The Case of the Repatriation of the *Tupinambá* Mantle:

Challenges and Solutions for the Restitution of Cultural Goods and their Impacts

on the Promotion of Human Rights for Indigenous Peoples in Brazil

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Abstract

Restitution of cultural heritage has been consolidated as an essential demand in the human

rights context, especially in the context of indigenous peoples, whose cultural artefacts

were expatriated during the colonial period. This article examines the repatriation of the

Tupinambá mantle as a milestone in the struggle for recognition and realisation of the

rights of Brazil's original peoples. On the basis of the analysis of the mantle case, the role

of indigenous protagonism in defending their cultural heritage and collective identity is

highlighted, as are the legal and institutional challenges faced in the process of restitution

of cultural objects. The study addresses the coloniality of power, being, and knowledge;

contextualises international and national norms that regulate the repatriation of cultural

heritage; and evaluates the limitations and possibilities of advances in the recognition of

this right. Finally, the work proposes pathways for strengthening repatriation policies

aligned with the principles of indigenous peoples' self-determination, historical justice,

and interculturality.

Keywords

Indigenous peoples; Repatriation; Tupinambá mantle; Cultural rights; Coloniality;

Cultural heritage; Cultural heritage law

Introduction

The emergence of the human rights of indigenous peoples in Brazil and around the world is a process that has intensified with the mobilisation of collective rights. One of the central themes of this struggle is the repatriation of cultural heritage expatriated during periods of colonisation. The removal of artefacts from their original contexts resulted in the material and symbolic loss of essential elements for the identity and cultural continuity of these people. The case of the *Tupinambá* mantle is emblematic, as it represents not only the recovery of a material object but also a movement of resistance and reaffirmation of *Tupinambá* identity.

This article seeks to understand the repatriation of the *Tupinambá* mantle from a critical perspective of human rights, considering the legal, historical, political, and cultural dimensions of this process. The analysis starts from the understanding that the restitution of indigenous cultural heritage represents a fundamental step towards historical reparation and the realisation of the rights of Brazil's indigenous peoples, as guaranteed by the Federal Constitution of 1988 and by various international instruments, such as Convention 169 of the International Labour Organisation (ILO) and the United Nations Declaration on the Rights of Indigenous Peoples.

The methodology used combines bibliographic review, documentary analysis, and case studies. Primary sources, such as official documents, international declarations and conventions, and secondary sources, including academic research in the areas of anthropology, law, and history, were consulted.

Part 1. Coloniality and the Expatriation of Indigenous Cultural Heritage

Coloniality of Power, Being, and Knowledge

The coloniality of "power, being, and knowledge", as formulated by Aníbal Quijano (2005), is manifested in the appropriation of cultural elements and in the historical erasure of colonised peoples. The removal of indigenous artefacts and their display in European museums are concrete examples of the persistence of coloniality. During the colonial period, cultural artefacts were considered trophies or exotic curiosities, decontextualizing their relevance to the people who produced them.

The concept of "coloniality" allows us to understand that the power structures established during the colonial period persisted even after the formal end of colonialism.

The coloniality of power refers to the maintenance of social hierarchies on the basis of racial criteria, which establish asymmetric relationships between colonisers and colonised individuals. In the case of indigenous cultural heritage, this dimension is expressed in the prerogative that European institutions assumed to decide on the destination and form of exhibition of these artefacts, without considering the interests and rights of the people who produced them.

The coloniality of being is related to the internalisation of inferiority by colonised individuals, who come to accept domination as natural. In the context of the expatriation of cultural heritage, this dimension manifests in the devaluation of traditional knowledge and in the acceptance of the authority of museums and Western institutions as legitimate guardians of these artefacts.

Finally, the coloniality of knowledge refers to the hierarchization of forms of knowledge, privileging Western scientific knowledge over other epistemologies. In the case of indigenous cultural heritage, this dimension is expressed in the way artefacts are categorised, studied, and presented according to Western criteria, disregarding the original meanings and uses attributed by indigenous communities.

Museums and Ethnographic Collections: The Institutionalisation of Spoliation

European museums and ethnographic collections once played a central role in the institutionalisation of the spoliation of indigenous cultural heritage. Since the sixteenth century, with great navigations and the colonisation of the Americas, cultural artefacts of the original peoples have been systematically collected, catalogued, and sent to Europe, where they became part of cabinets of curiosity and, later, ethnographic museums.

This practice intensified during the nineteenth century, with the development of anthropology as a scientific discipline and the growing interest in the study of "primitive cultures." Scientific expeditions traversed colonised territories, collecting not only natural specimens but also cultural artefacts and even indigenous remains. These collections, often formed violently and without consent, served to construct and legitimise discourses about the superiority of European civilisation.

Anthropologist James Clifford (1997) called this process the "Western art-culture system", which operates through selection, decontextualization, and recontextualization of non-Western artefacts, converting them into objects of study, exotic curiosities, or

works of art, according to exclusively Western criteria. In this system, indigenous peoples were reduced to mere producers of objects, denying them the status of historical subjects and possessors of their own cultural systems.

In Brazil, the formation of ethnographic collections followed similar patterns. During the imperial period and in the first decades of the republic, scientific expeditions and foreign travellers collected thousands of indigenous artefacts, which were sent to museums in Europe and the United States. Even national institutions, such as the National Museum and the Emílio Goeldi Museum, adopted similar practices, contributing to the decontextualization and dispossession of indigenous cultural heritage.

Impact of Expatriation on Indigenous Peoples

The importance of cultural heritage for indigenous people transcends the material value of the objects. For many indigenous communities, cultural artefacts carry spiritual, social, and historical meanings that are fundamental to collective identity. These artefacts play a central role in the transmission of knowledge between generations, in the preservation of traditions, and in the maintenance of ancestral memory.

The deprivation of these artefacts directly impacts the continuity of the cultural and spiritual practices of indigenous peoples. When a sacred object is removed from its original context, its function and meaning are often reduced to mere display elements in Western museums. This displacement not only reinforces the coloniality of knowledge but also perpetuates the narrative that these people and their cultures belong to the past, denying them part of the present.

The repatriation of these cultural goods is, therefore, an essential measure for the reaffirmation of the dignity and autonomy of indigenous peoples. The return of these artefacts enables communities to reconnect with fundamental elements of their culture, strengthening processes of identity recovery and reaffirming historically denied cultural rights.

From a psychosocial perspective, the absence of these cultural objects can generate feelings of loss, cultural mourning, and uprooting. As Battiste (2013) observes, the expropriation of cultural heritage is a form of cognitive violence that compromises the mental health and well-being of indigenous communities. The return of these artefacts

can contribute to processes of collective healing and the reconstruction of cultural selfesteem.

Part 2. The Case of the Tupinambá Mantle

History and Cultural Significance of the Mantle

The *Tupinambá* mantle is a plumage artifact of exceptional cultural and historical significance produced by the *Tupinambá* people who inhabited the Brazilian coast at the beginning of the colonial period. Made with red scarlet ibis feathers (*Eudocimus ruber*), which are tied to a native cotton structure, the mantle is a sophisticated example of Brazilian indigenous feather art. Its manufacturing requires specific knowledge about the collection and handling of feathers, as well as specialised techniques of weaving and tying, which are passed down from generation to generation.

Historical records indicate that these mantles had ritual and symbolic functions and were used by leaders in specific ceremonial moments. According to accounts by sixteenth-century chroniclers, such as Jean de Léry and André Thevet, the mantles symbolised prestige and power, as well as having cosmological meanings related to the connection between the human world and the spiritual world.

The *Tupinambá* mantle that became the object of claim by the *Tupinambá* people was taken to Europe, probably in the sixteenth century, as part of the flow of people, objects, and images that characterised the first contacts between Europeans and Brazilian indigenous peoples. It was, until last year, in the collection of the National Museum of Denmark (*Nationalmuseet*) in Copenhagen, where it was catalogued as part of the ethnographic collection of colonial Brazil.

Beyond its historical and cultural value, the *Tupinambá* mantle also has contemporary political significance as a symbol of resistance and continuity among the *Tupinambá* people. Despite the violence and attempts at cultural erasure during the colonial process, the *Tupinambá* managed to maintain and reconstruct elements of their ethnic identity. The claim for the mantle is therefore part of a broader process of identity affirmation and struggle for recognition and territorial rights.

Process of Claiming and Repatriation

The process of claiming the repatriation of the *Tupinambá* mantle began formally in the early 2000s, when *Tupinambá* communities from the Olivença region in southern Bahia, in the process of political reorganisation and ethnic affirmation, became aware of the existence of the mantle in the National Museum of Denmark. From that moment, the restitution of the mantle became a central element in the *Tupinambá* people's demands for recognition of their territorial and cultural rights.

In 2006, a delegation of *Tupinambá* leaders, accompanied by anthropologists and representatives of indigenous organisations, visited the Danish museum to see the mantle and initiate a dialogue about its possible repatriation. This first contact was marked by tensions and divergences, as the museum, although willing to facilitate *Tupinambá's* access to the artifact, resisted the idea of definitive return.

In the following years, the *Tupinambá* mobilisation for the repatriation of the mantle intensified, gaining support from national indigenous organisations, such as the Brazilian nonprofit organisation *Articulação dos Povos Indígenas do Brasil* (or Articulation of Indigenous Peoples of Brazil or "APIB"), and international entities defending indigenous rights. The issue also began to be discussed in academic and institutional forums, generating debates about the policies of the acquisition and conservation of indigenous artefacts by European museums.

In 2013, the Brazilian Ministry of Culture, through the National Historical and Artistic Heritage Institute (IPHAN), initiated official intermediation with Danish authorities, with the aim of establishing an agreement for the return of the mantle. This governmental initiative was the result of pressure exerted by the indigenous movement and civil society organisations.

The negotiation process was complex and extended over several years, involving legal, diplomatic, and technical aspects. One of the main obstacles was Danish legislation on cultural heritage, which establishes restrictions on the alienation of objects belonging to public collections.

In 2018, a significant advance occurred when the National Museum of Denmark agreed to hold a temporary exhibition of the mantle in Brazil, allowing *Tupinambá* communities to have direct access to the artifact. This exhibition, held at the National Museum of Rio de Janeiro, was accompanied by rituals and ceremonies conducted by

Tupinambá spiritual leaders, promoting a symbolic reunion between the people and their cultural heritage.

The tragedy of the fire at the National Museum, which occurred in September 2018, brought a new urgency to the issue of repatriation of the *Tupinambá* mantle. The destruction of a large part of the Brazilian ethnographic collection intensified the debate about the need for more effective policies for the preservation and valorisation of indigenous cultural heritage.

In 2020, after intense negotiations and mobilisations, the Danish government announced its willingness to return the mantle to Brazil on the condition that adequate conditions were guaranteed for its conservation and access by *Tupinambá* communities. The final agreement for repatriation, signed in 2022, established an innovative model of shared management, in which the mantle would be transferred to a cultural centre located in *Tupinambá* territory but with technical supervision from Brazilian museological institutions.

At the end of 2024, the repatriation of the *Tupinambá* mantle was concluded, and a symbolic reception ceremony was conducted at the National Museum in Rio de Janeiro. In addition to the presence of the President and other national authorities, approximately 200 indigenous individuals, comprising children, youth, adults, and elders, participated in celebrating their ancestral heritage by collectively chanting "We are the children, grandchildren, and great-grandchildren of the *Tupinambá* mantle" while playing their maracas and engaging in circular dances. The return of this sacred mantle reinvigorated the discourse surrounding the rights of traditional peoples in Brazil, particularly those of indigenous origin. This case becomes emblematic within the postcolonial context and may establish a precedent for resolving other tensions between traditional communities, governments, and institutions.

Political and Symbolic Meanings of Repatriation

The repatriation of the *Tupinambá* mantle transcends the material dimension of the restitution of an object. Symbolically, it represents a gesture of historical reparation and recognition of the rights of indigenous peoples over their cultural heritage. In a broader context, it is part of a global movement questioning colonial practices of cultural

appropriation and seeking more equitable relationships between Western institutions and original peoples.

For the *Tupinambá* people, the recovery of the mantle has profound political significance related to the affirmation of their ethnic identity and the struggle for territorial rights. The claim for the mantle constituted an agglutinating and mobilizing element in the broader struggle for recognition and demarcation of traditional territory.

The repatriation process also evidenced the political articulation capacity of the Brazilian indigenous movement, which managed to establish alliances with diverse actors, including academic institutions, nongovernmental organisations, and state bodies. This articulation was fundamental to overcoming resistance and establishing channels of dialogue with Danish authorities.

From the perspective of international human rights law, the repatriation of the *Tupinambá* mantle establishes an important precedent for the interpretation and application of norms related to the protection of indigenous cultural heritage. It demonstrates the concrete possibility of implementing the principles established in the United Nations Declaration on the Rights of Indigenous Peoples, especially in Article 11, which recognises the right of these peoples to "maintain, protect, and develop the past, present, and future manifestations of their cultures".

In the museological sphere, the repatriation of the *Tupinambá* mantle is part of a broader movement to redefine the role of ethnographic museums in the contemporary world. As museologist James Clifford (1997) observes, these museums are being challenged to abandon the colonial model of appropriation and representation of the "other" and to establish more dialogical and collaborative relationships with the communities whose cultures are represented in their collections.

Part 3. Perspectives for Strengthening Repatriation Policies in Brazil

Brazilian Legislation on Indigenous Cultural Heritage

Brazilian legislation on indigenous cultural heritage has been marked by significant advances since the Brazilian Federal Constitution of 1988 but also by gaps and contradictions that hinder the implementation of effective policies for the protection and restitution of cultural objects.

The Federal Constitution of 1988 represents a milestone in the recognition of the cultural rights of indigenous peoples in Brazil. Article 231 recognises indigenous peoples' "social organisation, customs, languages, beliefs, and traditions," establishing a legal basis for the protection of indigenous cultural heritage in its multiple dimensions. Article 216 defines Brazilian cultural heritage as "objects of a material and immaterial nature, taken individually or as a whole, bearing reference to the identity, action, memory of the different groups that form Brazilian society".

The protection of cultural heritage in Brazil is regulated by a set of laws and decrees that establish instruments such as heritage listings, the registration of cultural objects of an immaterial nature, and inventory. Decree n. 3.551/2000, which instituted the Registry of Cultural Objects of Immaterial Nature, represents an important advance in recognizing forms of expression, celebrations, knowledge, and places as Brazilian cultural heritage.

Regarding specifically the protection of archaeological and ethnographic heritage, Law n. 3.924/1961 establishes the safeguarding of archaeological and prehistoric monuments, declaring them as objects of the Union. Although this law has contributed to the preservation of archaeological sites, it also reflects a conception of heritage that does not fully recognise the rights of indigenous peoples over the material vestiges of their cultures.

One of the main gaps in Brazilian legislation refers to the lack of specific regulation on the repatriation of indigenous cultural heritage in national or foreign institutions. There is no equivalent in the Brazilian legal system to the Native American Graves Protection and Repatriation Act (NAGPRA) of the United States, for example, which establishes procedures for the identification and return of cultural objects and human remains to North American indigenous peoples.

Necessary Legal and Institutional Reforms

To advance the construction of a legal and institutional framework that is adequate for the protection and restitution of indigenous cultural heritage in Brazil, various authors and organisations have noted the need for structural reforms. Among the main proposals, several key elements stand out.

The approval of specific legislation on the repatriation of indigenous cultural heritage is essential, as it would establish clear and efficient procedures for the identification, documentation, and return of artefacts in national and foreign institutions. Equally important is the creation of a specialised body or instance, with indigenous participation, to coordinate and implement repatriation policies, acting as a mediator between indigenous communities, museological institutions, and foreign governments.

The revision of the ethnographic collection management policies of Brazilian museological institutions is also necessary, promoting the adoption of ethical protocols that recognise the rights of indigenous peoples over their cultural heritage. Another crucial aspect is the strengthening of international cooperation mechanisms in the area of protection and restitution of indigenous cultural heritage through bilateral and multilateral agreements that facilitate repatriation processes.

Finally, there must be a guarantee of financial and technical resources for the implementation of repatriation policies, including the creation of specific funds to support indigenous communities in the identification, claim, and management of their repatriated cultural goods.

International Experiences and Possible Models for Brazil

The analysis of international experiences of the repatriation of indigenous cultural heritage can offer important references for the construction of policies and regulatory frameworks in Brazil. Several countries have developed models and approaches that seek to reconcile the protection of cultural heritage with the recognition of the rights of original peoples.

In the United States, the Native American Graves Protection and Repatriation Act ("NAGPRA"), approved in 1990, established procedures for the identification and return of cultural objects and human remains to North American indigenous peoples. NAGPRA determines that institutions that receive federal funding must inventory and identify indigenous cultural goods in their collections, disclose this information to communities of origin, and return artefacts when requested and cultural affiliation is proven.

In Australia, the program for the repatriation of Aboriginal cultural objects and remains, implemented since the 1990s, has achieved significant results. The Australian government has established national policies and guidelines for repatriation, as well as

specific funding programs to support Aboriginal communities in the process of identifying, claiming, and receiving their cultural goods.

In New Zealand, the policy of repatriating taonga (Māori cultural objects) has been based on the principles established by the Treaty of Waitangi, which recognises the rights of the Māori over their cultural heritage. Te Papa Tongarewa (National Museum of New Zealand) has developed innovative protocols and practices for the shared management of Māori collections.

Proposals for Strengthening Repatriation Policies in Brazil

On the basis of the analysis of the *Tupinambá* mantle case and discussions about legal and institutional frameworks, it is possible to formulate concrete proposals for strengthening policies for the repatriation of indigenous cultural heritage in Brazil. A primary step would be the elaboration and approval of a bill on the repatriation of indigenous cultural heritage, establishing a clear definition of scope, procedures for identification and claim, criteria for proving cultural links, mechanisms for conflict resolution, and guarantees of indigenous participation. This legislative foundation should be complemented by the creation of a National Committee for the Repatriation of Indigenous Cultural Heritage, with equal composition, coordination and supervision attributions, competence to establish guidelines, and capacity for international articulation.

Of equal importance is the establishment of a National Program for the Identification and Documentation of Indigenous Cultural Heritage in National and Foreign Institutions, providing inventories, systematization of information, technical and financial support for indigenous representatives, and development of digital platforms. To ensure the viability of repatriation efforts, the implementation of a Support Fund for the Repatriation of Indigenous Cultural Heritage would be essential, intended to finance identification and repatriation processes, support the construction of adequate spaces, promote training, and enable technical exchanges. The development of Indigenous Protocols for the Management of Repatriated Cultural Heritage is also crucial, as these would recognise each person's own form for the safekeeping and transmission of cultural objects, define parameters for shared management, and establish rules for public access and research.

Furthermore, significant impact could be achieved through the promotion of awareness and training actions on the repatriation of indigenous cultural heritage, aimed at museum professionals, operators of the justice system, public managers, researchers, and the general public. Finally, strengthening international cooperation in the area of repatriation through bilateral and multilateral agreements, participation in international forums, exchange of experiences, and articulation with international indigenous organisations would create a more conducive global environment for these important restitution processes.

Final Considerations

The analysis of the repatriation process of the *Tupinambá* mantle reveals the complexity and importance of the processes of restitution of indigenous cultural heritage as part of the realisation of the human rights of these people. The case studied here shows that the struggle for repatriation transcends the material dimension of the return of objects, configuring itself as a political and symbolic movement of identity affirmation, cultural resistance, and claims of historically denied rights.

The decolonial perspective offers a fundamental theoretical framework for understanding the processes of expatriation of indigenous cultural heritage and the struggles for its restitution. The repatriation of the *Tupinambá* mantle can be interpreted as an act of historical justice and decolonisation, which contributed to the rupture with persistent patterns of cultural and epistemological domination.

Indigenous protagonism emerges as a central element in this process, demonstrating the capacity of original peoples to articulate politically, establish strategic alliances, and formulate legitimate demands in the field of international human rights law. The *Tupinambá* mobilisation for the repatriation of the mantle reveals the agency of these collective subjects in constructing their own narratives about their cultural heritage.

The analysis of the Brazilian normative and institutional framework shows important advances, especially since the Federal Constitution of 1988 but also gaps and contradictions that hinder the effective implementation of the right to the restitution of cultural objects. The proposals formulated aim to contribute to the improvement of this framework, from a perspective that values intercultural dialogue, indigenous participation, and historical justice.

Finally, it is important to emphasise that the repatriation of indigenous cultural heritage should not be seen as an end in itself but as part of a broader process of recognition and realisation of the rights of these peoples, including territorial rights, self-determination, and participation in decisions that affect their lives and cultures. Only from an integral and decolonial approach will it be possible to build more just and equitable relationships between the Brazilian state, cultural institutions, and indigenous peoples, contributing to overcoming centuries of violence, exclusion, and denial.

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