke without right of possession, as a object unlawfully taken from its rightful owners - the Noxwsá7aq-Stó:lō community - by the Ward Brothers in 1892. At the time he was taken, the Noxwsá7aq maintained control of and caretaking authority over the Stone T'xwelátse by virtue of applicable customary law of the Noxwsá7aq-Stó:lō, derived from sxwóxwiyám. The Stone T'xwelátse could not be cared for in any other way. The Stone T'xwelátse was never abandoned. (Schaepe 2006, 12)

Having shown that he could not have been intentionally abandoned, further explanations for perceived abandonment were provided as the following: the field where he was "ploughed up" is located within traditional Noxwsá7aq-Stó:lō territory where Aboriginal title has never been ceded; there is a real possibility that as a result of the vigilante lynching of the young man, Louis Sam, of the Noxwsá7aq-Stó:lō community, that the community and caretakers of him may have temporarily retreated away from the border and there was no evidence that they did not intend to return; that "control was still clearly maintained by the family even while they *may have* lived apart from the place where they kept (hid?) him" (25). The Stone T'xwelátse Repatriation Report: Supplemental 1 was submitted by the Noxwsá7aq to Megon Noble, Burke Museum, in February 2006.

Peter Lape explains the reasons that the Burke Museum staff requested additional information after the submission of the first application and their response to the supplemental information:

Well, the key came down to this abandonment issue. What happened? So there were no written documents about what happened sometime in the late

19th century to Stone T'xwelátse. There are stories about who owned it and why it came down to Sumas Lake. There are stories about these kids, or young guys, who bought it in a curiosity shop and then shipped it down to Seattle, but that time period between those two was blank in the record. That actually was.... We need to know why was this thing left in the field. Was that an act of abandonment and if so that negates the cultural patrimony aspect, or was something else going on? So Dave did not have any information about that, so he did not fill in those blanks, which is, as a researcher that is great, but we needed him to fill in those blanks. The second order of information that he did not put in there was, well, what historically was going on in that area at that time that would have made it (a) impossible for anyone to document what was happening, and (b) would have made people leave this incredibly crucially important object in the middle of a field. There is actually a lot of history about that. There were all kinds of stuff going on. So we just had to get the message to Dave to insert that history, and he did that beautifully. Then we had this rock solid – in my mind a rock solid – claim that was indisputable once he put that final piece in.

After submitting the supplemental report in February 2006, there was nothing for Joe and Schaepe to do but wait. In a way it would be like waiting in the calm of a river around the corner from the unknown. David Schaepe describes how they received the outcome:

March 2006. In a funny way, we received this response from Peter Lape from the Burke, saying ‘yes we agree’, and that was the notification. It had been a long time. We were wondering, had they received anything. The communication part again... The direct communication was with the Noxwsá7aq and we were trying to make sure that the communications come up here, and we’re wondering had they received this. You know, where are things at? I think I had just called Lape one time, or I e-mailed him, to make sure that you received it. They hadn’t received it and it was like -- ‘oh my god’ --so we couriered it back down there. Then he just responded quite informally to me, directly, saying, “Yes, we had a chance to look at it, we agree”. It was like -- ‘what?!’ So I told Herb right away, and then they followed up with a more official response. But it was pretty amazing, you know, just this... complete tearing down of that mindset you get into, the fighting mindset....now you’re on a completely other track. (DS March 10, 2009)

Herb Joe states:

I remember, I was at home late in the evening and Dave phoned. He was all excited and he said “We’ve been approved! We’ve been approved!” I said, “Oh, great, our application has been approved!” So we were both celebrating over the phone, probably at about 9 o'clock at night when he finally was able to get back to me. I think he tried to get a hold of me earlier in the day and I wasn't around. Anyway, then it was good news. Once it was approved, we were sitting around and of course at that point we said we know he's coming home, he's coming home. I was sitting there... Of course, by that time it was 14 years, you know, that we had been working on it. I was sitting at home by myself thinking, well, what the hell am I going to do now? You know, the application has been approved, he's coming home, what am I going to do? Actually that's what I told Dave, and Dave just smiled at me, something will come up, Herb. No need to worry about that. Actually, what he said couldn't have been more true. Since then we've still be involved in... The statue has still been a part of our lives (HJ March 10, 2009).

The final stage of the repatriation application is the submission of the Burke's recommendation for repatriation, completed by Megon Noble, to the National NAGPRA Committee. This committee reviews the recommendations and then has the option of requiring more information, accepting the recommendation and approving the application, or for different reasons reject the claim. If the claim is approved a “Notice of Intent to Repatriate” is posted in the Federal Register.³⁴ Once the intent to repatriate has been posted there is a limited time period in which interested third parties may put forward an objection to the repatriation. The official notice of the repatriation of Stone T'xwelátse to the Noxwsá7aq Tribe was published in the NAGPRA Federal Register on August 18, 2006. The notice period passed with no challenges thus legally completing the repatriation process that began when Herb and Helen Joe first visited their ancestor in 1991. With the assistance of Schaepe and other staff of the SRRMC, the Noxwsá7aq Indian Tribe, and many others, Joe was finally able to fulfill the task that his Grandmothers had given him, to “bring him home”.

³⁴ http://www.nps.gov/history/nagpra/NOTICES/INDEX.HTM#About_Notices

Stone T'xwelátse Me T'ókw' Telo Qáys/is Finally Home

When the legal repatriation was approved, the Stó:lō, Noxwsá7aq and Burke staff were faced with coordinating the return of a large and very heavy figure back to Chilliwack BC. The approval of the claim joined everyone together on the same river in a swift current carrying them to Stone T'xwelátse's homecoming. What had been a challenging relationship, between one side who had to work for years to prove what they knew to be true, and the other who had a historical responsibility to conserve and a legal right to own, now became equal through the recognition of the Stó:lō and Noxwsá7aq law and oral history. Everyone acknowledged that the Stó:lō and Noxwsá7aq were the rightful caretakers of Stone T'xwelátse. The relationship now became a collaborative effort to work the logistics of transferring the legal ownership from the Burke to the Noxwsá7aq.

Actual transference and transportation planning had to occur but the key process that all of the research partners commented on was the multiple homecoming ceremonies that occurred to mark the event. A ceremony was held at the Burke Museum on October 6, 2006 to mark the repatriation of Stone T'xwelátse to the Noxwsá7aq³⁵. The following week Noble and Lape, with the help of Schaepe and others, transported him to a homecoming ceremony held in Noxwsá7aq territory in Deming, Washington, and Stone T'xwelátse remained there on display for a week so that members of the community could visit him. The Noxwsá7aq then allowed Schaepe and Joe to take him across the border and up to Ray Silver's long house in Sumas, BC, for the final

³⁵ http://www.washington.edu/burkemuseum/events/photo_2006.php accessed June 10, 2009

homecoming celebration. The following are the stories of many of the research partners' experiences during his journey home from the Burke Museum.

Herb Joe's recollection of the homecoming plans (EC - Emmy Campbell; HJ - Herb Joe):

HJ: After we had the application approved, I'm not sure who actually decided that we were going to have a celebration, then in the discussion with the grandmas I remember we had one meeting.... We set a table and invited all of the grandmas and whoever they wanted to come with them, to the Sumas Longhouse. About 50 to 70 people showed up, so it was a good turnout. We just put the question to them: what do you want to do now that we've got him coming home. Of course, consensus was let's have a celebration. Once that decision was made, the elder of the Sumas community, Xéyteleq, Ray Silver, he said to us that it only seems right that we have the big celebration here in Sumas in our longhouse, because this is where he went missing from. This is where we lost him. Whoa, coming home to where he went missing from. That's appropriate. It's right. Let's do it. So the talk went on and on, and I said that we have to thank the family from Noxwsá7aq. We've got to thank the Noxwsá7aq tribe because they're the ones who sponsored our application. So we said, okay, we'll have a celebration there too. We asked Sandra and Peter, who were there at the meeting, and two of the elder grandmas from that family there, Roselda and... Who was the other one who was there? There were three of them there, three of the grandmas there. Jan was there too. And of course their husbands. So they were all sitting around and said, yes, let's have a celebration. We'll have a gathering at Noxwsá7aq. We've got a brand new hall there. Why don't we just do it there. We'll have all our Noxwsá7aq community come. We'll invite them. We'll set a table and invite them to come there. Then we talked on and on and on about that and we're all excited about celebrating, you know, and having a chance to celebrate. What are we going to do? What are we going to do? What kind of ceremony are we going to have? All those kinds of things. Then I thought, gosh, you know, we've really got to do something for the Burke because that's where the application was submitted. They have been very kind to us. They've helped us in the process. We've got to thank them too. And all of the family says yes, we have to thank them too. What are we going to do? Well, we can give them some gifts. We'll have a ceremony down at the Burke Museum. We'll ask Lape and Noble if we can have use of their home, the museum for one afternoon or something and we'll have a big celebration down there. So we talked a little about that and thought, oh, you know, this is a really good thing because we're getting our ancestor back. What is the Burke getting out of this? So we thought, well, we'll make this celebration a gift from us to

them, thanking them, and we'll invite all of the media. So that's where Antonio Sanchez, I think his name is, from the Governor-General's....

EC: Office of the Lieutenant Governor?

HJ: Lieutenant Governor, yes. That's when he got involved. We knew of him before because he was involved from the... Well, the Lieutenant Governor's office in Washington, and of course our Lieutenant Governor, who was Iona Campagnola at that time, they got involved at a political level, so there was some political will there and that was made known to the Burke as well, so we think that that probably was some of the impetus to keep the process moving. So we got a hold of Antonio and he says, yes, by all means, we'll be there. Of course, then they arranged for the media to be there, the local TV stations and newspapers. So we felt that would be our gift to the Burke, was to give them all the positive publicity that we could, and make sure that they knew that it was going to be a celebration. Invitations went out to the neighbouring tribes. The Makah sent up a group. There were a couple of local tribes that had representatives there at the celebration. I think it was the Makah group that joined us with the drumming and singing. They brought their drumming and singing along, so when it was time to do the actual celebrating, and drumming and singing, they were right there with us. They had their drums and some of them were in regalia. There was some dancing, drumming and singing of songs, and honor songs, the dedication prayer songs for the Burke to again thank them for the work they had done in this process. (HJ March 10, 2009)

Megon Noble's comments on her experience at the Burke Museum and Noxwsá7aq ceremonies:

Oh, it was amazing. So as soon as the claim was made actually, you could just feel this momentum going, and the momentum just gets stronger and stronger and really peaking at the... For me, it actually peaked at that ceremony at Noxwsá7aq before he even went over the border. But as soon as the claim was accepted.... Well, we sort of provisionally accepted it first and sent some comments back and said, "We think it could fall under NAGPRA, but we have questions for a little bit more clarification," and as soon as we sent that back, then we had a couple of visits. Some people just popped in here and said, 'I was in the area and I'd really like to see Stone T'xwelátse.' So you could just feel the momentum building in the community. Then we had several planning meetings before the claim actually... We had finalized the claim, sent the notice in to national NAGPRA, the publication, and at that point we had several different planning meetings with various community members. They had all come

here. So I think that we really understood the importance of this. I think that we knew that this was going to be a big celebration.

This is very different than the other repatriations I work with. The other repatriations are very sombre. They're reburials. They're funerals. They're funerals for people that have already had funerals, so it's an event that is very private and the nature of the move is much different. It's about something that has been wronged and there may be healing in that. There may be healing in some of the ceremony, but it's not celebratory in the same way that this event was celebratory. So I think that that also was interesting as the conversations were being discussed, we said, 'Well, who should we invite,' figuring out what was appropriate. It was a good learning experience for us because it was very different from our standard operating procedures for that type of a return. So we started planning an event here at the Burke. I think that it was actually.... No, the ceremony at Noxwsá7aq actually fell on Columbus Day, which I thought was significant, being that it represents a lot to native communities, so I thought it was a very good story to have fall on that day. So the Friday before that, we had a celebration here, and that was.... The community went to great lengths to make sure that Stone T'xwelátse was removed from that base and made into a very regal boat that he could transfer back in. So that came out of several different discussions. There was a cedar canoe built especially for him. We had some interesting time actually getting him out of the current base and putting him into that new one. Dave had to rent an engine hoist, and all sorts of logistical things that went into actually making that happen, and then the community came here. We had also legislators involved with that ceremony here.

So, the Lieutenant Governor's office had representatives here, the BC government had representatives here, then members of the Noxwsá7aq spoke, and the Stó:lō spoke, Julie Stein, our director spoke, and then there was quite a great drummer, collection of drummers from the area communities. The moment that Stone T'xwelátse was presented was pretty impressive. Just having seen him transformed completely from this object relegated to a corner with this very generic label in our storage space versus in this canoe being carried out by 49 men with ropes and then at that moment they put the cape on with the rabbit fur collar and the cedar bark, and it completely transformed him. It was incredibly cool. So it was very amazing to see how much it meant to the community and to see how many people had traveled all the way down here to be a part of this, knowing even though that he was going to be up there a couple of days later; it was important to community members to be here as well. So we had.... This was in the lobby of the museum and we had at least a hundred people here, could be 150, and there was kind of standing room only. It was very densely

packed and very celebratory. Then there was food afterward and everyone really hung out. It was fun to see too the younger generation really, everyone wanting to take their picture with T'xwelátse, the Stone T'xwelátse, and be a part of it. (MN April 15, 2009)

Julie Stein's comments on saying goodbye to Stone T'xwelátse (EC - Emmy Campbell; JS: Julie Stein):

EC: So how did it feel at the ceremony that the Burke had? What was that like for you?

JS: Unbelievable. Unbelievable. Seeing T'xwelátse come out all dressed up was spooky. He was happy. He was really happy.

EC: So it felt that way? It was something that was able to be felt?

JS: Yes. It's really emotional because we had to say goodbye. I forgot about that. Because he left us. So that was emotional, excuse me. Megon and I.... He and I coexisted for nine years. And it was funny because I wasn't really part of the process, so although Megon and Peter, you know, Megon and Peter drove away with him. So, yes, it was sad. It's fine that he's still up there and I can still go see him. Yes, so I'm going to do that. Who knows what that's about. (JS April 16, 2009)

Helen Joe's comments on the Noxwsá7aq ceremony:

This young man got up, and we didn't know anything about this until he stood up and he was telling us that he really didn't want to come to that celebration that day. He said he was really, really upset with his grandma because she was making him come, and she told that it would be a good thing for him to be there, to come and join in the celebration, so he finally gave in, went with her to this celebration. And he said that he didn't realize that he had what he called a hole in his heart for some reason. He didn't know but seeing the statue coming in and listening to all the drumming and singing, he said that hole in his heart is gone now after being there with the statue. And everybody is just kind of in awe of this young man and how he was talking and what had happened and what was going on in his life, you know, and how this statue had fixed that spot in his heart that was kind of empty. (HLJ March 26, 2009)

Sandra Joseph's comments on the Noxwsá7aq ceremony:

We had a celebration when we brought him, when he was on his way back home to Sardis. When we were planning that event, it didn't seem like it

was going to be anything that was going to be real big or, you know, a big event, but I think it really was. I don't know, Joey? I can't, I can't explain myself. I thought the community felt... I think it was a big event. It was something to celebrate because something was coming back to where it belonged. There were a lot of community members that were down there. Not only from here, there were other tribes that came. There was a lot of them that came from Canada, who came over. It was quite an event. (SJ March 26, 2009)

Megon Noble's comments on the Sumas ceremony:

MN: At Sumas, yes. And we didn't participate in the transportation between Noxwsá7aq and Sumas. We actually... Unfortunately, Lape and I had another archeology event here that Saturday, so we arrived at that ceremony a little bit late, so we missed the dinner and the meal part of that, but came for the ceremony. It was also incredibly powerful to see the attendance and to see the dance circle at the end, and it is just the...

EC: I think they did a Sxwó:yxwey mask dance, did they?

MN: They did. That was incredible. I mean, I've never had an opportunity to see that before and it was just very incredible. Just beautiful, the masks, the whole event was incredibly moving. And that's when we said, "Oh, there's one other thing..." That's when we said our good-byes and that's really the last time I have seen Stone T'xwelátse, at Sumas, at that ceremony. (MN April 15, 2009)

Helen Joe's comments on the Sumas ceremony:

So Ray Silver was saying, you know, that he would like the statue to come back to Sumas because that's kind of where he was last seen. And the longhouse was big enough that it was going to house so many people that it was... We just said it was meant to be, you know, because he had come a complete circle by then, well almost complete circle. And so we had the celebration there and it was just, it was bigger than the one we had in Noxwsá7aq. And so, once we were finished there we brought him up to the Stó:lō Dev. Corp. [Economic Development Corporation] building in Vedder Crossing and was going to be housed there until such time as that treatment center is going to open up in Center Creek. By then he will be full circle. He had gone round and now he was, you know once he gets there, he will be home again because they say that's where he originated from was the Chilliwack Valley. So it was hard at times, discouraging at times, but in the end I think with all of the persevering and all of the commitment by

everybody that was involved to continue to work at getting the stone statue home, you know, that I think if Herb had given up in the beginning it wouldn't have happened, but he always said that the direction that the grandmas gave him, that it was his job to bring the statue home. (HLJ March 26, 2009)

Stone T'xwelátse has been busy since he returned home and has had an impact on not only the Stó:lō community but also in outside communities. He was placed on display for a time at the Chilliwack Museum to share with the larger Chilliwack community the story of his return. He attended a conference where Schaepe and Joe gave a presentation on their experiences during the repatriation, was placed on display for several months at the Museum of Anthropology at the University of British Columbia where David Schaepe, Herb Joe, and his Honourable Steven L. Point, Lieutenant Governor of British Columbia and Stó:lō community member, gave a presentation on his repatriation. He is also intended to spend some time at the Justice Institute of British Columbia as part of a conflict resolution course (HJ March 10, 2009; March 24, 2009). He has become an important bridge through which the Stó:lō people can share their history, knowledge, and laws with their non-Indigenous neighbours and other Indigenous communities involved in repatriation efforts.

He has resumed his place in the Stó:lō community as a teacher so that the people will learn “how to live in a good way.” The restoration of his place in the community also validates the teachings of the sxwóxwiyám. Ray Silver [Xéytelég] feels it is especially relevant for the younger people who may not have believed the sxwóxwiyám, may not have believed that you could be turned into a rock if you do not live in a good way. Now they can see Stone T'xwelátse for themselves (Campbell 2007, 19).

Stone T'xwelátse is now at the Stó:lō Economic Development Corporation office where the public can visit him while he waits for his new permanent home. Herb Joe states:

We have arrangements to have him stay in that environment until such time as the family treatment center is at Chilliwack River, until that facility has new construction completed. They're going to build a place specifically for him. That's where he'll be placed permanently. That's the direction I got from our grandmas, that that's where they felt he should be. Actually I presented that to them, and this has been a suggestion that's been given to me. I like the idea. He's going to home to where he began his life, and he'll continue to be a significant part of the lives of our people. I called him a teaching icon, and I continued to call him that since that time. But to me that's the role that he'll be fulfilling, continue to fulfill, in the lives of our people. So it's an ongoing responsibility (HJ March 24, 2009).

This chapter has provided a history of the events leading from the discovery of Stone T'xwelátse at the Burke Museum in 1991 to his legal repatriation in 2006. Although much has been drawn from memory, and therefore some of the dates and specific timelines may not be exact, all of the stories support each other in their accounts of how this process unfolded. It is important to include this story to have a record of the events, so that others may learn from it, and to receive the stories as they were told in honour of those who have shared them. Those who were on this journey of Stone T'xwelátse's repatriation have reached the river's end, as he has been returned home to the rivers of the Chilliwack Valley where he was first transformed. While that journey may be complete, those who were involved now share a new relationship built from their shared experience that can teach others how to navigate repatriation processes "in a good way". While the approval of the repatriation request might appear to be the end of the process, the next chapter will demonstrate how in some ways it was just the beginning of a new and meaningful relationship.

Chapter Six: Breaking through the Dam: An Analysis of Key Challenges and Successes

I see museums faced with the challenge which both Krishnamurthi and Heisenberg presented decades ago: to free ourselves from the known ways of being museums by exploring the role of being actively involved, and not just a place where society collects its memories. We are a part of the very story we tell and not just a place where the story is told and tellers of stories. In the case of repatriation, this means that we have the challenge being presented to us to respect the right of people to tell their own stories about their cultural journey and give their own meaning to those things which have shaped them as communities and nations. Jack Lohman (2008, 29)

I have detailed the past and more recent history of Stone T'xwelátse and his return home. I will now look more closely at the key events and actions that influenced the outcome of this case to find meaning for the future. This chapter focuses on part of the research question which asks; “what lessons were learned?” It discusses how relationships changed and identifies the lessons which were learned during the repatriation process. I will analyze how the repatriation happened and how change occurred by discussing the key challenges and successes in terms of world views, capacity, relationships and communication, patience and perseverance. The experiences and lessons discussed in this chapter are the basis for the recommendations put forward in the next chapter.

Process Map

In my presentation of the history of the repatriation efforts I use the metaphor of a river journey to give deeper meaning to specific important events. The following figure is a map of the river with the key periods of challenge and success identified. These figures represent the challenges that will be discussed and analyzed in this chapter. Whether they were challenges or successes all of these events contributed to the final result of Stone T'xwelátse's homecoming.

Stone T'ixwelátse Process Map

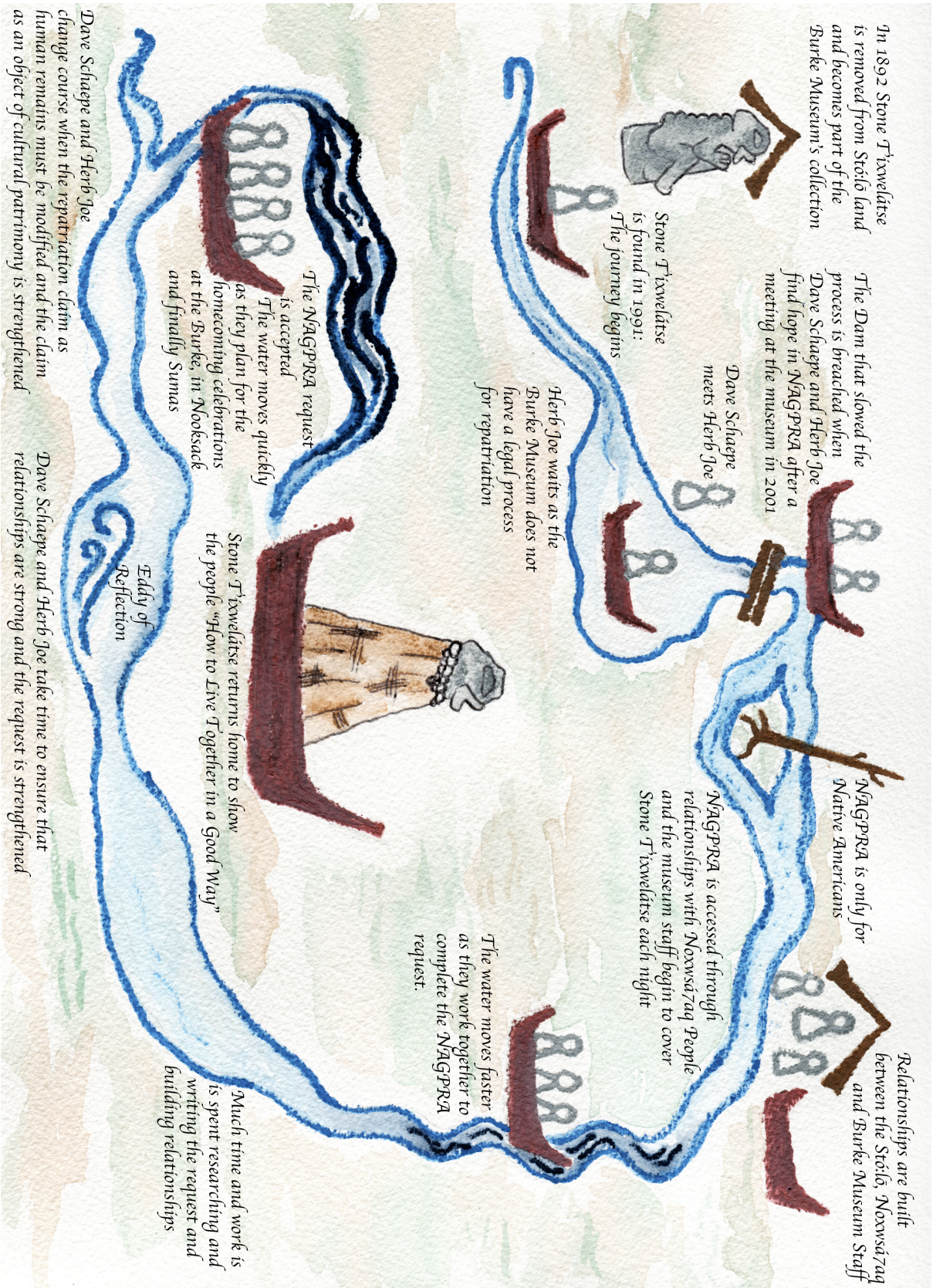


Figure 4. Original Art by Shawna Paul 2010

The key challenges identified in this map: 1. the removal of Stone T'xwelátse; 2. the dam that stopped the process in the early 1990's when Joe was told "no"; 3. the lake where Joe waited for an opportunity to move forward; 4. the eddy that moved the process back when they found out that the repatriation was not eligible under NAGPRA; 5. the slow moving current while the application was being written; 6. the fork in the river when they modified the claim as human remains. The key movements forward identified by moving water and movement around obstacles: 1. the discovery of Stone T'xwelátse at the Burke in 1991; 2. Joe's mandate to "bring him home"; 3. Involvement of David Schaepe in 1997; 4. the change in relationships and meeting with Peter Lape in 2001 and the Burke Museum staff's's agreement to cover Stone T'xwelátse each night; 5. the involvement of the Noxwsá7aq in hosting the NAGPRA request; 6. the eddy of reflection that strengthened the application in 2003; 7. the completion of the application and first supplement; 8. the acceptance of the claim and the repatriation. All of these successes and challenges are the product of how each person involved exercised their world views, capacity, relationships and communication, patience and perseverance.

World Views: Do you see what I see?

At the root of this dispute, the loss and return of Stone T'xwelátse, one will find differences in worldviews between the parties. A worldview is defined as how a given culture sees its relationship to others, the rest of the universe, its own origins at the beginning of time, and its beliefs about how human affairs should best fit into the bigger picture (Sutherland 2005, 14). Worldviews are the way that people make meaning of what they see and experience around them. They inform judgments about what we know to be true or false, normal or strange, right or

wrong. Worldviews are dynamic and may change as we are influenced by our experiences with other cultures that differ from our own. One cannot assume that a common heritage equates to a shared worldview. The main differences between the worldviews held by those involved in the case of Stone T'xwelátse exist in the differing perceptions of the application of law, the meaning of objects of cultural importance, and beliefs about what or who Stone T'xwelátse is.

Different Concepts of Ownership and the Law

The initial refusal to repatriate Stone T'xwelátse was based on the Burke Museum staff's assertion that the museum held legal ownership rights. Washington State laws prevented de-accessioning because the Burke believed Stone T'xwelátse was obtained through legal means and was therefore part of the museum's permanent collection. David Schaepe and Herb Joe had to challenge the assumption of rightful ownership by presenting evidence that proved otherwise. They argued that the Burke's control and possession of Stone T'xwelátse is in direct opposition to Stó:lō law as told in the sxwóxwiyám. As David Schaepe demonstrated in both request reports, the Burke Museum's staff were not given caretaking responsibilities by the direct descendants of Stone T'xwelátse (2005, 35; 2006, 16). This is a point that is obvious to the Stó:lō and Noxwsá7aq people; Stone T'xwelátse cannot be owned by anyone because he is not an object that can be bought or sold. The Ward brothers who "found" Stone T'xwelátse in the field believed that they had the right to the land and anything found on that land because under the existing state laws they were the owners of that land. A settler's worldview of ownership requires handwritten document stating ownership and/or a permanent dwelling structure, often with a surrounding fence, to constitute ownership and use of that land by another person.

Alternately, the worldview of the Stó:lō on this topic is clearly defined in Supplement I of the request (Schaepe 2006, 20):

The Ward Brothers' act of taking the Stone T'xwelátse was a *severe transgression* of Noxwsá7aq-Stó:lō customary law governing the Stone T'xwelátse – exactly one of those types of actions punishable by Xexá:ls. A number of Halq'eméylem words supplied by Elder Rosaleen George aptly describe the Ward Brothers' actions from a Noxwsá7aq-Stó:lō perspective (Interview with Albert McHalsie, 1996):

- Yeqw'wes - "disturbing the artifacts in the ground, relics or ancient ancestors things."
- Qá:qel - "taking things that doesn't belong to you."
- Sqelsqel - "thief"

At another point in Supplement 1, David Schaepe further refers to the event as the “kidnapping” of Stone T'xwelátse (20). To the Burke, the a stone carving was acquired in a legal way without any intent or knowledge of wrong doing towards the Stó:lō or Noxwsá7aq.

When Herb Joe visited the Burke in the early 1990's, he shared with the staff the story of Stone T'xwelátse and the importance of his ancestor's role in Stó:lō culture and teachings. He explained, on several visits that he had been given the task by the Grandmothers, who were the caretakers of Stone T'xwelátse, to bring him home. He also brought some of the Grandmothers to see Stone T'xwelátse and share their knowledge with the staff of the Burke Museum. Herb Joe's effort, to teach those he met with about Stone T'xwelátse's role in the community and why he must be returned, was his fulfillment of Stó:lō law. He was doing the work he was instructed to do by his Grandmothers. The evidence he provided for their claim, of inalienable control and unbroken caretaking responsibilities for Stone T'xwelátse, was based on his oral history. Herb Joe was also following Stó:lō law by working to bring Stone T'xwelátse home and restore him to his place as a teacher in the community. For Herb Joe, the teachings and stories that are contained in sxwóxwiyám and are handed down orally through potlatch ceremonies are valid

historical records and laws. The Burke is held accountable to historical evidence recorded in written form and proof of ownership in compliance with state and federal laws. In the case of Stone T'xwelátse, US law is in direct opposition to sxwóxwiyám.

The Stó:lō and Noxwsá7aq people have never claimed the right to ownership of Stone T'xwelátse. Rather they have asserted their position of decision making and caretaking responsibilities that have always been present since Stone T'xwelátse's transformation. They have sought a right to return him to his home, where Xaxá:ls intended for him to be. The Grand Chief of Stó:lō Nation, Clarence Pennier, wrote to the Director of the Burke Museum, on March 12, 1992, requesting the return of Stone T'xwelátse on behalf of Herb Joe's family. In the letter the Grand Chief wrote: "The family that belongs to this statue have made a few trips down to Seattle to see this particular statue" (Noxwsá7aq NAGPRA File). Note that it states "the family that belongs to this statue" and not "the statue that belongs to this family." What is expressed in this statement is what Brian Noble refers to as the difference between "owning as property" and "owning as belonging" (2008, 465). He defines this practice in the following: 'Owning as belonging' places greater emphasis on the transaction that strengthens relationships of respect and responsibility between people and what they regard as 'cultural property'... This view assumes a largely inextricable connection and continuity between people and the material and intangible world" (465-466). To belong to something suggests an inalienability from that thing, in this case from Stone T'xwelátse, which strengthens the argument that Stone T'xwelátse was never abandoned and the connection never severed because the people belong to him. The concept that people could belong to a stone statue is foreign in a non-Indigenous modern North-American worldview, where objects are inanimate and are created and owned by people or

institutions and not the other way around. This creates a difficult problem when operating within the western legal system that privileges non-Indigenous forms of ownership. Noble argues that a deep mutual respect of each other's differences through parallel recognition practices can create spaces where both forms of ownership can be acknowledged (478). Admittedly this is a difficult task and one that the current non-Indigenous legal system has not yet been able to address.

Julie Stein, the former Curator of the Archaeology Department and current Director of the Burke Museum, stated in our interview that the Burke has had a long history of working with local Native American Tribes in positive and collaborative ways. She also thinks that the Burke began acting in a more sensitive manner in regard to Native American artifacts and the presentation of Native American culture much earlier than other museums as a result of the actions of early leaders in the Burke's history. When James Nason was at the Burke he began transferring the human remains that were in the Burke collections, some time before NAGPRA was passed, to other repositories as he did not feel that human remains should be a part of the Burke's collections.

However, she also stated that it is also the approach of the Burke Museum to work within the letter of the law. Acting on sentiment on one repatriation case would set precedent that could place the Burke not only in a legally hazardous position but could also be damaging to relationships with other tribes. When it was found that pieces from the Harriman collection, which the Burke had purchased legally, had been originally stolen from a village, assumed to be abandoned while the inhabitants were at another seasonal village, the Burke immediately returned the items in their collection to the claimants (JS April 16, 2009). Does it not seem reasonable to assume that this same argument could have been used to repatriate Stone

T'xwelátse as the Stó:lō argued that he too had been stolen? Why was Stone T'xwelátse not returned under this precedent? There are several reasons for this as the Burke Museum did not have evidence that concretely identified the statue as Stone T'xwelátse and as stated the statue was believed to have been legally obtained. The laws that govern the operations of the Burke Museum and the state property laws, that determine the criteria for theft, do not recognize Stó:lō or any other Indigenous forms of law.

Identity and Recognition

Herb and Helen Joe have never doubted that the stone figure they first met at the Burke Museum in 1991 is Stone T'xwelátse. Sandra Joseph said that she felt like she had come into a relative's home when she first went and visited him. All of the Noxwsá7aq and Stó:lō people involved in the repatriation believe that this stone statue is T'xwelátse. James Nason was involved in the meetings and correspondence regarding Stone T'xwelátse up until 2004 when he retired. In his correspondence with me and in the correspondence and memoranda in the Noxwsá7aq NAGPRA files he never refers to Stone T'xwelátse by name but always as the "stone figure" or "object". Nason was not involved in the NAGPRA repatriation and had not reviewed the evidence provided in the two request reports completed by David Schaepe. James Nason stated the following, which he provided to me, in his summary of the Burke's position prior to the Noxwsá7aq NAGPRA request: "There was, aside from their non-status in NAGPRA, no evidence to indicate that the stone object in our possession was the same as the stone object from their oral history, and there was no data that was presented to establish by NAGPRA standards cultural affiliation in any event" (JN July 24, 2009). David Schaepe and James Nason

had a conversation, in 2002 when NAGPRA was in its infancy, in which Schaepe again requested that the Burke Museum staff work with them to find a way to return Stone T'xwelátse to the Stó:lō. Nason summarized their conversation in an internal memorandum stating the reasons that the Burke had previously denied the request and stated:

As you all know, I am strongly in favor of repatriation when there is legal justification for doing so. As you also know, I am absolutely opposed to any actions which are not otherwise authorized by law. And, finally, while it is possible that the decision of some Stó:lō people that this object in our possession is something in particular from their heritage via oral accounts, it is at least equally possible that they are totally wrong since so many generations have passed from the time any living Stó:lō person might have known what the object looked like” (Noxwsá7aq NAGPRA File February 14, 2002).

In this instance, James Nason did not see a legal way to repatriate and was unable to accept the sxwóxwiyám or the knowledge of Herb Joe and the Grandmothers’ knowledge as valid forms of evidence, to prove the identity of Stone T'xwelátse, because they did not conform with the laws governing the Burke Museum. The Burke Museum required written historical descriptions and living eye witnesses rather than oral history and beliefs. They had to be certain of his identity. The Burke staff’s positions on the matter were very difficult for Herb Joe to receive because he expected that Nason “might understand why my Family needed to bring our ancestor home” because Nason is himself an Indigenous person (Correspondence with Herb Joe July 16, 2009). As one of the curators at the Burke Museum, James Nason was required by law to manage objects in adherence with the state laws and museum protocols and not based on belief or sentiment. Those in museum management are charged with protecting the objects in collection and it is only in recent years that repatriation has started to change the way museums manage collections. When I received correspondence from James Nason he had not yet read the

NAGPRA application prepared by David Schaepe. As a result he maintains the same positions, held before his retirement in 2004, but does acknowledge that the evidence put forward by the Stó:lō, through the Noxwsá7aq, must have met his concerns in the request report for the repatriation to have been successful (JN July 24, 2009). According to the written material available for this study, the Burke Museum, at the time that Nason acted as its representative, privileged the written law of the state and scientific evidence over the oral history and traditional laws of the sxwóxwiyám. The Stó:lō viewed the laws that determined ownership and prevented repatriation as a rejection of Stó:lō law.

Worldview Flexivity

Worldview flexivity is the extent to which a culture or individual is able to adapt their worldview to changing circumstances over time. It is “the capacity to be loyal to one’s worldview and engage across worldview differences” (Sutherland, 15). In this context, worldview flexivity was demonstrated when the participants were able to acknowledge and respect each other’s worldview even when it was in opposition to their own. There are two examples of worldview flexivity that are important markers in the success of the NAGPRA repatriation: acknowledgement of the stone figure as Stone T’xwelátse and acceptance of NAGPRA’s definition of human remains. The ability to demonstrate worldview flexivity is a key step in the movement forward from relationships of opposition and refusal to relationships of mutual understanding and cooperation.

One way in which some of the staff at the Burke Museum demonstrated worldview flexivity was in how their view of Stone T’xwelátse slowly transformed from a carving, with

little history, into the cherished ancestor, with lessons to teach, presented at the repatriation ceremony. This flexibility developed as a result of their willingness to accept the story of Stone T'xwelátse and to follow requests regarding his care. David Schaepe made this statement about the change they witnessed in the staff at the Burke:

I think we could say clearly, in my opinion, the staff at the Burke... expressed clearly that... their perception of stone T'xwelátse had changed significantly, had changed greatly, in (their) perception (from) an object to an ancestor. There's no attempt to convert people to viewing something as an ancestor, but I think it certainly changed the nature of their perception of what that object was, what it is, to the extent of the meaning that's carried there (DS March 10, 2009).

Even before they knew his story Julie Stein and Peter Lape felt that there was something different about Stone T'xwelátse. Both of them had the similar experience of having him stored in their office and both of them felt that he did not want to be there.³⁶ They felt something from him that was different from other objects as Julie felt that he was happier when he was moved from her office and Lape was “a little creeped out” by him, partly because he knew nothing about him (JS April 16, 2009; PL May 19, 2009).

When the Grandmothers first visited him in the early 1990s, they had requested that he be covered at night and woken up in the morning “because he is a human being” (HJ March 10, 2009). It does not appear that this practice began until the meeting in 2001, with George MacDonald, Peter Lape, and James Nason, when Herb Joe asked that he be covered. This became a significant ritual at the museum in which everyone who worked in the space with Stone T'xwelátse participated. This act also affected how the staff viewed Stone T'xwelátse.

When asked if this act changed how people thought of him staff stated the following:

³⁶ Stone T'xwelátse was in Lape's and Stein's office because when the Stó:lō first requested his return Stone T'xwelátse was removed from display which is the standard practice to show respect to the people who have requested repatriation.

Megon Noble:

For me it certainly signifies the importance of something. If it is important enough to have this daily ritual associated with it, as opposed to most of our objects we try to store them in a way that they are so safe and secure and preventatively conserved, so that they can stay on the shelf and we might not go back to them for another six months, but when you have that constant interaction and you know how significant it is to the community, it really enhances your understanding of the object. Before it was an object and now it was a he. We referred to him as the pronoun, as in another individual down here, which was interesting that transition happened sometime in the middle of this claim. It was an object and museum artifact and very neutral words that we used to describe the things, the scientific specimens, that we have down here, and then somewhere in between there, we kept on saying, “Who is going to wake him up,” and “Is it time for him to get up,” and “Have you taken the sheet off of him,” and all of a sudden he became a him, which was interesting. I think part of it was that ritual that we had this constant daily interaction with him. (MN April 15, 2009)

Peter Lape:

It started by, actually Herb and his aunt came down at one point and asked us to... We asked, you know, what can we... You know, this guy is going to be stuck with us for a little while longer, what can we do to make him happier, and they recommended covering him up at night and treating him like a person who goes to sleep and wakes up. We started doing and it actually became this really beautiful ritual for us. Whoever got in first would do it. I love rituals, and that one was really nice. I mean, it felt like we had this connection to an object we are taking care of, that was real and important and human-like. As bizarre as it sounds, we started treating this rock like a guy, and thinking of him that way, calling him “him” instead of “it”, and feeling bad about him being stuck in this orange formica base with this stupid label on him, and so happy when we finally released him from that and put him in his little traveling canoe. I mean, really that transformation was complete for me when we had the first party at the Burke Museum after the claim was done. When Joe’s wife made that amazing cedar cloak³⁷ and placed it on him as he is being paraded around. It was like, okay, wow, the way he changed visually was like, okay, now it is fully a person. He is there. He has come back to being... After a century of being stuck and treated like an object, like a rock, he is being treated like a person again. And it just fit, like that cloak just made that thing happen. It was amazing. (PL May 19, 2009)

³⁷ Information from David Schaepe clarified that the cedar cloak was made by Laura Wealick and members of the Robert’s family.

This event is a key movement forward in the process towards positive relationships. The respect that was shown in honouring the request was an important step in building trust and respect between the museum and the Noxwsá7aq and Stó:lō people.

Peter Lape stated that there had to be a mutual understanding of respect and commitment to the process in order for the event to have ended in positive relationships and that the act of covering Stone T'xwelátse was part of that process: "Maybe our acceptance of his request to cloak T'xwelátse at night was part of that, to show that you know we were with him. We are working with you on this. You do your work, we will do our work, and eventually we will do what needs to be done" (PL May 19, 2009). As Megon Noble noted, the act of covering him everyday also indicated the significance of him to his people. By involving the staff in this act of caretaking, his significance became real to them, thus allowing them to look beyond their worldview and respect the Noxwsá7aq and Stó:lō assertion that he is an ancestor with a life force (*shxweli*) and soul (*smestiyexw*) in the form of a stone.

The Burke Museum staff needed a certain degree of certainty that the stone figure in their possession was the Stone T'xwelátse, for the NAGPRA request to have been approved. I have already presented the views of James Nason which seem to have remained unchanged throughout his involvement in the process. However, the willingness of the staff who considered the NAGPRA request to accept the history provided to them is the reason that the claim was successful. They had to acknowledge that the figure was Stone T'xwelátse and that as an item of cultural patrimony under NAGPRA, that he had not been abandoned. The staff that I interviewed admitted that it is not common for them to believe that a man could be turned to stone and have a soul contained within that stone. Nevertheless, they were compelled to support the claim because

it meant something to them that the Noxwsá7aq and Stó:lō people believed that this was true and this in turn changed their perception of who Stone T'xwelátse is. Peter Lape states:

So in the meeting [in 2001], Herb was the main speaker and he told the story about his relationship to Stone T'xwelátse, his name, and his interest in claiming this object. I did not talk much at this meeting because I did not really know.... Apparently Jim [Nason] had met Joe before, a few years earlier before I started my job. But my feelings as I was sitting there listening to the story were that Herb had actually a quite a compelling claim to the object and my kind of gut feeling was that it was legitimate and that we should move toward helping him claim the object.

You know, it [the descriptive label mounted on Stone T'xwelátse's base at the Burke] refers vaguely to the T'xwelátse story, but very vaguely and incorrectly somewhat. There are none of the details. None of the, you do not really get a sense of what the story is. I mean, it is not really... There is no rich description, it is completely impoverished and uninteresting really. I mean, you read this label and it is the most boring thing on earth. It does not tell you anything. You know, you can see a curator at that time probably did not really.... He did not accept the Stó:lō people's story, which was out there, around, or just did not have enough evidence to really connect this piece of rock to that story. It is like a should or a maybe connection rather than a definite connection. So that is where this thing was. It was like a weird looking large carved interesting rock with a possible story, and that is kind of about it. You know, the data about the object was one sentence basically. So, um yes, so once I started hearing, I mean really for the first time hearing Joe tell, the first time I heard his story about T'xwelátse, and then as I heard it many more times, and different versions of it, and more details about it, and traveled to Stó:lō country and talked to Sonny [McHalsie] about the bigger Stó:lō history and traditions and stories, you know this object completely changed in my mind. As a scientist I still – in the back of my head – you know, did... There is still the, in my mind you know a chance that that stone is not the stone, that the real one is out there somewhere, buried somewhere and this was a similar one and maybe that is not exactly it and we will never know, I do not think, if that is true. Herb thinks it is true and he feels that this is T'xwelátse. To me that is the best evidence we have available at this point, so on the basis of that I am there. I believe this is it, although I am always going to be skeptical of everything on earth. That is just how I am. But in other ways, I think knowing the force of that story and the importance of the history, I started to see Stone T'xwelátse as a person who was turned to stone, which is a little weird for an archeologist, but that is how I felt. It is embarrassing for me to admit that

in the presence of my archeology colleagues, so I do not, but that is how I feel about it. I see it as a guy and that is how I have taken that story into myself. (PL May 19, 2009)

If the story that Herb Joe told and the evidence presented by David Schaepe in the two NAGPRA reports had not been accepted, the Burke would not have repatriated Stone T'xwelátse to the Noxwsá7aq. These stories had been told before, but it was not until the retelling of these stories in 2001, the acceptance of the request to cover Stone T'xwelátse, and the oral history and historical context provided in the NAGPRA request, that the Burke staff were able to see outside of the scientific and traditional historical arguments and recognize the value and truth in the Noxwsá7aq/Stó:lō history and sxwóxwiyám.

The staff at the Burke were not the only ones to demonstrate worldview flexibility during the repatriation process. A key reason why the NAGPRA request was successful is because David Schaepe and Herb Joe were able to successfully form the argument for returning Stone T'xwelátse as an object of cultural patrimony. As stated in the previous chapter the original NAGPRA request claimed Stone T'xwelátse as both human remains and an object of cultural patrimony. The Stó:lō believe that he was and still is a human being and although his bones and skin were turned to stone his *shxweli* (life force) and *smestíyexw* (soul) remain. Megon Noble's comments regarding the Burke's response to the claim under the category of human remains:

My world view is that human remains are bones and our skin and the things that make our bodies right now, and the Stó:lō world view is obviously different, that things can transform. My initial response was I was kind of stunned. I didn't know how to react to that. So I actually called national NAGPRA and asked them about that. I said, so, how do you see this, and I actually went and read the definition of human remains in NAGPRA. I think it's the physical remains of an individual. So that's also interesting because it can be open to interpretation. And there, the woman who I spoke with, who is a lawyer, also a tribal member, but a lawyer, and she said that was not the intent of the way the law was written, to cover other things, because she said

then you would really have the problem of whole landscapes, mountains and it broadens the law quite extensively. And she said that she really did not feel that that was an appropriate interpretation of the law, and they had come up with another situation where there had been a claim for anything other than human bones under human remains. And I think ultimately the Stó:lō didn't push that because we were agreeing with the claim. But I understand fundamentally why they may have because it does change the way you look at it. And I completely understand the purpose of claiming it as human remains, but unfortunately the laws were written in a way, with one world view and not that of the Stó:lō or many of the Native American communities that we work with. So I think that we had to really be constrained. We were constrained by the laws in that situation. So I think we understood but we weren't able to act on that part of it, as human remains (MN April 15, 2009).

Although the staff at the Burke understood why the application contained the claim under human remains they also wanted to see the claim go through which meant that the category of human remains would need to be withdrawn or amended to be considered for approval.

It is an unfortunate reality that often Indigenous people are forced to fit their beliefs, traditional practices, and ways of knowing into definitions and categories under laws or government processes that they do not naturally fit into. The requirement of NAGPRA claimants, to fit their claims into one of the five set categories, is a common criticism of the NAGPRA legislation (Tweedie 2002). NAGPRA does not provide a specific definition for the category of human remains however, based on the Stó:lō belief in the history of Stone T'xwelátse, this seemed to be the most natural category under which to claim him. Although the formal claim under the category of human remains was withdrawn, as previously discussed, there is still language throughout the application that asserts the Stó:lō and Noxwsá7aq belief that Stone T'xwelátse was/is a person and is a form of human remains. It became more important to submit an application that could be accepted by the Burke and approved by the National NAGPRA Review Committee than it did to assert the argument that he be considered under the

category of human remains. Although they did not agree, David Schaepe and Herb Joe understood the reasons provided. Nevertheless, they were willing to modify their application to ensure that their end goal of returning Stone T'xwelátse was achieved. The Burke staff who were interviewed about this issue, stated it is likely that the claim would not have been accepted had the claim under human remains been included in the application. The willingness to accept the limited ability of the NAGPRA regulations to recognize Stone T'xwelátse as a form of human remains was an important demonstration of Stó:lō worldview flexibility. This contributed to the approval of the repatriation application and subsequent return of Stone T'xwelátse, even though the Stó:lō continue to regard him in this light.

Differing worldviews often separate people, escalate or cause conflicts, and can prevent one from understanding the actions of another. Recognition has been argued as a key element that can greatly affect the result of a conflict or dispute (Redekop 2002, 43). While differing worldviews made the process difficult for the Stó:lō, and especially for Herb Joe during the 1990's, the ability of both sides to respect the other's position was key to transforming a difficult situation into positive relationships. Over time each party came to understand and support the other more fully and this became the foundation upon which positive relationships were formed. This is also an example of an element of conflict transformation theory, as the ability to acknowledge and accept the other person's or party's differing beliefs and worldview, in conjunction with one's own, is a positive action in the movement past the immediate conflict to the development of future relationships (Lederach, 2003). The recognition of the importance of Stone T'xwelátse, the willingness to accept the Stó:lō and Noxwsá7aq oral history, and the

ability to accept challenges to their worldview are all important reasons why this claim was successful.

Patience and Perseverance

There are numerous periods of time during this process that involved waiting for the right set of circumstances, the right relationships, and the right timing to be in place before progress could be made. During the research stage of this project I was asked by a colleague, “where is the conflict in this?” Conflict is not always an acute confrontation such as heated arguments, blockades, or violence. Sometimes conflict is the denial of a request, a law that does not recognize a right, a process that is exclusive, a person who is powerless. Sometimes the conflict is repeatedly receiving the answer of “no” and having to work for years to hear the “yes”. One of the most important reasons for the success of the repatriation of Stone T’xwelátse has been attributed by many to Herb Joe’s unfailing patience and perseverance over 14 years to see his goal realized.

Patience can be difficult to exercise, especially when dealing with deeply emotional issues, legal systems, and multiple parties. Herb Joe is very modest about his ability to remain patient. To me, his patience seems extraordinary but to him, he doesn’t see any other way of being. Patience affected this process greatly in that when dams or eddies appeared in the river, that had the potential of stopping the process, hastiness and impatience could have damaged the relationships that were so vital in the successful result that brought Stone T’xwelátse home. The patience he practiced was evident not only in the waiting but also in his patience with the people who were involved. The examples of patience bring up two questions; How was Herb Joe able to

have such patience? Is this patience a result of his individual approach or is this part of the larger Stó:lō culture's approach to conflict?

I asked Herb Joe about how he felt when the Grandmothers asked him to bring Stone T'xwelátse home and this is part of his response:

One of the questions that inevitably was asked of me after the process had been completed, "Herb, how did you stay committed for 14 years?" And they said, "that's a monumental task". "How did you keep on... You know, keep yourself motivated?", all that kind of stuff. To me it wasn't about keeping myself motivated. It wasn't about super-human commitment. It was about a responsibility in life, and the way I used to describe it was, well, do you have siblings at home?... And you say, yes. Well, when you were growing up, did you have a job to do? What was your responsibility in your family? Did you have to clean the garage out or did you have to take out the garbage every day? Those are the kinds of things that are normal expectations of you as part of the family. That's how I felt about what I had to do. I'm part of a very large family and this responsibility was given to me because I carried the name. It was expected of the name carrier to do this. So it wasn't any super-human commitment that I felt and it wasn't something that I bull doggedly kept on doing, and those kinds of descriptive words they use while I was doing it. It was just a responsibility that I inherited because I was covered with the name. It never ever occurred to me in a very conscious way anyway that it might take the rest of my life, or what would I do if we had a downright refusal. I never ever thought of that. I don't remember ever thinking about being refused. I never thought about not staying the course. It was just an expectation, a benign expectation, if you will. It was something that was there. It was always there. (HJ March 10, 2009)

Because Herb Joe never thought that he would be refused, this hopeful mindset allowed him to weather the challenges that arose along the way with an innate trust that if he kept working on the task he would accomplish it. His hopeful and patient attitude also affected others involved in the process. I spoke with David Schaepe about working through such a long process and how he handled this challenge:

I was always astounded by the patience of Herb and others throughout the process, to really never express any frustration that I could sense for how long this was taking.

... Yes, I personally took my cues from that.

If these guys, if Joe and others are not frustrated by this, I have no right to feel frustrated myself. So adopt that way of doing things and if a meeting doesn't happen today, well, maybe there's a reason for that. Next time it happens is when it will happen, and maybe we'll learn something between now and then. If, you know, not all the people that you need to talk to are there at that meeting, then you have another meeting that everyone is there. I mean, the time it takes to do things sometimes, beyond what you think it might take, allows for – if this is an organism – allow for this organism to grow much more maturely than something that is rushed, incomplete. You know, if you're building a structure, you want to make sure your foundation is intact before you set something on top of it, and I think this is just a way that it happens, not putting a specific timeframe on it to build a very solid structure. (DS March 10, 2009)

The result of waiting through many years of meetings with the Burke Museum staff where the same answer of “no” was heard repeatedly could have easily soured the relationship between the Stó:lō and the Burke Museum staff but quite the opposite result is found today.

The patience, in waiting and believing that the right circumstances would emerge, created an environment where positive relationships could form. Herb Joe told his story on many occasions before a way forward was found. The patient action of continuing to work in a respectful way, in the face of frustration, kept the doors of communication open allowing new people to enter the process in a positive way. Megon Noble spoke about her experience with patience during the process:

I would say that Herb was always very great to work with. I felt like he always understood... He always believed that we had an understanding of the importance of this piece, and he always believed that we had the intentions of doing the right thing as opposed to him saying nasty museum, you've had this thing, shame on you. It was always, how can we work

together, this is how important this is to me and my community, and let me educate you about why this is important and let's talk about how to solve that problem. And it was an incredibly long period of time that he worked on this process, and he could have, in that ten years, 15 years, gotten very impatient and frustrated and angry, and expressed that, and I never felt he did. (MN April 15, 2009)

In a process that took many years, if anger and resentment had taken the place of patience, the positive relationships that exist today and assisted the process in its success may not have had the space to develop. Herb Joe was able to remain patient because for him there was no other option than to keep working until Stone T'xwelátse was home and the Grandmother's request had been completed.

The second question I have raised is whether Herb Joe's patience is his individual character trait or if this patience indicates a broader cultural approach to challenges or conflicts among the Stó:lō and Noxwsá7aq people? I asked both Herb Joe and David Schaepe if they felt that patience was individual during this process or if this was an element of Stó:lō culture and they responded with the following:

Herb Joe

I think it certainly has something to do with the cultural approach, a philosophy of life. It's sort of akin to well we've been here since the beginning of time, our ancestor was turned into stone thousands of years ago, he's not going to change. It was that kind of an approach to it. I don't remember anybody ever from my family ever talking about a timeframe. It was just that's the direction we're going. It's something like when I was given this name, all of the Elders that got up and spoke to me that evening... We were in the longhouse and they put me in the middle of the floor and Th'eláchíyatel, Chief Richard Malloway, shook hands with all of the Elders in the building, the ones that were there, that he wanted to have come out and speak to me. It was one of the overriding messages that they gave to me, each one, was that you're now have been given a destiny. You have a path that has been laid down for you. All you have to do is follow it. And again, there were no timeframes attached to it. It was just, this is who you are, this is the path that's been laid down for you, so that's where you've got to go.

And if you fall off, well that's okay. All you got to do is pick yourself up, get back on the path and then continue. You can't change directions. The path is there. It's very clear. And I think this process was... The direction was given to me in that very same way that the Elders earlier had given me when I was given the name. (HJ March 10, 2009)

I had the benefit of having my grandmas around me, who for instance when they gave me the direction, there wasn't any apparent urgency about the direction they gave me, and I think they understood that if they gave me a task to do, that there was an expectation of commitment. And it was something that I culturally understood, that when your grandmas, who are the matriarchs of the families, when they give you direction there is an expectation that you are committed to whatever task they give you. So I think my awareness of my cultural education and the expectations and responsibilities that go with my name, for instance, the name that I carry on behalf of the family. Knowing that, and understanding that, and being willing to and able to follow through with those tasks as they were given to me, I think that too was right up there in terms of importance. There were other people who weren't aware of those cultural expectations that heard how do you stay so committed to doing the work. You know, being able to stick with it for 14 and a half years, you must have been driven, a driven man, you know. Well, no, it wasn't anything like that. It was just an expectation that I follow through with a task that was given to me -- whatever that takes. I think personally, that was important for me. I'm getting to understand that I needed to have patience. I needed to learn patience to be responsible to the family, meet their expectations in terms of what needs to be done to bring him home. That were things that I think were important for me and that I understand were significant to this process. (HJ March 24, 2009)

David Schaepe

I think there is on the individual level, as Herb said, just have faith that it's going to happen. I don't think it ever entered either of our minds that we were going to fail in this. It wasn't going to happen. So in order to achieve your vision, which is ultimately success, I think that the patience question comes up, and it is cultural in my mind. It's something that I have experienced here and maybe learned enough from (Joe) to have not gone nuts over those years just wanting to get things done. Things were getting done. Things were getting done in a way that they needed to get done, and in the timeframes that they were needed to be done on their own accounts. I would say that's something that is part of the education process, that is the Stó:lō education process, is taking on a task, working through it to the completion... That's a very strong Stó:lō principle. Finish what you started.

There is no timeframe necessarily put on that to say, well, finish what you started, but you have six months to do that. You finish what you started, but doing what it takes within that... It's hard to verbalize, but the process has its own life and you kind of have to recognize that. You have to be sensitive to the organism of the process and to just work with it. I was always astounded by the patience of Herb and others throughout the process, to really never express any frustration that I could sense for how long this was taking. (DS March 10, 2009)

These comments clearly place patience and commitment to complete responsibilities as a common cultural practice taught and shared by Stó:lō people and not just present in the individuals involved in this repatriation.

This process required patience from the beginning as it took ten years before a real possibility for repatriation with the Noxwsá7aq was revealed. The Grandmothers did not place a deadline on the work they requested and as a result there was no sense of urgency to push through and force the repatriation, just a steady consistent effort. There also had to be patience in allowing for the right amount of time to complete the research that became the NAGPRA application. David Schaepe was also working on other tasks for the Stó:lō through the years that he spent working on the NAGPRA application. Had anyone forced a timeline on that process the application may not have been as strong as the one that was accepted. During the repatriation work Herb Joe, T'xwelátse, taught those around him the same lesson that Stone T'xwelátse is meant to teach, "how to live together in a good way". He did this by demonstrating the patience and perseverance to see the work through until it was finished. Herb Joe's patience kept him on the river waiting through the challenges that arose so that when the opportunities to work with David Schaepe and the Noxwsá7aq arose he was still there and ready to complete the work.

Relationships and Communication

The relationships that developed are ultimately what provided the opportunity and the ability to legally repatriate Stone T'xwelátse. The relationships and communication that existed between each member or group involved in the repatriation was equally important in the outcome. None of those involved in the process would have resulted in a successful repatriation independent of each other. The relationship between the Stó:lō and the Noxwsá7aq was based on familial ties, a shared history, and the teachings of sxwóxwiyám that connected them to each other and to Stone T'xwelátse. Herb Joe's relationship to the Noxwsá7aq community was more than just familial. He is also a member of the Noxwsá7aq tribe and is involved with the Noxwsá7aq Culture Committee today. Herb Joe also had relationships through his own community in Tzeachten with Stó:lō Nation where he met both Gordon Mohs and David Schaepe, who assisted in their role as archaeologists for the Stó:lō Nation.

The relationship among Herb Joe, the Stó:lō Nation staff and community, and the Burke Museum staff was a result of his continued patience and became more meaningful after a shared commitment, to work together to return Stone T'xwelátse, resulted from the meeting in 2001. Finally the Noxwsá7aq were brought into a closer relationship with the Burke Museum staff as a result of their commitment to assist the Stó:lō by submitting the NAGPRA application on their behalf. This was the first NAGPRA repatriation completed between the Noxwsá7aq and the Burke and has resulted in further communications regarding the repatriation of other items in the Burke's collection. The relationships between museums and Indigenous people are also changing and Stone T'xwelátse is an example of that change. Finally each of the groups involved all had a

relationship to Stone T'xwelátse and ultimately he is the reason that relationships formed or deepened between them.

How these relationships formed and remained intact, through a long period of time with challenging situations, has emerged as an important lesson to be shared. The reasons for the relational success and the impact of relationships on the repatriation are shared here by some of the research partners:

Herb Joe

I think the first thing that comes to mind is following my own teachings, is establish relationships, concrete relationships, and that will be of benefit to any of the procedures that you're going to get involved in, like meetings, particularly with regard to working together and developing a common goal. Like, for instance, the repatriation of our ancestor. After a while, our relationship with the Burke people, once they recognized that we were meeting, or attempting to meet the criteria as established by NAGPRA, they got on stream because we had that relationship, and they both, were all of them, were ready to join us in a common goal of repatriating our ancestor. So I think the relationships, developing those relationships, is probably the most important part from my perspective. I had historically, of course, developed a relationship with the archeological staff here at Stó:lō Nation, first with Gordon Mohs, and then later on with David Schaepe, and the staff. I think when we went forward, we went forward as a team, again with a common goal. We were working towards getting our ancestor brought home. That – again I need to stress – was to me the most important part was establishing these working relationships that became more than working relationships after a while. They were friends, people that were friends working together on a common project, in this case repatriation of our ancestor. That to me was really important. (HJ March 24, 2009)

David Schaepe

I think it resulted in a very positive relationship with them. I think it resulted in a positive relationship throughout the whole process with everybody involved because the time was spent and provided through the process to work with people to the point where they were comfortable, and that they understood what was going on, and that they were informed. They actually were part of it. It's not working through and over somebody here. We needed to do this. We're going to step over you in the process - No, it's not that at all. This was a collective effort. People had input. They were relied

on to do certain things, and that included the Burke... I think it was a set of developing relationships where they were a part of the process not in opposition to the process, and part of the whole group of people involved in this collective effort. They were seen that way, they were treated that way, and throughout... They were brought into the whole series of repatriation celebrations in a good way too, that reflects that organism, the part of the structure, the part of what was happening. I think, yes, you could say there's a positive outcome, or the positive outcome was affected by that lack of time constraint, I suppose. (DS March 10, 2009)

Megon Noble

I think one of the big lessons for me was the relationships that came out of it. I think this object before this process was an object, was a "prehistoric stone figure" on the label, and now it has transformed into something entirely different. That was through the process that that actually happened, and it was the relationships and it was through the sharing of that knowledge. I don't think that this would have been possible if the type of information that was in that document and the type of information that when Herb was here and Dave was here, if that hadn't shared the depth of that information. I don't think that they could have made a convincing argument without that. But for me as far as lessons learned, I really think the patience, the personalities, the diligence of the people working on this, and perseverance.... I mean, they really... It's been going on since the early nineties, and they said we're going to... Okay, you know.... No, the Canadian group can't claim it under NAGPRA. Okay... There was a number of different steps that they had to take and they never just shied away from it entirely. They really tried to build those relationships here, and I think an attempt at understanding, and they attempted to understand, okay, well why is it that the Burke was initially saying no, we can't repatriate and really make sense of that, and then work within that framework. I think there was another attempt in really understanding our perspective. Then we were trying to understand their perspective. So I think that that really showed the value of communication and continuing to communicate about these issues that are so important. And when we can understand the perspective of why it's important, I think then you can understand the how a little bit more. Then they were trying to understand why it was important for us to abide by our laws, then we can say, okay, well what are those laws and how can we work within that framework. So I think that that was one really big thing, lesson, that came out of it for me. (MN April 16, 2009)

Trust was built in these relationships through the willingness to share information and the story of Stone T'xwelátse. Trust was also built through the willingness to receive that

information and use it as a bridge to understand where the other side of the issue was coming from. Herb Joe was guided by his people's teachings which emphasize the importance and value of relationships first, and then the work will follow. Herb Joe's and David Schaepe's desire to work with, rather than against the Burke Museum staff, laid a firm foundation for trust and cooperation upon which the relationship was able to grow.

Before the meeting in 2001, and the subsequent decision to pursue a NAGPRA request with the Noxwsá7aq, the Stó:lō did not have a relationship with the staff from the Burke. From their point of view they had a series of meetings and correspondence that had resulted in feeling that their claim was not recognized. They felt that there was little desire to assist them in finding a solution through the legal barriers. For many years the Burke Museum staff remained unchanged in their position. They asserted that there was no possible way for the Stó:lō to have their ancestor permanently returned as a result of the laws and restrictions previously discussed. In an internal email a staff member at the Burke did not see any reason to continue conversations about repatriation when the situation in their mind remained the same (Noxwsá7aq NAGPRA File, April 22, 1996). Also the adherence to the letter of the law as stated in the formal correspondence created a relational barrier. While this form of communication can be understood for the legal protection it offered, it served only to widen the gap between the Stó:lō and the Burke. David Schaepe comments on the relationship prior to 2001 (DS - David Schaepe, EC - Emmy Campbell):

DS: Dr. Nason had an opinion I think that this wasn't something that was achievable. I don't know why that is the case, but that was what was coming across. So there's the curator. He's responsible and is the first gate you have to get (through)... There's the person you're going to deal with on this. And,

yes, that was just completely different... There wasn't a relationship. It was just a series of discussions and a lack of connection. There was no point. There was no opening. So as an archeologist I didn't see the argument that was being presented as valid. Then there was no way to engage the argument. So there were two points of frustration there. I'm an archeologist. He's an archeologist. I don't agree with the points he's making, and yet I'm not in a position, I don't have any authority to engage in a discussion with him over that. In which case, what do you do. You sit and you wait until something changes, the occasional check in to see if anything does change, and then ultimately there was the very fortunate turnover in directorship and staffing, which brought about a different attitude and opinion.

EC: So that's a time point of key change in your mind in this.

DS: It was ultimately a huge factor, yes, in my mind. If that hadn't happened, we would still very likely be in a similar situation with trying to find an opening. (DS March 10, 2009)

Peter Lape also stated that he felt that James Nason was not supportive of the Stó:lō claim at the time but believes that his mind would be likely changed after reading the NAGPRA report that Schaepe and Joe submitted (DS May 19, 2009). I have stated previously that Nason was very supportive of NAGPRA but that he did not see it as an avenue available to the Stó:lō. As of the completion of this research, James Nason stated that he has not read the NAGPRA report but thinks that there must have been compelling information presented in order for the application to have been approved by the National NAGPRA Review Committee. Other staff from the Burke have stated that they think the same outcome of a successful repatriation to the Noxwsá7aq would have occurred regardless of the specific staff in place. They said this because the application was approved based on the merits of its arguments and evidence in accordance with NAGPRA regulations. The application also had to be reviewed and approved by the National Review Committee. While the end result of repatriation may have been the same, the

relationships that exist today are a result of the cooperative working relationship among Megon Noble, Peter Lape, Herb Joe, David Schaepe, George Swanaset Jr. and George Swanaset Sr.

Communication is vital in any relationship and the modes of communication set the tone. The relationship prior to 2001 has been referred to as formal. Meetings occurred and requests were followed with correspondence that cited the legal reasons that the Burke could not repatriate Stone T'xwelátse. During the NAGPRA process the Stó:lō could only communicate about NAGPRA matters through the Noxwsá7aq who were the official claimants. It is this formal, legal correspondence that has been cited as a difficult basis for relationships. It is not easy to correspond in legal terms without the text coming across as impersonal, defensive, or confrontational. Megon Noble and Peter Lape commented on how the relationship changed when the communication became more personal.

Megon Noble:

Once the claim came in actually, I do think things happened really quickly, and I think part of that was the cooperation and the working together and, oh, you don't have that information, oh okay, let us provide you that information, and what else do you need for this, and it was just a very familiar... I could e-mail any of them or call any of them at any time if I like and get the right information. It wasn't to be battled in the legal courts. You know, we said let's work this out together as professionals and community members. So I do feel like that was our work, making things right in the world. So I felt like... And I just think part of that is T'xwelátse and part of that is incredibly smart people that know how to manage relationships and manage conflict and treat people with respect. I think those individuals at the Stó:lō were great people to work with. It could have gone a very different route. I mean, when you think about the situation, it was a conflict, and it could have gone to the well we're going to sue for this object, or we're going to press charges, and we're going to talk to your state governor, or make a claim under national NAGPRA. There's a way in which... A mechanism for you to file a grievance, so that fortunately didn't have to happen. None of that had to happen. (MN April 15, 2009)

I actually think that things kind of went much more smoothly when we took it out of the realm of official correspondence back and forth and into the

realm of face to face meetings. I think that that really considerably changed the tone and then everybody became individuals and it wasn't as legal documentation, there was a lot more informal contact and there was a lot more regular contact. So I think that that really helped on both sides, just meeting face to face. In my other NAGPRA work I've also found that to be true. (MN April 16, 2009)

Peter Lape:

As I represent the institution, which is a collection of objects owned by the six million people living in Washington State, that kind of makes it hard to do stuff. It is like...

You just see trouble, you know, right. Like anything I do I could be punished for, sued for, so you tend to have... So if you are writing a letter as curator of archeology to the Stó:lō Nation, you know that letter is going to come across being very cautious, very formal, not very open. It is going to be guarded because it is risky to speak in paper as that person. Now when David Schaepe comes down and spends the day and we go out to lunch and we are at the Thai restaurant, that is a totally different story, you know. You do not have a tape recorder, nothing is on paper. You can actually get things done. I think that is really key to this. If there was a conflict, or at least the problem was resolved much more at that level. This is where NAGPRA was a hindrance as well as a help because ultimately NAGPRA works by an institution or a group writing a written document to the museum as an institution, and the museum publishes in the federal register, which is as public as you can get. So those conversations in the Thai restaurant have to get translated into written documents, which are public institution to institution relationships. That is the hard part. So NAGPRA provides a framework but also requires you to do that. I could not just make a deal with Dave in the restaurant and say come pick him up next week. I give Dave enough information that he writes the claim in the right way so I can publicly say I accept. (PL May 19, 2009)

The relationship and communication with the Noxwsá7aq was very instrumental in the success of this process. They were in the position of being in the middle of the work between the Burke and Stó:lō as correspondence had to channel through the Noxwsá7aq. Herb Joe and David Schaepe were careful to make sure that relationships with everyone remained healthy and that communication was open and direct to avoid any missteps that could not only affect the process

they were involved in, but could also affect the relationships that were both personal and familial. David Schaepe states:

Herb and I spent a lot of time going down, meeting, talking this over, working out how things needed to be done properly through the Noxwsá7aq system and process, to get the support and foundation through the cultural committee, and to move that forward through their legal review system... through their executive... And to have ultimately the report, the application, forwarded through them down to the Burke. And then to build lines of communication. So we developed quite a detailed communication strategy to identify who... is dealing with what elements of this, and run that by everybody, making sure everybody is square and clear on a communication strategy. Which, overall, I think is absolutely essential -- a clear understanding in a collective effort like this, who has what goals, responsibilities, and anticipating what's going to be coming up so that lines of communication stay intact from one point to another and then the dissemination of that information can be effectively done so that that information cascades out to everybody involved and it doesn't become confused... to anticipate where conflicts are going to come up and to avoid those conflicts happening. So that was there always, I think, and certainly in my mind how to keep things on a positive note, how to avoid conflict... In a complex process like this, involving a lot of people from political realm to technical realm to community members, multiple institutions, multiple nations, the potential for miscommunication as a source of conflict, many other types of sources... You know, things that create conflict needed to be sought out in advance and ultimately dealt with before they could actually manifest. If they did, then it was something you had to stamp out, or to try to address, but that never really happened. (DS March 10, 2009)

The involvement and the relationship of the Noxwsá7aq is a further example of application of Stó:lō law in this process. The relationship existed with the Noxwsá7aq not only because of Joe's familial ties but because of their shared connection to Stone T'xwelátse and the laws that came from the sxwóxwiyám that governed the caretaking responsibilities. David Schaepe states:

There's Stó:lō law that comes out of these situations, Stone T'xwelátsa, I see it very clearly there, that's what guided certainly the transition of bringing T'xwelátsa back across the border from the Noxwsá7aq to Stó:lō land up here, to the communities up here. And what was written and accepted among the Noxwsá7aq executive committee, and community was a

recognition and essentially a scripting, transcribing of an element of the law surrounding rightful caretaking responsibilities for T'xwelátsa. That comes right out of it, so it was... Okay, we're going to recognize that law is out, call it, and bring that into effect in defining the relationship Noxwsá7aq has with T'xwelátsa as a factor in his return, which I think is one of the more important elements of that whole story, is the way that law surfaces through the process. (DS March 23, 2009)

The relationship with the Noxwsá7aq was the result of Herb Joe's place and reputation in his community and because people in Noxwsá7aq knew him, they knew his name T'xwelátse, they knew the sxwóxwiyám, and they knew where Stone T'xwelátse was meant to be. The Noxwsá7aq and Stó:lō people's relationship with Stone T'xwelátse had continued, even in his absence, through those who inherited his name and caretaking responsibilities as they were responsible for knowing him. Even though a border divided them, the communities' relationships with their history and traditional laws kept them close and willing to work "together in a good way" to return Stone T'xwelátse.

All of these relationships did not form quickly. Herb Joe also persistently stayed in contact with the staff at the Burke even when the answer was still "no". They did not forget who he was or what he wanted. When the meeting in 2001 happened there were some new faces but they knew about his existing story. At the same time they knew that he had been working at this issue for some time. Julie Stein commented that the Governor of Washington, who had requested that the Burke give Stone T'xwelátse to the Stó:lō when there was no legal method to do so, is not a part of the existing relationship because he had tried to force a "quick fix" that didn't work. He did not form relationships with anyone involved in the process. His goal was a quick resolution and not a long term change. Stein credits the current friendships between Peter Lape,

Megon Noble, David Schaepe and Herb Joe to the time and energy they put into working through the process together (JS April 16, 2009).

In the publication resulting from the 2008 international repatriation conference in Greenland, titled *Utimut*, Jack Lohman, Director of the Museum of London Group, states: “The museum community itself is involved in the global process of transformation. Ours is a time of opportunity and challenge, a time to reassess the role of institutions in the life of communities. Museums, as with all other cultural institutions, are confronted with challenges and choices. In facing these, we are profoundly aware that uniform action is difficult” (2008, 24). NAGPRA and other processes like it, be they legislated or accomplished through voluntary negotiation, are changing the role and nature of museums. As museums continue to engage in repatriation and return items to their original owners, they will have fewer physical items in their collections. If the relationship between the collections and the museums is ended through repatriation what will take its place? How will museums adapt? Peter Lape argues that the knowledge about the items and the relationships gained through their return more than account for the loss of these items from the museum collection:

Well, when I look at the Burke, I see that you know in the last few years a lot of our stuff has gone away. We have emptied out cabinets full of objects, some of them incredibly beautiful, amazing, wild objects. And I have watched them get put in a hole in the ground and dirt shoveled on top, which is kind of heart-breaking in a way. So that might be a negative, but on the other hand those objects were always tainted by the way they were collected, by the way people were not consulted in their collection, by even just the fact that information was not collected with them, they were kind of seen as pretty things that people had to have. So I mean T’xwelátse is a prime example of that. So here you have this on the totally outsider perspective on the surface, just look at this block sculpturally. It is pretty, it is weird, it is big, it is heavy. You know, but what else is it? It is just that. It is just a little totchky that someone grabbed because they could in 1892. So, ultimately those do not belong in our museum. It is an inappropriate place

for them. They belong where they can do what they are supposed to do. If that is in the ground, if that is in a health center, or whatever, they are going to do the work that they are best doing, you know, away from the museum. So I do not see ultimately a great loss to the museum. I see a huge gain in relationship building. I am not sure how to make that a permanent part of our collection. You know, I feel like I am so honored to have gotten to know Herb and Dave through this process, and George Swanaset Jr. at Noxwsá7aq, and all the other people who I have met through the process. And that's, for me, it is the gift that I have been given. I do not know how I have contributed to the Burke Museum, you know, in a hundred years where will that gift be. Is it just a gift to me? Did the institution get anything out of it? That is unclear. I guess we got access to stories we never had before, which our job is really to share those stories with the wider public. The Stó:lō Nation has been incredibly open and generous about allowing us to tell, share those stories, which I do not see in American tribal groups as much. Um but, yeah, I do not see.. Certainly not a loss, definitely some kind of gain, but it is hard to really categorize. [Pause] Ultimately it is just something that had to happen. There was not a choice. (PL May 19, 2009)

The museum's connection to Stone T'xwelátse has been transformed from one of preservation to reconciliation as a result of the repatriation. Stone T'xwelátse's place in the museum has been replaced by the knowledge, history, and the relationships that have been gained. The Stó:lō's relationship with museums has also been transformed from a place that separated them from their cultural objects to a place that facilitates connections with communities.

The sharing of the story of this repatriation and the relationships formed has provided new opportunities for the Burke. They have become involved in the Reciprocal Research Network with the Stó:lō at the Museum of Anthropology (MOA) at the University of British Columbia. Peter Lape joined David Schaepe and Herb Joe on a discussion panel, "BC First Nations International Repatriations: A Reflection" as part of a conference held at MOA titled "Porous Borders: The Loss and Return of National Treasures" (April 24-26, 2008). Some of the Burke staff also traveled to Stó:lō territory to do a tour of archaeological sites with David Schaepe and Sonny McHalsie. The Noxwsá7aq have also benefited in that they were able to see

their ancestor returned home and they also now have an established relationship with Burke Museum staff as they move forward with possible repatriations in the future. This river began with Herb Joe being told to bring his ancestor home. As a result of relationships in his community and family, he was able to include the Noxwsá7aq and David Schaepe in his journey. Through their collaboration, the Burke Museum staff joined them and they navigated the waters of NAGPRA as Herb Joe said “we went forward as a team, again with a common goal” to bring Stone T’xwelátse home.

Capacity

Bridging worldviews and establishing the right relationships were both necessary steps in this repatriation. The capacity to do so is also a key component of conflict transformation theory. Repatriation and the resulting positive relationships would not have been possible without the sharing of historical knowledge from the communities and the time, skill, and funds required for completion of the detailed NAGPRA reports (2005, 2006). Indigenous communities have many pressing issues before them. In British Columbia many, including the Stó:lō, are involved many issues, including: treaty negotiations for ongoing land claims, efforts to gain recognition of Aboriginal rights and title concerning land and resources, and the challenges of social problems, education, and healthcare on reserves. Many Indigenous communities suffered severe losses of culture and language as a result of Canada’s residential school system from which unfortunately some communities have not recovered. In this climate many communities may not have the capacity to pursue a repatriation claim that requires extensive documentation, detailed knowledge of the law, and the expense of time and travel. The Stó:lō are in a unique position in

that Stó:lō Nation's SRRMC has skilled staff in the areas of history, archaeology, culture, mapping, and other areas. It is from this office, as the Aboriginal Rights and Title Department under Grand Chief Clarence Pennier, that the Stó:lō Historical Atlas (Carlson et al, 2001), a first of its kind in Canada, was produced through collaborations with historians, archaeologists, students, and community members.

The Stó:lō have developed a current culture of collaborative research with people from outside of the Stó:lō community. I completed a research project at the request of the SSRMC when I attended the Ethno-History Field School. It was an incredibly beneficial personal and academic experience for me and the community benefitted from the work I provided and left with them. Other students, like myself, have completed research projects or graduate theses that contributed to the knowledge necessary to complete the NAGPRA application. I believe that the willingness of the Stó:lō to share their history with outsiders in a way that not only benefits their community but also builds relationships between Indigenous and non-Indigenous people was instrumental in the success of the NAGPRA application. Where some communities hold their stories back from outsiders after years of being "researched", the Stó:lō have embraced research and story sharing as a tool to build knowledge for their community. This is a large role of the SRRMC and the willingness and ability to share the story of Stone T'xwelátse is credited as a large reason for the successful repatriation.

All the current staff at the Burke who were interviewed stated that the willingness to share knowledge openly is not common among Native American Tribes that they have worked with on repatriations. The reasons for this are often a lack of trust in the institution of the museum, a reaction to having been "researched" too often in the past, and the need to protect

stories that are linked to rights and title claims that may be ongoing. Laura Philips, the Archaeology Collections Manager at the Burke, credits the ability of the Stó:lō to share their knowledge freely not only to the success of the repatriation but also to how the Stó:lō are now viewed outside of their community:

Well, looking at the Stó:lō atlas, the historical atlas, is an amazing publication, and I don't think you'd ever see that in the United States because there's a lot of information in there that tribes here would not share. And I think that the Stó:lō, their...[outside interruption]... Maybe because in order for the Stó:lō.... This is all conjecture, but to be able to work with non-native communities in their area, they chose to be more open about their culture as a way of saying, look, we're here, we're not going away, we have these stories. This is important. So as a result you get this amazing historical atlas and people know the Stó:lō now and it's really... They're a big presence and they're powerful. (Interview with Laura Philips [hereafter LP]April 14, 2009)

The history of knowledge sharing in the Stó:lō community built the capacity to complete the research and write the NAGPRA application.

I have stated that not all communities have the Stó:lō's level of capacity to complete a complicated repatriation like a NAGPRA request. This is as true in the U.S. as it is in Canada. The small reserve at Canim Lake BC close to where I grew up and where my stepmother worked for many years, does not have a David Schaepe, or a SSRMC with a research budget. Peter Lape has cited capacity as a key reason why many items that are eligible for repatriation have not been claimed by communities:

You now, we are trying to go out and like give our stuff away, but actually that is what we are trying to do. We have had a number of different projects that have been aimed at doing just that, given the tribes the tools they need to make a legal claim under NAGPRA for the stuff that they want. We do that because what we see is that... We publish these inventories, so since 1995 it has all been out there, and yet we still have half of our skeletons still in the storage room. That should be the first thing people would want, to put that in the ground, and that is what everyone says, and yet why are they still

sitting there. It is 2009. Come on. It is because... Well, there are a bunch of different reasons, but I think it comes down to capacity in the tribes to make these claims happen. They are not always the first priority despite what you hear. There is other stuff going on. And they are hard to do. They take a lot of work. I mean, Dave... I cannot imagine the amount of hours he put into assembling this claim. It must have been months of work. Most tribes are small. They do not have a Schaepe to help them do this. And even if they did, they do not have... I mean, they do not have Dave himself, so they need help. I think that is really the key. I would think the same would happen in BC if not more so because... You know, since NAGPRA, there has been some federal funding to the tribes to help them build capacity for claims. (PL May 19, 2009)

David Schaepe credits the capacity to complete the repatriation application to the support offered by his department, the SRRMC at Stó:lō Nation, and financial donations from both inside and outside of the Stó:lō community. Without these supports he doubts that the repatriation would have been possible:

You know, we can support it ourselves, which is a benefit of the nation being here, so you can have staff people available. You can support.... The nation absorbed the cost of some consultations for legal advice, that kind of thing, or we absorb it and it's within the realm of what we do in the department. So to a certain extent we subsidize that work, this and other work as well, if it falls within our mandate. In the smaller communities, or communities that don't have this kind of infrastructure, it's not going to happen. You're reliant on external funding through NAGPRA or wherever you can get it to support this process. If you had to get a consultant in to do this, it would be outrageously expensive.

It would have been another challenge to say, okay, where do we get the money to get the input we need. That would have been another challenge that we didn't have to face, so very helpful to the process to be able to call on the expertise of other staff in the department, outside expertise, and just have the infrastructure and the support, the capacity to bring that in and have accessible to you. Then beyond that, the success side, the repatriation, the planning side, the other folks, Ts'elxwéyeqw tribe, provided donations. They donated funds to support things. We actually got funding through BC Hydro at one point to do a project on, not repatriation, but transformer narratives.

(Most) First Nation communities I think do not have it, the necessary capacity to effectively engage in this process within Canada or internationally. It is very, very difficult to come by funds to support capacity, to create capacity support, support existing capacity to engage in these kinds of activities.

(DS March 10, 2009)

Again, it comes back to the importance of relationships: relationships build capacity. The Stó:lō had existing relationships with professional researchers, academics, students, community experts, corporations and communities. Many were willing to work on portions of the research, commit time or funds, and contribute their skills and knowledge which led to the completion of the reports necessary to complete the repatriation.

This chapter has demonstrated how building bridges between worldviews, spending the time to build strong relationships and developing and maintaining the capacity to work through a repatriation claim have all been necessary to the success of repatriating Stone T'xwelátse. To bridge the gap between these two different world views, each had to demonstrate a willingness to be patient and flexible, and the ability to respect both Stó:lō and U.S. law. Conflict transformation theory argues that people involved in a conflict with each other have the possibility to transform their relationships from one that is negative and undesirable to a relationship that is positive and mutually beneficial (Lederach 2003). Stone T'xwelátse's repatriation teaches many lessons on how to build capacities for sharing knowledge and building relationships which transformed how people on both sides of the issue viewed each other and how the museum staff viewed Stone T'xwelátse. The act of covering Stone T'xwelátse assisted in creating a change in the staff's worldview. It allowed them to accept the possibility that a stone figure could be more than an inanimate object as they began to replace "it" with "him" and to refer to him by his name T'xwelátse. Likewise, the more time that Herb Joe spent visiting the

museum, meeting with the staff, and building relationships, the more he learned about the laws and restrictions impeding the repatriation. With the assistance of David Schaepe, the Noxwsá7aq, and others, the Stó:lō were able to operate within the present dominant legal system, adjust their approach, and submit a repatriation request that met all the legal criteria for a success.

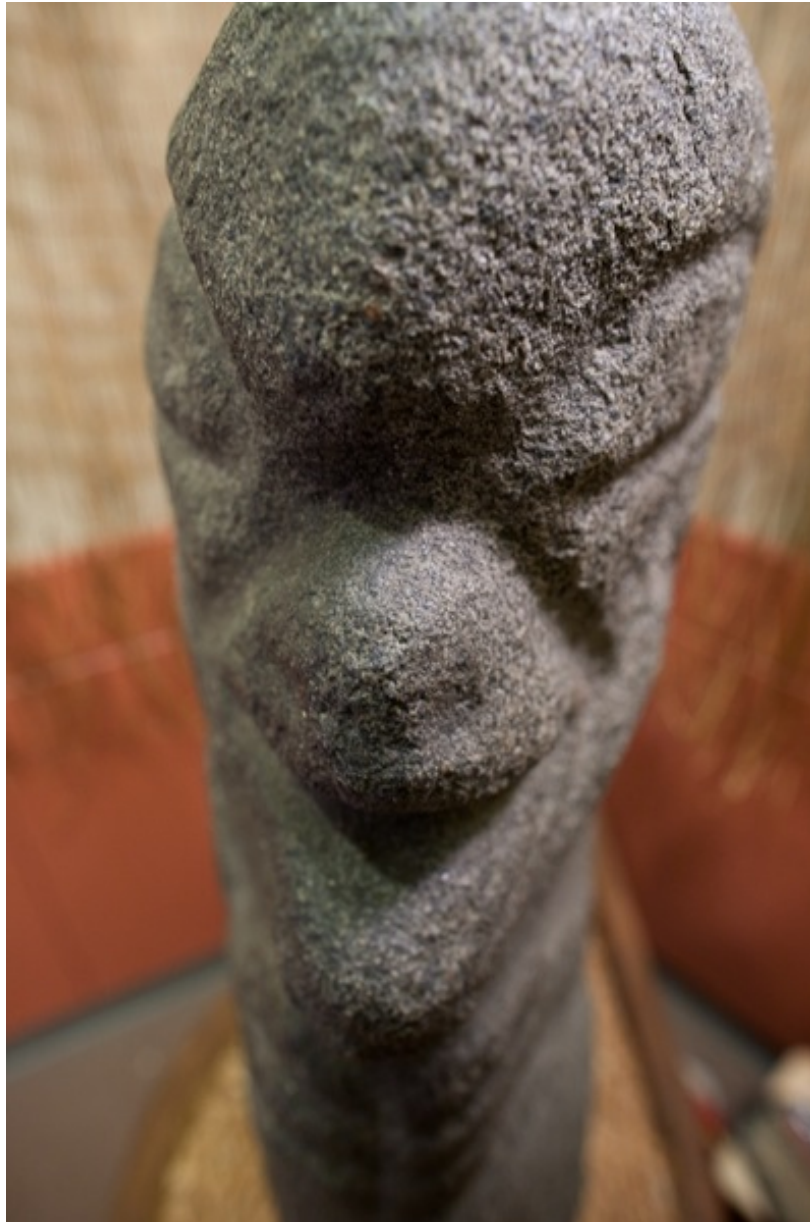


Figure 5. Campbell, 2009

Chapter Eight: Where do we go from here? Recommendations for Future Repatriation Processes

Perhaps the real problem is how to recover past memories and forge new knowledge relations between museum collections long held and what we might, for lack of a better term, call “source communities”. Perhaps the real problem is that there is an inherent coloniality to the curatorial approach of self-proclaimed Universal Museums, which we have yet to overcome. Perhaps the real problem is that we have yet to fully realize that most museum collections were produced by intercultural encounters in the past. I believe that the real challenge for many museums today is not repatriation, but to reinvent themselves and create a civic space where the different historical relations and knowledge systems vested in their holdings are exposed on an equal footing
Martin Skyrdstrup 2009, 62

The efforts to repatriate Stone T’xwelátse took place during a key time period of change and transformation for museums. In the United States, the NAGPRA (1990) process was in its infancy when Herb Joe first met his ancestor at the Burke Museum. In Canada the Task Force on Museums and First Peoples had just released their recommendations on how to forge new relationships between Indigenous peoples and museums (1991, Ap.6a). Governments in both countries have called upon museums to change their role in the preservation of Indigenous cultural items and human remains in different ways; one through government legislation and the other through task force recommendations. In a way the repatriation of Stone T’xwelátse exemplifies how much, in the past 18 years, museums have changed and yet in other ways have remained the same. At the beginning of this paper I posed the following question: What lessons were learned from those involved in the repatriation of Stone T’xwelátse, and based on those lessons, what actions are recommended to create more cooperative, supportive, and culturally sensitive processes for the repatriation of lost or stolen items of cultural, historical, and sacred importance to Indigenous communities? The goal of this final chapter is to present

a response to the research question with a set of recommendations based on the experiences and opinions of the research partners involved in this project. These recommendations are not specific to this repatriation but are supported by common experiences, and they connect to the practices concerning conflict transformation learned in this work. These recommendations also suggest areas of further research.

How to Work Together in a Good Way: Recommendations for Cultural Repatriation in Canada

The following recommendations have been established from the experiences, opinions, and recommendations made by the following individuals: Stó:lō Nation - Herb Joe, Helen Joe, David Schaepe, Archaeologist SRRMC. The Burke Museum: Peter Lape Curator Archaeology Megon Noble NAGPRA Coordinator Archaeology, Julie Stein Director, Laura Philips Collections Manager Archaeology. Noxwsá7aq Tribe Culture Committee: Peter Joseph, Sandra Joseph, Lawrence Baily. Museum of Anthropology University of British Columbia: Sue Rowley, Curator.

1. The Government of Canada should uphold the recommendations stated in the report “Turning the Page: Forging New Partnerships Between Museums and First Peoples” (Task Force on Museums and First Peoples, 1991, Ap.6a) by enacting legislation that would provide funding and support for repatriation efforts to Indigenous people and museums to create the capacity needed to work together to address repatriation claims.
2. The Government of Canada should consider the option of enacting repatriation legislation to create a consistent, but flexible, policy for museums and Indigenous people by consulting with communities, museum staff, and Indigenous leaders. If enacted, this legislation should

reflect the cultural diversity of Canada's Indigenous communities, be inclusive of all of those who demonstrate historical claim regardless of their legal status as an Indigenous person, and allow Indigenous people to define the objects of their cultural history based on their knowledge. Space should be made for the recognition of Indigenous law and how it applies to management of their historical property. Repatriation timelines should be determined by the claimants and museums. Repatriation should be granted to the most applicable claimant whether that is a family, individual, community, or cultural facility as decided by those involved in the process. Repatriation legislation should be applied to both private and public museums.

3. Legislation should be enacted that would require all museums, public and private, to complete an inventory of their collections and provide Indigenous communities with an inventory of what items have originated from their traditional territory that may be eligible for repatriation. The resources and funding required for museums to do this work should be provided by Provincial or Federal governments. It should be the responsibility of the museums to carry out this work and not the Indigenous communities.
4. The Government of Canada should politically and financially support Indigenous communities involved in international repatriation efforts. There is a responsibility to right the wrongs of the past and support the return of Canadian Indigenous peoples' material past so that these objects or forms may fulfill their present role in their communities.
5. Provincial or Federal governments should consult with museums and Indigenous people to create basic policies for repatriation processes that would establish consistency among institutions. Currently, museums have either created their own policies and procedures,

making each experience different for Indigenous claimants, or they do not have a policy in place at all. This framework should be flexible to allow the museum and claimants to negotiate the best outcome but still ensure that all museums are following the same guidelines to create a consistent and familiar foundation.

6. Museums and Indigenous people need to continue to build relationships with each other. Museums should work to be more inclusive through community outreach, staff education, and the involvement of Indigenous people at a staff level. Processes should promote informal communication, in person visits, and travel between communities and museums to build relationships rather than impersonal formal legal correspondence alone. Both parties need to communicate openly about challenges so that they can work effectively together and learn about each others' constraints, challenges, and legal limitations. A positive example of relationship building is found in the Reciprocal Research Network, co-developed by the Stó:lō Nation/Tribal Council, Musqueam Band, U'mista Cultural Centre, and at the Museum of Anthropology, University of British Columbia.
7. As much as possible implement the use of traditional knowledge and story sharing about the objects, artifacts, or sacred forms to build bridges and relationships with museums. Museums and Indigenous communities could build capacity for repatriation through increasing their knowledge of each other, the history of the objects being claimed, government laws and policies, and Indigenous laws and cultural protocols. The more that is known about the importance, use, role, power, and meaning of the items claimed, the greater the possibility that the museum will support the return of those items.

8. Museums need to consider instances when oral history is not only historical evidence establishing a link with an object from the past but is also an assertion of Indigenous Law that guides the actions of those who belong to it.
9. In the case of Indigenous objects, artifacts, or sacred forms museums need to be released from laws that prevent them from acting if they want to return something to a community.
10. The federal government should establish an independent resource and support centre to access information, receive training, and access financial support.
11. Museums need to consider their role in society as changing from one of protecting and preserving Indigenous people's history in their collections to reconnecting and restoring the physical past to its current place in its original community.

Collaboration for Repatriation Recommendations

These recommendations come from the experiences of those involved in the Stone T'xwelátse repatriation.³⁸ They are the culmination of common concerns, suggestions, and experiences gathered from the interviews, formed into recommendations and. All recommendations forwarded by participants were considered and represented. Although I wrote the set of recommendations based on the information gathered in interviews, all participants were invited to provide comment and approval before the recommendations were finalized in this form. These recommendations are meant to highlight lessons learned from a process that created positive relationships. They are offered as a guide to parties for better repatriation processes in Canada based on varied participants' individual knowledge

³⁸ With the exception of Sue Rowley who was not directly involved with the repatriation of Stone T'xwelátse but is involved in the Reciprocal Research Network of which both the Burke and Stó:lō Nation are members. She was also included for knowledge about Canadian museum practices.

and experiences. While the details of this case are certainly unique, the challenges involved with this case are not unlike those that have been shared by others. Catherine Bell, Graham Statt and the Mookakin Cultural Society (2008) conducted a case study on repatriation of medicine bundles with the Kainai of southern Alberta. Participants in this study echoed some of the same concerns over different views of ownership between museums and Indigenous people, a need for the recognition of Indigenous law, and in some cases a desire for a federal repatriation law based on Indigenous consultation (223-240).

Justification for New Recommendations

If the Task Force on Museums and First Peoples (1991) already established a set of recommendations, why create another? The reason these recommendations have been constructed is because the Task Force's recommendations are specific only to public museums within Canada. Furthermore, not all the recommendations have been implemented by either the federal government or museums. Thus, these further recommendations have been created because the balance of power and capacity still remains largely in the hands of the museums, whether they want it or not, and the government. These recommendations offer a voice from the people who have been directly working through the challenges of repatriation. They are based on first hand experiences and opinions about what currently works in repatriation, what does not work, and what needs to change.

While the existing recommendations have influenced some Canadian museum policies and practices in Canada in a positive way, such as MOA, Catherine Bell and her co-authors

(Bell, Statt, Solowan, Jeffs, Snyder 2008) also noted that further work needs to be done: “although major public institutions have taken steps to implement some of the recommendations, adoption is neither universal nor uniform. To date there has not been a follow-up with museums regarding implementation, but the Canadian Museums Association recently applied for funds for this purpose” (373). Listening to the stories of those dealing with repatriation and learning from their experiences is a very important tool in learning how to move forward with actions that can improve the current situation. This is especially relevant when there have been no studies to gauge the success of the past recommendations. This approach is also supported by the many participant comments that have emerged from this project that indicate that there are still problems, or at least perceptions of problems, with access to repatriation in Canada.

The Argument For or Against Repatriation Legislation

The debate over whether or not to enact national repatriation legislation, has strong arguments on both sides. Many of the research participants argue that some legislation is needed to level the playing field and force museums to engage with Indigenous people. This would create accountability by having the same policies for all museums, thus removing personal ideologies and worldviews from museum management and policy making. This argument seeks to establish the return of Indigenous objects, artifacts, or sacred forms as an Indigenous right (DS March 10, 2009 and March 23, 2009; JS April 16, 2009; HJ March 10, 2009 and March 24, 2009). The other side of the argument is stated by Thomas V. Hill in his paper following the Utimut conference in which he comments on the Task Force’s recommendations (2008):

Throughout all of the recommendations, efforts were made to address the recognized needs and interests of both parties and to incorporate those needs. Neither the museums nor the First Peoples endorsed federal legislation to address issues of repatriation but chose the co-operative approach of negotiation.

There are compelling advantages to negotiated solutions as opposed to imposed solutions, whenever negotiation is possible and appropriate. Negotiation offers parties a way to fashion mutually acceptable solutions by means of a process that we ourselves jointly control.” (152-153)

Despite the ubiquitous criticism of NAGPRA, voiced by all research partners, all research partners also endorsed some form of national repatriation legislation. The form of legislation suggested is not one of “imposed solutions” but one that creates the opportunity for equal conversations between museums and Indigenous claimants. Sue Rowley, MOA Reciprocal Research Network, argues that the freedom that the museums currently have, without legislation, to repatriate to the best home as agreed upon by those involved in the process, whether it is an individual, family, or community, could be lost through legislation limiting museum repatriation options (SR May 21, 2009). Catherine Bell comments on this argument in her Utimut conference paper (2008):

A benefit of the current policy is its ability to accommodate diversity in areas such as community preparedness, access requirements and restrictions, levels of interest in repatriation, and First Nations laws and protocols, to name a few. Some fear that considerations of law and legislative intervention will reduce this flexibility and generate either/or thinking. However, this fear assumes that the law is not playing a significant role in current negotiations and that legislation must be mandatory in its application to the exclusion of other processes. Neither is true. (157-158)

While the work that the Reciprocal Research Network is doing is greatly beneficial to the communities and institutions involved, this network does not exist at every museum. With each museum establishing its own policies and protocols they are in even more control of their

collections. They establish the rules and the onus is on Indigenous communities to learn the protocols of each museum and deal with the expense of time and money.

The recommendations include a desirable ethic in museum interactions with Indigenous people—but they are not law. No one involved in this project has suggested restrictive and limiting legislation as a solution. Rather, the request is for legislation that will grant the right of repatriation to Indigenous people and provide tools and opportunities to access repatriation outside of treaty negotiations and without limitations such as long term loans to approved cultural institutions. The most positive attribute of NAGPRA is that once repatriation has occurred the museum has no input in what happens next. If the item is to be buried, displayed, used for its original purpose, returned to the place it was taken from, or even given to a community in another country, the power to make the decisions lies with the people to whom the item was repatriated. Participants from Stó:lō Nation view repatriation legislation, with a funding component, as a starting point for negotiations that will bring consistency and equality to a situation in which they currently have very little power (DS March 23, 2009).

Conflict Transformation Theory in Cultural Repatriation Processes

The relationships between Indigenous and non-Indigenous people, communities and governments are complex and heavily influenced today by the relationships of the past. The current repatriation processes often replicate severe societal power imbalances. In any dispute these parties are engaged in, I believe it is imperative that the relationships, rather than the goal of resolution, be the focus. Conflict transformation's focus on relationships makes it a more relevant process in inter-cultural conflict. Indigenous people living in colonized lands constantly

experience varying levels of conflict with government and other institutions. There are conflicts over land and resource rights, self-government, recognition and understanding of culture, and knowledge appropriation. These conflicts are often buried under layers of an unjust history.

A process that emphasizes relationship building, empathy, and recognition will be more likely to facilitate positive relationships. Recognition is a basic human need, says conflict theorist Vern Redekop (2002). Redekop also argues that lack of recognition is often an underlying cause of deep-rooted conflict (43-47). Redekop defines recognition as “the sense of acknowledging one’s identity and appreciating what we have done, who we are, and how we experience the world” (44). Recognition becomes especially pertinent in cultural conflicts. These are often conflicts where parties do not share the same worldview and where one party is in a position of power over the other.

Historically, museums have not recognized Indigenous peoples’ concerns. They have ignored or diminished Indigenous worldviews, discounted distinct cultural practices and overlooked emotional connections to sacred items. During the 1988 Canadian winter Olympics, in Calgary Alberta, the Glenbow Museum did not adequately accommodate Indigenous peoples feelings about their heritage when they improperly displayed Indigenous sacred objects. The example of the Glenbow museum’s failure to recognize how distinct Indigenous people defined themselves is illustrative of this problem. This lack of recognition was a primary reason for conflict and provides an explanation of why this case escalated to the courts and received national media attention. Bush and Folger (2005) state that the capacity to build empowerment and recognition is necessary in creating transformative processes. They define the terms as follows: “Empowerment means the restoration to individuals of a sense of value and strength in

their own capacity to make decisions and handle life's problems.”; “Recognition means the evocation in the individuals of acknowledgement, understanding, or empathy for the situation and the views of the other” (22).

Transformative processes create spaces that address the emotional and relational needs of those involved in conflict. Empowerment is enhanced when people are given an opportunity to speak and be heard. They need to be given the opportunity to tell their story, and to engage in meaningful dialogue with the others in positions of power. Lederach (2005) argues that being heard is a significant empowerment and recognition tool: “Voice is about meaningful conversation and power. Meaningful conversation suggests mutuality, understanding, and accessibility. Power suggests that the conversation makes a difference: Our voices are heard and have some impact on the direction of the process and the decisions made” (56). Conflict transformation is not a process in itself but rather a set of tools to be implemented as a guide in a process. Conflict transformation is a useful approach to repatriation processes because it acknowledges history's importance, places people before problems, reaches for conflict's deeper societal roots, and seeks long-term solutions through transformative relationships. As such, conflict transformation can result in increased recognition and empowerment among participants.

The second part of the research question asks if the lessons learned through the repatriation of Stone T'xwelátse support an argument for the implementation of conflict transformation practices in repatriation processes. In chapter two I defined and explained the theory of conflict transformation. After telling the story of Stone T'xwelátse, his repatriation, and the experiences of those who worked to bring him home, I found some definite parallels

between what the research partners stated were the reasons for the success of the repatriation and the practices used during a conflict transformation process. The experiences during Stone T'xwelátse's repatriation that support the use of conflict transformation practices are evident in the focus on relationships, the bridging of worldviews, the patience to wait for the right time to move forward in the process, and transformations that occurred within individuals.

A mediation process that uses conflict transformation tools places the focus on the relationships rather than the immediate resolution of the conflict. It seeks to address the larger relational/societal source of the conflict to bring about long term benefits. Although he had no awareness of conflict transformation and was acting based on his own culture, Herb Joe views relationships as one of the key reasons why this repatriation was successful. Throughout the process he and David Schaepe tended those relationships carefully. They did this because were concerned not only about how these relationships would affect the outcome of the repatriation but they were also concerned with the condition of these relationships after the repatriation. In the beginning, when the relationship with the Burke was challenging, Herb Joe did not change his approach. He continued to seek in person meetings and to build relationships by bringing family to meet with the Burke staff to share their story.

Museum staff and Indigenous people have had difficult relationships, as a result of museum staff's lack of understanding of Indigenous cultural heritage and cultural differences in managing objects from the past, and in part because of the challenge for Indigenous people to understand and navigate the laws governing museums that contradict Indigenous laws. Much of this difficulty existed, and in some cases still does exist, because of museums' failure to know the Indigenous people whose history they were presenting and Indigenous people's negative

perceptions and feelings about museums that led to avoidance. If neither side makes an effort to engage the other, then no relationships can form. The repatriation of Stone T'xwelátse has demonstrated that a process, such a conflict transformation that places an emphasis on relationships, not only resulted in a successful repatriation but also continues to benefit all those involved through their continuing collaborative work with the Reciprocal Research Network, MOA, and partner communities. The building of relationships, and the sharing of knowledge in this case, bred empathy on both sides. It ignited a desire to work together to change the problem before them through collaborative means. A repatriation process that creates a space for positive relationships can create lasting relationships that will reap future benefits. The importance of building relationships in the processes between Indigenous and non-Indigenous parties in repatriation processes cannot be over-emphasized - it is essential.

Conflict transformation does not support deadlines, it is patient and does not set time limitations. Conflict is like a living being. When it is forced into a resolution process with arbitrated completion dates this can deepen the conflict, rather than facilitate its resolution. Deadlines can also be disempowering if differences between parties in culture, capacity, or power exist. In the Stone T'xwelátse process, success has also been attributed to the absence of deadlines imposed by any of those involved. While it can be difficult to be patient, this case demonstrated how that patience resulted in stronger relationships and a stronger NAGPRA repatriation request. Had Herb Joe tried to force the repatriation in the early 1990s, through public pressure or litigation, it is unlikely that any of the relationships that exist today would be present. The benefits of the experience they all shared through the process would be lost. This way of approaching conflict may be

learned through the teachings of conflict transformation theorists like Jean Paul Lederach (2003, 2005). Herb Joe does not need to be told the benefits of applying conflict transformation practices because he already follows very similar teachings handed down to him from his ancestors:

We had the same philosophy of life that was given to us by our grandmas. So the common approach, was to all of us, was get on that path and we will go there together. We'll just keep on going. If there are hurdles there, well we'll climb over it. There was no...I think because there was no timeframes attached to it, there was no urgency, no sense of crisis. When we did come to some kind of obstacle, there wasn't a whole lot of people who were all upset about it. Well, we'll just find another way to do it, you know. We'll stay on the path and we just keep on going. I think, to me, that's probably the best way that I can think of to describe why we were doing things that way and why we stayed the course for 14 years. It certainly wasn't because of me. It was because we all went there together. Maybe that's why I never felt any pressure to push my way around or try to commit a lot of other people to doing this. It was just whoever needs to be there will be there and whoever wants to come along and support us, glad to have your company, you know. Come on along. In the end, we had a lot of very committed people who gave a lot of energy and a lot of hard work to complete the application and then of course put it forward. (HJ March 10, 2009)

Herb Joe was already operating on a belief system that accepted challenges and setbacks as necessary parts of the process to be worked through with those who were supporting him. Being free of timelines allowed him to be patient and focus on the bigger picture. He could see the larger flow of events, and not be too concerned when there were bends in the river. He knew he would get there in the end because he was working "in a good way".

A hopeful goal of conflict transformation is that there is a transformation within those involved in the way they see each other. This view should be reflected in the parties' relationships, and in how they view the conflict itself. This vision can transform an undesirable

situation into a desirable one. The Burke staff, Herb Joe and those who supported his repatriation claim transformed the undesirable situation of Stone T'xwelátse stored in a museum - where no one knew his name or who he was and the people who belonged to him were not recognized as his caretakers - into the desirable situation of everyone working together and supporting his journey home. This transformation was achieved through relationship building and knowledge sharing. Megon Noble and Peter Lape both experienced different forms of transformation. For Noble knowing his story, covering him each night, and seeing the connection with the Stó:lō and Noxwsá7aq communities transformed him from an artifact to a respected and honoured ancestor. Peter Lape, whose role as curator at a museum is to protect and preserve objects from the past, stated that the relationships formed, after the repatriation, among the Burke Museum staff and the Stó:lō and Noxwsá7aq were of greater value than the museum's loss of Stone T'xwelátse. The Burke transformed, from a place that could not see legal way for Stone T'xwelátse to return home, to the institution that approved the application and supported the legal process that resulted in his return. For Herb Joe and those who worked on the request their feelings towards the museum changed from those of sadness and frustration to friendship and respect. This change was solidified in the efforts the Burke Museum staff made when honouring the Stó:lō and Noxwsá7aq communities during the repatriation ceremony held at the Burke. The ceremony invited community members to come and experience the museum in a different way - as a place the reunites rather and restores rather than a place of separation and exclusion. This transformation of how the Stó:lō and Noxwsá7aq communities view the Burke may be one of the reasons for the success they are experiencing with other communities and museums. The repatriation, transformations, and strong relationships are the result of an

emphasis on relationship building and the capacity to allow the process to happen naturally in its own time which are both tenets of conflict transformation theory.

Whether it is repatriation legislation or a new process for repatriation that is enacted in the future, it is not my place to state what the legislation or process should look like in any detailed way as that would need to be developed by the Indigenous people and museums whom it would serve. In her work on inter-cultural dispute resolution Michelle LeBaron (2004) argues that conflict resolution systems should be tailored to the needs, capacities, and sensibilities of those they serve, rather than being designed as one-size-fits-all depots. It is only through an elicitive approach, that takes its lead from the participants rather than imposing a formula on them, that diverse experiences of conflict, values, and expectations can be addressed (20).

The argument of this work is that change is needed and that conflict transformation practices is a possible approach for building relationships through repatriation. These are the strategies and lessons that were learned from this experience but they may also be lessons to others, including law and policy makers, on how to work through a repatriation process “in a good way.”

Areas of Further Research

In seeking the answer to the research question several new important questions have emerged. Although these questions are outside of the scope and intent of this project they are important to consider for future research in the area of cultural repatriation and Stó:lō experiences with repatriation. One area for further inquiry is whether it is even possible to construct repatriation legislation that can consider the needs of so many distinct First Nations. If legislation is created to meet the needs of so many it runs the risk of being so broad that it is

open to differing interpretations and therefore creates a legal whirlpool as the courts are left to determine the meaning of the legislation, slowing the entire process. If defined too narrowly we are left with the same complaints about NAGPRA with its limiting definitions.

Another question of importance concerns the effect on the community now that Stone T'xwelátse has been returned. Psychiatrists Chandler and Lalonde (1998, 2003) have published several works linking Indigenous communities' connection with their material culture, among other things, to suicide rates in youth. They have found that suicide rates are higher in those communities which are lacking resources including connections to culture and cultural history. A further question would be to understand the extent to which Stone T'xwelátse has affected the Stó:lō community now that he has returned to his role as a teacher for his people. A potential question is: How has the cultural, emotional, or physical health of the community been affected by his presence?

A complicated issue which requires further discussion concerns the role of Stó:lō law and how it relates to Stó:lō perceptions of ownership. This is a very interesting issue that touches on many topics around land and resource use, oral history, and repatriation. How does one operate under two forms of law, the traditional law according to sxwóxwiyám and the provincial and federal laws of Canada? How do the Stó:lō exercise their traditional laws within the dominant legal system? How would an equal treatment of this law in Canadian legal systems affect Stó:lō life?

A final area of inquiry questions the possibility of the agency of Stone T'xwelátse in determining his own fate. Some recent works (Boivin 2008, Gosden 2006) have looked at the long-term histories of material culture to see how they change over time and the impact that they

have on the people who come into contact with them. How do these important cultural items affect and influence us? The Stó:lō believe that Stone T'xwelátse has a soul and life force. During the interview process Peter Lape and Julie Stein shared about how they have been affected by items they have worked with and specifically how they felt about Stone T'xwelátse. Both felt that he was unhappy when he was stored in their offices and that he was happier when he was moved. The reason for the decision of the Burke Museum staff to move Stone T'xwelátse from the ethnology department to the archaeology department is not well documented. Did Stone T'xwelátse want to be moved to archaeology to be closer to those ancestors and sacred funerary items that were more like him? All of these questions open new opportunities for further learning and knowledge sharing.

Conclusion

This work began with a question: What lessons were learned from those involved in the repatriation of Stone T'xwelátse, and based on those lessons, what actions are recommended to create more cooperative, supportive, and culturally sensitive processes for the repatriation of lost or stolen items of cultural, historical, and sacred importance to Indigenous communities? To answer this question I have explained the current repatriation laws and processes in Canada and the US, and I have shared the story of Stone T'xwelátse's history based on oral history and his repatriation as told by those who experienced it first-hand. This research was guided by research methodologies that emphasize respect, equality, and recognition. I started by involving the research partners in the project, sharing their experiences in this thesis in their first voice, and respecting the different ways of knowing and viewing the world by presenting the views of all

research participants. I have successfully argued that the lessons and experiences from this event support the implementation of conflict transformation practices in cultural repatriation processes. I will now take this information back to the research partners to plan how they would like to use this information. Participatory action research works to apply research in meaningful ways to cause change with the community involved in the research (Neuman 1997, 74). It is the hope of all those who participated in this project that the lessons that Stone T'xwelátse has taught us through his repatriation will not go unnoticed but will be shared and built upon so that others can benefit from this experience.

The story of Stone T'xwelátse is about transformation. Not only the physical transformation when T'xwelátse was turned to stone, but also the transformation of conflict to friendship, the transformation of museums from places that collect artifacts to places that reconnect the lost with their home; the transformation of one worldview that once saw a stone carving and now sees a stone ancestor and another worldview that saw an institution who did not understand Indigenous laws to a place that fosters connections and relationships with Indigenous people. There is also the transformation of relationships that began on uneven ground and now share knowledge as equals. One of the most interesting aspects of this story to me is how Stone T'xwelátse has been moving through spaces in conflict and transforming them as he goes. He was transformed because he was arguing with his wife. Because of that transformation, he became a teaching icon to show the people “how to live together in a good way”, as he is an example of what can happen to you when you do not. He was then used as a tool to heal a conflict between the Chilliwack and Sumas people when he moved with his matrilineal caretaker to restore the relationship between the two communities. He was separated from his people

during a time of many forms of conflict; the murder of Louis Sam, the encroachment of settlers on Stó:lō/Noxwsá7aq lands, and population decimation and cultural loss from the smallpox epidemic. He then moved to the Burke Museum where he waited until a time when his people again needed him.

His repatriation created positive and lasting relationships between the Stó:lō, Noxwsá7aq, and Burke Museum staff and have made the teachings of sxwóxwiyám alive and tangible to young Stó:lō people learning about their history. Stone T'xwelátse will now reside permanently near the place where he was first transformed in a family treatment centre where he can remind those most in need of the lessons he is meant to teach and of their unbroken connection to sxwóxwiyám. His namesake, Herb Joe, has completed the work of bringing Stone T'xwelátse home. Now that Herb Joe, who is also T'xwelátse, has finished his task, he works as a counselor and social worker teaching others the lessons he has learned from Stone T'xwelátse and the Grandmothers about how to “live together in a good way.” The river has brought Stone T'xwelátse back to his home but the water continues to flow as this is not the end of his story but just another beginning as he now has a restored community role and future generations to teach.



Figure 6. Campbell, 2009

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Lape, Lape, interviewed by Emmy Campbell in his office, Department of Archaeology, University of Washington, Seattle Washington USA, May 19, 2009.

Noble, Noble, interviewed by Emmy Campbell in her office, Archaeology Department, The Burke Museum of Natural History and Culture, University of Washington, Seattle Washington, April 15, 2009, April 16, 2009

Philips, Laura interviewed by Emmy Campbell at the office of the Archaeology Department, The Burke Museum of Natural History and Culture, University of Washington, Seattle Washington, April 14, 2009

Rowley, Sue interviewed by Emmy Campbell at the Museum of Anthropology, University of British Columbia, Vancouver, BC, May 21, 2009

Schaepe, David interviewed by Emmy Campbell at his office at the Stó:lō Research and Resource Management Centre, Stó:lō Nation, Chilliwack BC, March 10, 2009, March 23, 2009

Silver, Ray interviewed by Emmy Campbell at his office at the Sumas Brick Plans, Sumas BC, June 29, 2007 and June 26, 2007

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Megon Noble to Emmy Campbell August 31, 2009

Nason, James to Emmy Campbell July 24, 2009

Other Files

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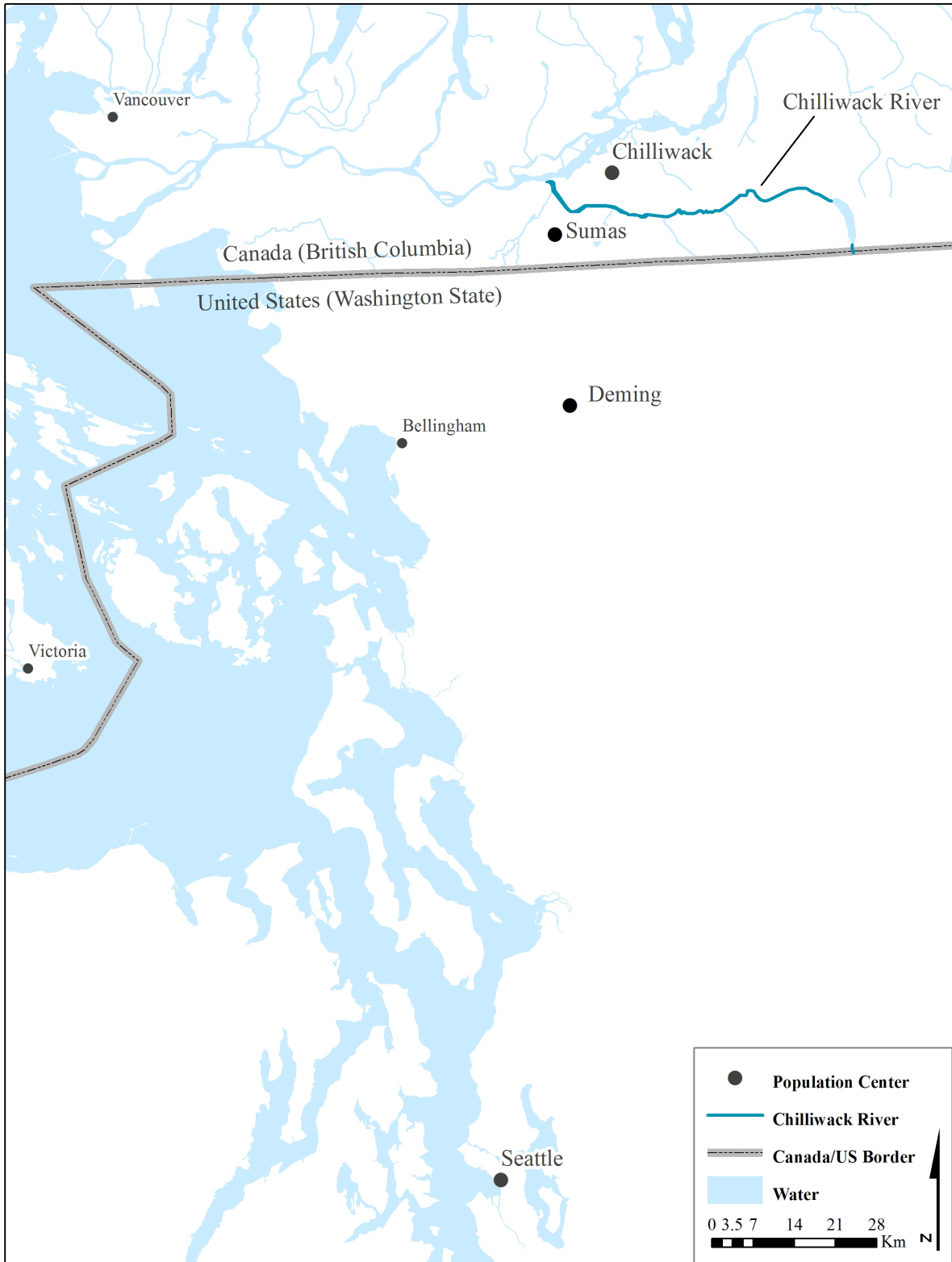
Visual Material

Campbell, Emmy. Photographs of Stone T'xwelátse December 2009

McMillan, Aaron. Geographical Map of Stone T'xwelátse's Journey, June 2010

Paul, Shawna. Stone T'xwelátse Repatriation Process Map. Original Artwork, March 2010

Appendix 1 - Geographical Map of of Stone T'xwelátse's Journey



Appendix 2- Sample Interview Questions Submitted to HREB

These questions will be asked in an open-ended conversational format. These are an example of possible questions. Because this research includes community based research practices more or different questions may be identified by participants and will be added to this list and submitted to HREB in that event.

Questions for Stó:lō and Noxwsá7aq participants:

1. How have you been involved with artifact repatriation processes?
2. What role did you play in the repatriation of T'xwelátse?
3. What can you tell me about T'xwelátse ?
4. Do you remember when the community did not know where he was and how did you feel about that?
 - a. If yes, how did you feel when he was located?
5. What do you think he means to your community?
6. When did you become involved in the process?
7. How did the repatriation process start?
8. What were your initial thoughts about the Burke Museum and their possession of T'xwelátse
9. Did your feelings towards the museum and the staff change over time and if so how?
10. How do you feel about your experience with the museum staff?
11. What would you like other people engaged in repatriation processes to know?
12. Is there anything in this process that you think could have been done differently?
13. Is there anything in this process that you think was done well?
14. Based on your experience in this process what would you recommend to museums or individuals in possession of an Indigenous community's or Indigenous person's artifact?
15. Based on your experience in this process what would you recommend to other Indigenous communities or individuals engaged in repatriation efforts?
16. How has the return of T'xwelátse affected you personally and the larger community?
17. Is there anything else you would like to add?

Questions for the Burke Museum Staff

1. How have you been involved with artifact repatriation processes?
2. What role did you play in the repatriation of T'xwelátse?
3. What can you tell me about T'xwelátse?
4. How did the museum come to have T'xwelátse?
5. Did the museum ever try to find out where or who he came from?
6. Before he was found by the Stó:lō what did he mean to the museum?
7. When did you become involved in the process?
8. How did the repatriation process start?
9. What were your initial thoughts about the Stó:lō and their claim to T'xwelátse?
10. Did your/the museum's feelings towards the Stó:lō and Noxwsá7aq change over time and if so how and why?
11. Did your/the museum's feelings towards the T'xwelátse change over time and if so how and why?
12. How do you feel about your experience with the Stó:lō and Noxwsá7aq people?
13. What would you like other people engaged in repatriation processes to know?
14. Is there anything in this process that you think could have been done differently?
15. Is there anything in this process that you think was done well?
16. Based on your experience in this process what would you recommend to museums or individuals in possession of an Indigenous community's or Indigenous person's artifact?
17. Based on your experience in this process what would you recommend to other Indigenous communities or individuals engaged in repatriation efforts?
18. How has the return of T'xwelátse affected you personally and the larger museum community?
19. Is there anything else you would like to add?

Appendix 3

Research Participant Consent Form



Artifact Repatriation Study Consent Form

I am graduate student at the University of Victoria, Victoria BC, in the Dispute Resolution program. I am studying the successful repatriation of T'xwelátse with the support and approval of the Stó:lō Research and Resource Management Centre and the Burke Museum, University of Washington for my thesis research. The title of the study is: The Transformative Power of T'xwelátse: A Collaborative Case Study in Search of New Approaches to Indigenous Artifact Repatriation Processes. The focus of the study is to investigate the relationships that occurred between parties during the process in hopes of identifying positive actions that could be useful for others involved in repatriation efforts. The methodology to be used in this study contains elements of participatory action and community based research practices and therefore I want to learn from and involve as many people experienced in the process as possible. This project is meant to benefit Indigenous and non-Indigenous people involved in repatriation processes.

As part of this project I would like to interview you about your experiences regarding the repatriation of T'xwelátse. Your assistance is very valuable to this project and your wishes will be respected regarding the interview. We understand that your participation in the interview and the length of time you choose to spend is entirely up to you. Please feel free not to answer any questions you do not wish to answer and end the interview at any time you wish. No explanation is necessary. You may withdraw from participating in the interview at any time, and at the end of the interview you will be asked again if you want to withdraw from participating. If you wish to have information that you contributed included in the research report anonymously your name may be removed from the final report. Anonymity cannot be guaranteed in group meetings or if your role in the repatriation process is known by your community, your position of employment, or the general public.

I would like to interview you and record the interview on an audio recorder at a time and place that is convenient for you on one or several dates between December 15 2008 and June 1 2009. If you prefer not to be recorded, written notes will be taken instead. Originals of the tape recordings or interview notes will be placed in the Stó:lō Research and Resource Management Centre along with transcripts of the tapes if they are made. Copies of the recordings and this consent form will be stored in a locked cabinet in my office at the Centre for Studies of Religion and Society at the University of Victoria. You will receive a copy of these recordings and I will also keep copies to use for this research projects. You may choose to withdraw from the project at any time with no consequence, any gifts received in thanks for your participation are yours to keep. Once in the Stó:lō archives the original recordings and notes will be accessible for use by the Stó:lō and other researchers in accordance with the principles of the Stó:lō Nation Heritage and Archives policies. If you wish to participate anonymously your name will be removed from any recordings or notes but as the archive holdings are open to others anonymity cannot be guaranteed. Your contribution will be fully acknowledged on the archived records and in the finished project unless you request anonymity. You will receive a final copy of the research findings.

If you have any questions about the research project please contact myself, my research supervisor, the officials overseeing the ethics board at the university, or the Stó:lō staff who approved of this research. Their numbers are:

Emmy Campbell (Dispute Resolution, University of Victoria) at 250-472-4451, 250-888-7927

emmyc@uvic.ca;
Dr. John Borrows (Faculty of Law, University of Victoria) at (250) 721-8146, jborrows@uvic.ca;
Human Ethics Research Office, (University of Victoria) at 250-472-4545;
Tia Halstad, Stó:lō Research and Resource Management Centre Archivist, 604-858-3366 &
1-800-565-6004.

Conditions:

- None
- I would like to reserve the right to correct or add material to the interview within one month of receiving the copied recording.
- I would like to participate anonymously
- Other _____

I have read the consent form and I agree to be interviewed or participate in group meetings attended by Emmy Campbell. I will receive a copy of this form.

Signature of Participant

Date

Mailing Address (for copies of recordings and final research results)

Signature of Interviewer

Date

Signature of Stó:lō Nation archivist/librarian

Date

Date of Interview

Date and signature for each additional interview.

Withdrawal Amendment

I voluntarily withdraw my participation from this study. I understand that information I provided in group meetings may not be removed from the research data or final report.

Signature of Participant

Date

Signature of Interviewer

Date

Conditions:

None

I withdraw permission for any data I have provided in individual interviews to be included in the results of the study or the Stó:lō Research and Resource Management Centre Archives

I wish for any data I have provided to be destroyed.

Other _____

