

# Native Americans and freedom of religion

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Image 1. This undated photograph from the 1800s reads "Chiricahua Apaches Four Months After Arriving at Carlisle." This portrait of a group of Apaches at the Carlisle boarding school in Pennsylvania was typical of ones during this period of forced assimilation. Before and after "contrast" photos were sent to officials in Washington, to potential charitable donors and to other reservations to recruit new students. Founded in 1879 under U. S. governmental authority by General Richard Henry Pratt, Carlisle was the first federally funded off-reservation Native American boarding school. Pratt's photographs showing his quick results helped persuade Washington that he was doing vital work. Image courtesy of the Richard Henry Pratt Papers, Beinecke Rare Book & Manuscript Library, Yale University.

The First Amendment of the Constitution promises freedom of religion in the United States. The amendment states, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof..." However, the amendment has been inconsistently applied to Native American religions.



Europeans first made contact with Native Americans about 500 years ago. During the early years and throughout much of the colonial period, Native American religions were not properly recognized. Europeans struggled with the fact that there has never been a single Native American religion.

Broadly speaking, however, many Native American religions feature a creator as well as other deities. Place, land and nature are important, along with sacred locations such as burial grounds. Native American religions also made less distinction between the sacred and the non-sacred, as well as the natural and supernatural.

Toward the end of the 19th century, the United States began trying to get rid of Native Americans or "Indianness" through assimilation into European American culture. Native Americans were forced off of their land and onto reservations. The government also established Native American boarding schools. The schools separated the children from their parents, making it easier to get rid of their "Indianness." Despite the fact that the schools were run by the federal government, Christian education was part of the schools' mission.

The government believed that Native American traditions got in the way of the assimilation of the children. In 1883, Henry M. Teller was in charge of government lands as Secretary of the Interior. He sent a letter to the Commissioner of Indian Affairs, Hiram Price. Price was in charge of how the government treated Native Americans. Teller's letter insulted the Native American cultural practices and complained that traditional spiritual leaders kept the Native American children from going to school.

### **Code Outlawed Traditional Religious Practices**

In response, Price created a set of rules that became known as the "Code of Indian Offences." The code outlawed many traditional Native American religious practices. The rules established a Court of Indian Offences and outlawed traditional dances and associated activities. If people participated in the activities, they would not get food and sometimes they went to prison.

Religious leaders were not allowed to discourage children from attending the government schools. Moreover, they were not allowed to encourage traditional Native American cultural norms. Other Native American practices were also outlawed.

The code would remain in effect until at least 1934. In 1934, John Collier was the new Commissioner of Indian Affairs. He issued a statement saying that "[n]o interference with Indian religious life or ceremonial expression will hereafter be tolerated. The cultural liberty of Indians is in all respects to be considered equal to that of any non-Indian group."

In 1978, Congress passed and President Carter signed the American Indian Religious Freedom Act, or AIRFA. The law recognized that the government had been preventing the practice of Native American religions. The government had also restricted access to sacred sites and use of sacred objects and materials.

In 1988, a court case called *Lyng v. Northwest Indian Cemetery Protective Association* came up before the Supreme Court. The government Forest Service wanted to build a logging road. The road would cut through the sacred lands in the Chimney Rock area of the Six Rivers National Forest in California. Building the road would harm the religions of three Native American tribes. After close inspection, government agencies decided the road should not be built.

### **Disagreement About Sacred Sites**

However, the Forest Service went ahead with construction. The Forest Service argued that the road would be far from the religious sites. The tribes sued, but ultimately the Supreme Court

allowed construction of the road. It concluded that the First Amendment means that people cannot be forced to practice certain religions. However, the court decided the First Amendment does not mean the government must satisfy every citizen's religious preferences on government land.

Eight years later, President Bill Clinton ordered that government agencies had to allow for access to and use of sacred sites. Further, the agencies must avoid harming such sites.

More recently, the Supreme Court also addressed the issue of sacramental use of peyote by members of the Native American Church. The church is a mix of Christian and native practices. Peyote is a cactus which can cause hallucinations if eaten, and using it is against the law in the United States. The Supreme Court decided that members of the church must follow the law against peyote.

In response, Congress passed and President Clinton signed, the Religious Freedom Restoration Act, or RFRA. The RFRA provided, among other things, that "Government shall not substantially burden a person's exercise of religion even if the burden results from a rule of general applicability." Some 21 states have since passed their own versions of the RFRA. In addition, the AIFRA was amended to specifically allow for use of peyote by members of the Native American Church.

The government is no longer actively trying to get rid of Native American culture. Some progress to free religious exercise has been made. However, traditional Native religious practices can still come into conflict with state and federal policies.

## Quiz

1 Read the following claim.

*Federal laws do not always take religious traditions into account.*

Which detail from the article BEST supports the idea outlined above?

- (A) Teller's letter insulted the Native American cultural practices and complained that traditional spiritual leaders kept the Native American children from going to school.
- (B) Building the road would harm the religions of three Native American tribes. After close inspection, government agencies decided the road should not be built.
- (C) Peyote is a cactus which can cause hallucinations if eaten, and using it is against the law in the United States. The Supreme Court decided that members of the church must follow the law against peyote.
- (D) Some progress to free religious exercise has been made. However, traditional Native religious practices can still come into conflict with state and federal policies.

2 Read the introduction [paragraphs 1-5].

Which paragraph from the introduction BEST describes how the U.S. government failed to follow its constitutional promise of religious freedom?

- (A) Europeans first made contact with Native Americans about 500 years ago. During the early years and throughout much of the colonial period, Native American religions were not properly recognized. Europeans struggled with the fact that there has never been a single Native American religion.
- (B) Broadly speaking, however, many Native American religions feature a creator as well as other deities. Place, land and nature are important, along with sacred locations such as burial grounds. Native American religions also made less distinction between the sacred and the non-sacred, as well as the natural and supernatural.
- (C) Toward the end of the 19th century, the United States began trying to get rid of Native Americans or "Indianness" through assimilation into European American culture. Native Americans were forced off of their land and onto reservations. The government also established Native American boarding schools. The schools separated the children from their parents, making it easier to get rid of their "Indianness." Despite the fact that the schools were run by the federal government, Christian education was part of the schools' mission.
- (D) The government believed that Native American traditions got in the way of the assimilation of the children. In 1883, Henry M. Teller was in charge of government lands as Secretary of the Interior. He sent a letter to the Commissioner of Indian Affairs, Hiram Price. Price was in charge of how the government treated Native Americans. Teller's letter insulted the Native American cultural practices and complained that traditional spiritual leaders kept the Native American children from going to school.

3 Which of the following MOST influenced Hiram Price's decision to create the "Code of Indian Offences"?

- (A) his confusion about the differences between Native American religious beliefs and Christianity
- (B) his desire to build a logging road that would cut through a Native American holy site in California
- (C) his determination to outlaw the use of peyote in the United States, including for religious purposes
- (D) his complaint that religious leaders kept Native American children from going to school

How did RFRA affect Native Americans?

- (A) It promised more freedom in the exercise of religion, and was adopted in some capacity by 21 states.
- (B) It specifically outlawed the use of peyote in the United States except in Native American religious traditions.
- (C) It punished Native Americans for cultural practices with imprisonment or withholding food.
- (D) It caused the destruction of a holy site in the Chimney Rock area of the Six Rivers National Forest.