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Disputing the Dead: U. S . Law on Aboriginal Remains and Grave Goods.
By H. Marcus Price III.

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voice of Native American women, *Delfina Cuero* makes an interesting companion volume, for both thought and discussion, to *I, Rigoberta Menchú: An Indian Woman in Guatemala* (1984). Indeed, if *Delfina Cuero* gets the notoriety and wide readership it so justly deserves, it could well become a classic in American Indian studies, comparable to Neihardt's *Black Elk Speaks* (1932) and Radin's *The Autobiography of a Winnebago Indian* (1920).

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Disputing the Dead: U. S. Law on Aboriginal Remains and Grave Goods. By H. Marcus Price III. Columbia: University of Missouri Press, 1991. 152 pages. \$37.50 cloth.

American Indians have been engaged in a bitter dispute for nearly two decades with those who profit from the expropriation, curation, display, and study of native remains. Because of Indian demands for religious freedom and equal burial protection under law, federal and state legislatures have enacted measures in recent years to protect tribal burial sites from robbery and to force agencies—i. e., universities and museums—to return stolen remains and associated grave offerings to the next of kin for proper reburial. Price seeks to reduce the debate to a struggle over competing values between members of a pan-Indian movement that advocates the repatriation and reburial of Indian remains and members of the “scientific” community who want to study the contested remains to advance the knowledge of humankind. Price also summarizes common and state laws up to August 1989, as well as federal legislation and policies up to December 1990 pertaining to the issues of archaeology and the reburial of “prehistoric” remains and burial offerings. He asserts that the book “should prove valuable as a point from which to commence the study of laws in a specific jurisdiction” (p. 7).

Although Price, both an archaeologist and a lawyer, claims to want to analyze interethnic conflict, he seems more bent on constructing a conservative legal argument in favor of preserving so-called prehistoric collections, including human remains and burial objects, and antiquated archaeological and museum practices than on shedding light on multicultural conflict. Thus, issues pertaining to racial justice, or injustice, are ignored. Using para-

digms, interpretations, and legal tests developed by non-Indian scholars, Price seeks to elevate archaeology (often perceived by Indians as legalized grave robbery) to a status of objectivity, while discrediting the goals of the Indian reburial movement. In doing so, he loosely employs the term *prehistoric* to suggest that the older remains now sequestered in non-Indian hands have no cultural, kinship, or linear relationship with living natives. In addition to this bias, Price's constriction of the repatriation struggle to cover only "prehistoric" Indians denies the fact that grave looters—including professionals, amateurs, and pothunters—have systematically sacked Indian graves, including recent burials, without fear of legal recrimination.

Price, in effect if not intent, belittles the reburial movement by examining the composition of its activists and the present status of Indian culture. He argues that living Indians, along with other natives from around the world, have launched a reburial campaign that resembles a revitalization movement. Influenced by Indian Claims Commission proceedings, along with acculturation processes, the United States movement has its own lawyers, lobbyists, and journalists. Having lost their traditional spirituality through interaction with white Americans, Indians, Price asserts, have adopted a new concept toward their dead to justify their attempts to recover and rebury the contested remains. Accordingly, they claim that decomposition of the remains back in the earth is necessary before the spirit of the deceased can rest.

Price suggests that Indian activism aims to impose its values on the scientific community. Thus, scientists emerge as victims of Indian activists' initiatives. While the Indian reburial movement contains some elements of pan-Indianism in it, Price clearly overstates his case. In actuality, most activists and supporters of repatriation are tribal elders, spiritual leaders, officials, and others who are committed to obtaining justice, religious freedom, and equal burial protection under the law. Moreover, many components of tribal worldviews have survived the onslaught of white American expansion, and, since tribal culture is not static, some parts have changed as a result of interaction with others, including other Indian and non-Indian cultures. In addition, most repatriation battles, more often than not, have been waged by tribes operating either singly or in coalitions.

Although Price scrutinizes selected aspects of the repatriation movement with distorted lenses, he fails to examine the actions of the scientific and museological community and its history vis-à-

vis Indian activism. He finds some disagreement among archaeologists over reburial but suggests that most of them possess an objective commitment to retaining the remains in question for the ultimate purpose of gaining a greater understanding of the past and preserving cultural patrimony for the benefit of humankind. Yet, nowhere does he find room to examine the crucial issues of morality and ethics surrounding the Indian remains controversy. To Indians, the legacy of grave-robbing is only one in a series of atrocities, including acts of genocide, dispossession, and oppression, committed against them by the white newcomers. By stressing that conflicting values are at the crux of the problem, Price avoids discussing the issue in the context of social and racial injustice. Moreover, he ignores the legal construction concerning human remains research that requires prior approval of the deceased before their remains can be used for scientific study. Did any of the tribal individuals whose disinterred remains are currently stored in distant facilities consent to have their bodies removed from the grave and studied? Years of extensive archaeological digging have yet to reveal any proof of prior consent.

Conspicuously missing from Price's study are the strategies employed by the Nebraska State Historical Society, the American Committee for the Preservation of Archaeological Collections, and other anti-Indian organizations to preserve the special privileges they have enjoyed under laws granting them exclusive access to hundreds of thousands of Indian graves. The dynamics of these strategies—which resemble white southern segregationists' attempts in the 1960s to avoid compliance with federal legislation mandating civil rights for African-Americans—must be examined in order to clarify race relations in a multicultural society. When discussing the commitment of archaeologists to preserving Indian burials, Price does not mention that preservation generally means excavation and disinterment of human remains for study and curation. Price also suggests that an argument based on the concept of property rights could have strengthened the case of Van Horn, an archaeologist who was charged and convicted for violating a California law after he expropriated several Indian bodies.

Price accurately notes that common and statutory law evolved without Indian input. To him, the exclusion of Indian burial sites from the legal protection afforded United States citizens occurred during the nineteenth century primarily because of a lack of archaeological digging. This narrow perspective, however, essen-

tially ignores the long and sordid history of desecrations of Indian graves since colonial times. Price's enumeration of reasons for the lack of legal protection for Indian burials in the United States also fails to show an understanding of the dynamics of Indian-white relations. Rather, Price seeks to demonstrate that living Indians lack legal standing to reclaim and rebury "prehistoric" remains and funerary offerings. He also argues that Indian reburial efforts stand contrary to a series of national legislation that has sought "to preserve and protect cultural heritage sites and objects located within them against loss" (p. 25).

Despite its shortcomings, *Disputing the Dead* covers the most important legislation and policies pertaining to Indian remains. But, like all studies of this nature, it has become dated quickly by the passage of new laws and the handing down of new court decisions. Until congressional enactment of the Native American Grave Protection and Repatriation Act of 1990, federal laws and policies reflected the interests of archaeologists. As Price points out, the 1990 landmark legislation gives Indians a larger degree of control over the disposition of their dead, permits repatriation, and makes trafficking in Indian remains a crime. However, he does not demonstrate how Indian activism facilitated passage of the law. States have responded in different ways. While some have passed new legislation specifically protecting Indian cemeteries, others have incorporated Indian burials under existing laws, and still others have done nothing to protect them. Once again, no mention of Indian involvement in the process of changing the law is given.

A review on the jacket proclaims that Price's study "will soon be the 'bible' for a new era of relationships with Native Americans, as well as a handbook which will be indispensable for each state and institution involved." In actuality, those individuals who oppose granting Indian burial protections will find utility in this work. Those who are critical of the activity of archaeologists and committed to creating a more just society, however, will find this small volume of little value. Clearly, much more substantive research is necessary before the entirety of the complex repatriation controversy will be fully illuminated. Works by Indians and others involved in the repatriation struggle promise to fill the void within the next couple of years.

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