



FaithLink

Connecting Faith and Life

McGirt v. Oklahoma by Alex Joyner



A landmark Supreme Court decision in July recognized the continuing validity of certain treaties between Native American tribes and the United States government. What does this ruling mean? How do we reckon with our nation's past treatment of Native Americans? How can such reckonings lead to more just interactions moving forward?

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Redefining Oklahoma

Of all the questions 2020 has forced us to ask, one of the most unlikely might be “Is all of Oklahoma part of Oklahoma?” A July decision by the United States Supreme Court raised this conundrum as it dealt with questions concerning the continuing validity of certain treaties between Native American tribes and the United States government. While the scope of the final decision was narrow, it is another strand of an ongoing trend in American society forcing us to reckon with past injustices.

At the most basic level, *McGirt v. Oklahoma* dealt with the criminal conviction of Jimcy McGirt, a Seminole man found guilty of sex crimes in Eastern Oklahoma. The criminal acts were never in much dispute, but McGirt’s lawyers claimed their client could not be prosecuted by the State of Oklahoma. According to the terms of a treaty signed in 1832, the land on which his crime was committed was under the domain of the Creek Nation because the treaty in question was never officially dissolved when the state of Oklahoma was created in 1907. In a 5–4 ruling which cut across traditional ideological lines, the Supreme Court ruled in favor of this interpretation.

Justice Neil Gorsuch wrote the majority opinion which held that Oklahoma had no jurisdiction to prosecute McGirt, or any other accused criminals in a case involving tribal members, in the lands that constitute the Indian Territories. Under the Major Crimes Act, those cases should be prosecuted in federal courts. The immediate effect of the ruling is that a number of cases will be reviewed including in Tulsa, the largest city in the region,

necessitating an increase in the number of federal prosecutors.

REFLECT

- What, if anything, have you heard about this case?
- What do you know about Native American communities in your area? In the past, which Native American tribes inhabited your area?

Promises Made and the Trail of Tears

On a more philosophical level, the *McGirt* case raises questions about the nature of promises made by the United States government. The relationship between Native American tribes and the government has been littered with broken promises since settlers moved into lands previously occupied by the tribes. In the case of the Creek Nation, their 1832 treaty with the US government was part of the larger Indian Removal Act of 1830, which authorized the federal government to remove tribes from the Southern states and territories.

The Creeks, along with the Cherokee, Chickasaw, Choctaw, and Seminole peoples (collectively known as the Five Civilized Tribes), were relocated to Oklahoma in exchange for the promise that “Creek country west of the Mississippi shall be solemnly guaranteed.” Creeks were among the estimated sixty thousand people who traveled the Trail of Tears to the new territory, during which more than four thousand Native Americans died from exposure, disease, and starvation.

Justice Gorsuch noted in his opinion that, unlike other treaties which Congress officially abrogated, no such action was taken in this case. In effect, the lands never ceased to be “Indian lands,” despite the fact that the new state of Oklahoma has controlled them for more than one hundred years. Gorsuch concluded his remarks by saying, “Today, we are asked whether the land these treaties promised remains an Indian reservation for purposes of federal criminal law. Because Congress has not said otherwise, we hold the government to its word.”

REFLECT

- What do you know about the history of Native American tribes in the United States?
- What would it imply about the nature of treaties if the justices ruled differently in this case?

Josiah's Reform: Another Old Text with Contemporary Application

The Book of 2 Kings includes a remarkable story about reckoning with old promises. In chapters 22 and 23, we find the story of a law book discovered in the Temple by the high priest Hilkiah. Because of its content, most biblical scholars believe it was the Book of Deuteronomy, which records the covenant between God and Israel at the time of Moses. When King Josiah hears the words of the book, he rends his clothes in a sign of grief because he realizes the nation was not living according to the covenant. His concern is amplified when the prophetess Huldah comes before him and confirms that God is dismayed at the disobedience of the people.

The king responds by calling all the people together to hear the words of the book read aloud. Together, Josiah and the people renew the covenant before God and begin to reform the religious practices of the nation. They tear down old shrines made to other gods and revive the practice of celebrating the Passover feast, which reminded them of God's actions in delivering the people from Egypt. Josiah's role in this reform marks him as one of the few post-Davidic kings to leave a positive legacy. He used the discovery of the old text as an opportunity to call the nation back to the values and commitments of its founding era.

REFLECT

- In what ways do the themes of this story overlap with the decision in *McGirt v. Oklahoma*?
- When have you seen a community renewed by rediscovery of its history?

Reckonings

In recent weeks, there has been no shortage of opportunities to reckon with the past. The social conflicts we sometimes call “the culture wars” turn, in part, on views of how to assess the past. Were our ancestors’ actions part of aspirations toward higher values that sometimes included horrific abuses? Or, did the injustices of the past shape the nation in such fundamental ways that they are part of our origin story as well?

Recent controversies over racial inequalities, Confederate monuments and symbols, and athletes kneeling during the national anthem have all touched on how we view our common story as Americans. They push us to ask how well we are living up to what we profess to believe. When we don’t live up to our promises, as in the treaties made with Native American tribes, how do we recognize the breach and make restitution?

The final form of the Scriptures is itself a testimony to the ways we reckon with our broken history. The Bible preserves not only the moments when human characters were faithful but also

when they failed horribly. The complex portrait of King David, in which he is capable both of great piety and murderous intent, is one of the starkest examples. Similarly, Israel’s relationship with God is marked by both fidelity and betrayal. The Israelites are called back over and over again to the words of God and the work of Jesus to renew their journey.

REFLECT

- How honestly did your education deal with our country’s failures? How has this shaped your view of our collective history?
- How can a nation be both faithful and unjust? How do we reckon with complicated narratives?

Core Bible Passages

In the main essay, we reflected on the story of Josiah’s reform efforts, which were prompted by the discovery of a law book in the Temple. The story appears in 2 Kings 22:3–23:27, and it reflects both God’s displeasure at the people’s forgetfulness and the sincerity of Josiah’s renewal of the covenant. The biblical scholar Justo González talks about the importance of a “non-innocent history” in which a people are honest about the continuing presence of injustice even as they strive to live up to greater ideals. This passage reflects a non-innocent historical mindset for sharing our communal story.

The Bible often presents differing perspectives on the same event. One of these events is the story of the people of Israel taking control of the Promised Land in the Book of Joshua. The first half of the book presents a story of conquest in which the Israelites leave a path of complete destruction in their wake. By Joshua 11:23, the campaign is so successful that the writer says, “Joshua took the whole land, exactly as the Lord had promised Moses.” In Joshua 13:1, however, God tells Joshua that “much of the land remains to be taken over.” This difference shows how shifting perspectives can transform the way we interpret events and that telling our history requires us to take these perspectives into account.

REFLECT

- Read 2 Kings 22:3–23:27. What does this passage tell us about God?
- What would a non-innocent history of the United States include?

The Oklahoma Indian Missionary Conference

Within the structure of The United Methodist Church, there are three missionary conferences, which were created to reach areas and peoples with distinctive needs.

These three missionary conferences are the Alaska Missionary Conference, the Red Bird Missionary Conference, and, our focus today, the Oklahoma Indian Missionary Conference (OIMC).

Methodists have long been a presence among the tribes that traveled along the Trail of Tears to what is now Oklahoma. According to the website of the OIMC, “Methodists offered a Christian ministry sensitive to the languages and cultures of more than 30 tribes.” Following the union that created The United Methodist Church, the OIMC was created from the old Indian Mission Conference, and now includes about six thousand members in 84 churches, five fellowships, and a Church & Community center. While most of the conference is within Oklahoma, there is an OIMC presence in Dallas, Texas, and in Kansas as well.

When professional sports teams began reexamining Native American symbols this summer, including the team formerly known as the Washington Redskins, the Rev. David Wilson, Assistant to the Bishop for the OIMC, spoke for many in the conference when he said, “Accurate history and representation of Native peoples is critical. It’s more than past time to eliminate the use of Native American symbols and images as team mascots.”

REFLECT

- What are the opportunities and drawbacks of having a missionary conference?
- Each year, The United Methodist Church encourages churches to observe a Native American Sunday. How has your congregation observed Native American Sunday? How could it in the future?

United Methodist Perspective

In recent years, The United Methodist Church, through its General Conference, has worked to reckon with its past treatment of Native American communities. In a resolution entitled “Native People and The United Methodist Church” [2016 *Book of Resolutions*, #3321], the General Conference recognized the troubled historic relationships between the church and Native peoples and called on church members and the larger world “to receive the gifts of Native Americans . . . as people of God.”

On two occasions, the General Conference held events during its quadrennial sessions to reckon with the pain caused by earlier actions of Methodists. In 2012, General Conference delegates engaged in an Act of Repentance worship service and challenged conferences and local churches to “implement actions demonstrating a genuine attitude of repentance.” This challenge included asking groups to consider “transferring a portion of [any land held by the church in trust] back to the tribe(s) that are/were indigenous to the area.”

That General Conference also authorized a study of the Methodist role in the 1864 Sand Creek Massacre in which soldiers of the Union Army, led by Col. John Milton Chivington, a Methodist Episcopal Church pastor, killed approximately two hundred Native Americans and committed other atrocities on their bodies. Historian Gary L. Roberts prepared and delivered a report on the massacre to the 2016 General Conference. His conclusion was: “Listen, learn, and do not forget.”

REFLECT

- How can United Methodists promote repentance and reconciliation with Native peoples?
- Why is it important to remember both the good and bad parts of our history?

Helpful Links

- For a summary of the details in the *McGirt v. Oklahoma* case, check out this Oyez article: <https://www.oyez.org/cases/2019/18-9526>.
- The majority opinion in the case can be found here: https://www.supremecourt.gov/opinions/19pdf/18-9526_9okb.pdf.
- For historical background on the *McGirt v. Oklahoma* case, including the story of the Trail of Tears, this *National Law Review* article provides helpful context: <https://www.natlawreview.com/article/review-mcgirt-v-oklahoma-how-supreme-court-and-justice-gorsuch-s-revolutionary>.
- The history and mission statement of the Oklahoma Indian Missionary Conference can be found here: <http://www.umc-oimc.org/resources/about-us/>.

About the Writer

Alex Joyner is a writer and District Superintendent of the United Methodist churches on Virginia's Eastern Shore.

Next Week in **FaithLink**
Connecting Faith and Life

The Future of Movies

by Jessica Petersen

In recent years, our experience of watching movies, both in theaters and in our homes, has changed dramatically. How has the COVID-19 pandemic accelerated these changes? What will the future of in-person entertainment look like? How can churches learn from these changes as they work to shape the future of their own communities?



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Opening Prayer

God of every land, you hold all time in your hands. The seasons belong to you and all creatures look to you for life. Forgive us when we forget that all things come from you. Send your Spirit like wind through grass to inspire us once more. Bless this space and time and help us hear your challenge and promise; in the strong name of Jesus. Amen.

Leader Helps

- Have several Bibles on hand and a markerboard and markers for writing lists or responses to reflection questions.
- Remind the group that people have different perspectives and to honor these differences by treating one another with respect as you explore this topic together.
- In the week before this issue is used, a video about this topic will be available online at <https://www.facebook.com/Lets-Talk-About-the-Bible-109513374028090>. You can watch this video for your own benefit or share it with your participants to prepare them for this week's discussion.
- Read or review highlights of each section of this issue. Use the *REFLECT* questions to stimulate discussion.
- Invite persons to share what they know about the history of your community and church. **Ask:** Who were the first peoples who lived here? What historic events does your community commemorate in memorials or festivals? Who isn't recognized? In what ways could your group help tell a richer story of your community's past by including more diversity?

Teaching Alternatives

- Many people in the United States do not fully understand the Native American history of their region. Do a little research on the tribes that were prominent in your area. This map may be helpful in that research: https://legacy.npr.org/assets/news/2014/06/Tribal_Nations_Map_NA.pdf.
- As you explore, discuss which groups lived in your area or which groups continue to live there. Ask who they are/were and what legacy remains in the names and structures of your community. If possible, invite a member of the tribe to your group meeting to talk about the history.

Closing Prayer

God of our ancestors, we do not come alone into this life. Our stories are part of the stories of many others. The wounds of other times are our wounds, and still we wound one another. Through your Spirit, help us repair what we can and be ambassadors of reconciliation. Give us courage to reckon with the past and hope for the future. Together. Amen.