Looking back over the past 25 years, NARF has represented over 190 Tribes in 31 states in such areas as tribal restoration and recognition, land claims, hunting and fishing rights, the protection of Indian religious freedom, and many others. In addition to the great strides made in achieving justice on behalf of Native American people, perhaps NARF’s greatest distinguishing attribute has been its availability to bring excellent, highly ethical legal representation to dispossessed Tribes. The survival and strengthened sovereignty of the nation’s federally recognized tribes are due, in no small measure, to the battles waged and won by the Native American Rights Fund.

The Need For NARF

In the 1960’s the United States government adopted new policies and programs in a widespread effort to address some of the social ills affecting the country. As part of this “War on Poverty,” the Office of Economic Opportunity launched government-funded legal services programs throughout the nation to provide legal representation to the disadvantaged. Those programs which were set up on or near Indian reservations and large Indian communities came to realize that the legal problems being brought forth by their Indian clients were, for the most part, governed and controlled by a little known area of law — “Indian Law” — that was driven by trea-
A search for a permanent location for the project which was initially being housed at CILS’s main office in Berkeley, California. The site needed to be centrally located and not associated with any Tribe. In 1971, NARF selected its new home and relocated to Boulder, Colorado.

An eleven member all-Indian Steering Committee (now a 13 member Board of Directors) was selected by the CILS Board of Trustees to govern the Fund’s activities. Individuals were chosen (as they continue to be today) based on their involvement and knowledge of Indian affairs and issues, as well as their tribal affiliation, to ensure a comprehensive geographical representation.

NARF continued to grow at a rapid pace over the next several years. In 1971, the project incorporated in the District of Columbia and NARF’s first satellite office was established in Washington, D.C. An office close to the center of government would prove critical in future interaction with Congress and federal administrative agencies involved in Indian policy. The Carnegie Corporation of New York awarded NARF start-up funding for the creation of the National Indian Law Library, a national repository for Indian legal materials and resources in 1972. The Office of Economic Opportunity came forth to fund the Indian Law Back-Up Center (now the Indian Law Support Center), a project designed to provide support and technical assistance to legal services programs working on Indian issues.
Over ten years later in 1984, the Native American Rights Fund established its second branch office in Anchorage, Alaska, to address the complex legal issues facing Alaskan Natives.

**NARF’s Mission**

One of the initial responsibilities of NARF’s first Steering Committee was to develop priorities that would guide the Native American Rights Fund in its mission to preserve and enforce the status of tribes as sovereign, self-governing bodies. The Committee developed five priorities that continue to lead NARF today:

- Preservation of tribal existence;
- Protection of tribal natural resources;
- Promotion of Native American human rights;
- Accountability of governments to Native Americans;
- Development of Indian law.

Under the priority of the preservation of tribal existence, NARF’s activity emphasizes enabling Tribes to continue to live according to their Native traditions; to enforce their treaty rights; to insure their independence on reservations; and to protect their lands. Specifically, NARF’s legal representation centers on federal recognition and restoration, sovereignty issues (including tribal jurisdiction and taxation rights), and economic development.

In the protection of tribal natural resources, land, water, and hunting and fishing rights are recognized to be critical factors in the preservation of Indian sovereignty. Through control over tribal lands and resources, Indian tribes can regain a degree of economic self-sufficiency necessary for Indian self-determination. There are approximately 56 million acres of Indian-controlled land in the continental United States which constitutes only 2.3 percent of their former territory. Additionally, there are about 44 million acres in Alaska which are owned by Natives after the 1971 Alaska Native Claims Settlement Act. The federal government, has in many instances, failed to fulfill its trust duty to protect Indian tribes and their property rights. The Native American Rights Fund concentrates much of its legal representation on cases that will ensure a sufficient natural resource base for tribes.

Under the priority of the promotion of human rights, NARF has utilized much of its resources to protect the First Amendment rights of Native American people, especially prisoners and Native American traditional religious practitioners. It has also worked effectively with tribes in the repatriation of burial remains, preventing the desecration of Indian remains and burial items, and in the protection of sacred sites.

In the past and even today, most federal and state education programs and processes circumvent tribal governments and maintain non-Indian federal and state government control over the intent, goals, approaches, funding, staffing and curriculum for Indian education. For over two decades,
25th Anniversary Indian Law Symposium

In celebrating NARF’s 25th Anniversary, an Indian Law Symposium was held on the campus of the University of Colorado on August 4, 1995. The Symposium attracted over 230 participants, including Indian and non-Indian attorneys, and tribal leaders from throughout Indian country. The Symposium featured panel discussions on tribal sovereignty, tribal natural resources, and human rights issues.

The Symposium was opened by NARF Executive Director John Echohawk who gave an overview of NARF’s history and significant cases. John explained that termination was still alive as federal Indian policy when NARF first opened its doors. NARF played a lead role in defeating this policy by helping Indian country understand law and policy and the use of lawyers to make changes or enforce these laws. He went on to say that if was a frightening time for a young Indian organization but it was magic to see the courts rendering decisions in NARF’s favor that validated the theories and arguments of Indian law and treaties. John assured everyone that NARF has faced many challenges in the past and is prepared to face them in the future.

Charles Wilkinson, a former NARF staff attorney who is currently a law professor at the University of Colorado and a leading Indian law scholar, gave the keynote address for the Symposium. He spoke on the importance of tribes to recognize what terminationist policy is all about. Termination is not a specific program but rather the result of an impulse that is always present in this society to pursue a rapid and extreme assimilationist policy towards Indian people. He went on to say that termination was not just a specific package of the 1950’s, but is any substantial...
assault on the cluster of special sovereign and trust rights that tribes possess. He also warned that there is a strong terminationist element in the current Congress.

The first panel discussed sovereignty and the status of tribes in the federal system. The panelists included Doug Nash, Tribal Attorney for the Nez Perce Tribe; Judy Shapiro, Attorney for Hobbs, Straus, Dean & Walker; and, Wilma Mankiller, former Principal Chief of the Cherokee Nation.

Doug Nash reviewed federal court decisions on tribal civil jurisdiction and on the ever-changing status of Indian tribes. He explained how the relationship between tribes, local governments and the federal government impact the amount of civil jurisdiction that tribes have over state officials. Judy Shapiro spoke on the implications of sovereignty and sovereign immunity in Indian gaming. Judy spoke specifically on the *Seminole v. Florida* case pending in the U.S. Supreme Court and the 11th Amendment issues associated with gaming and tribal sovereignty. Wilma Mankiller said that tribes have always had to fight the same fights over and over again. Twenty-five years ago we were fighting for tribal sovereignty and recognition of treaties and here we are in 1995 still fighting for the preservation and protection of our tribes and people. She advised the participants that the next 25 years should be a time period when “we are not going to give up one more inch.”

The Symposium luncheon featured a speech by Ada Deer, Assistant Secretary for Indian Affairs under President Clinton’s Administration, and past leader of the Menominee Tribe who led the Tribe’s restoration fight in 1973. Ms. Deer spoke on the Congressional atmosphere in regard to future appropriations for tribes. She warned that the proposed budget reductions are extremely unfavorable to Indian tribes and can be interpreted as termination by appropriation.

Panel two dealt with the issue of natural resources. David Lester, Executive Director, Council of Energy Resource Tribes, provided an overview of the natural issues facing Indian country and of tribal involvement in resolving these issues. Robert Anderson, Associate Solicitor, Department of Interior, and former NARF staff attorney, spoke on subsistence hunting and fishing rights in Alaska. He reviewed key subsistence cases in Alaska that will determine what lands and waters in Alaska are subject to the federal reserved water rights doctrine and will protect Alaska Natives rights to hunt and fish. Janice Whitney Annunziata, Special Assistant to the Deputy Administrator, U.S. Environmental Protection Agency, spoke on environmental issues in Indian country. As principal

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“Termination is not a specific program but rather the result of an impulse that is always present in this society to pursue a rapid and extreme assimilationist policy towards Indian people.” - Charles Wilkinson

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author of *Haudenosaunee Environmental Restoration: An Indigenous Strategy for Human Sustainability*, Janice addressed the participants on the importance of indigenous people getting involved with environmental issues locally and internationally. She spoke in-depth on the philosophy of the seventh generation view of all decision making and offered this quote..."Think not of yourselves O Chiefs nor of your own generation. Think of the continuing generations of your families. Think of our grandchildren and those yet unborn whose faces are coming from beneath the ground...".

The third panel discussed human rights issues. B.J. Jones, Attorney, Dakota Plains Legal Services, made a presentation on the Indian Child Welfare Act; Melody McCoy, NARF staff attorney, made a presentation on Indian education; and, Frank Dayish, Jr., President of the Native American Church of North America, and Walter Echo-Hawk, NARF staff attorney, spoke on religious freedom issues that NARF has been addressing for many years.

B.J. Jones gave an overview of the Indian Child Welfare Act and stated that Congress continues to make serious efforts to weaken the Act. If Congress gets its way, ICWA will be relegated to block grants to the states and states have a history of withholding funds because of jurisdictional issues. He emphasized that we must continue to work together in order to protect our future generations. Melody McCoy provided an historical view of Indian education. Tribes have been historically shut out when it has come to the governance of Indian education. Churches, states and the federal government have all had their shot at controlling and determining what Indian education should be and they have all failed miserably. It is time now that tribes be empowered to take control of Indian education and determine what direction it must go. Tribes and only tribes must define Indian education and we must not accept
definitions from anyone else.

Frank Dayish gave a historical perspective of the Native American Church and its struggle to preserve and maintain their way of worship. For this they turned to NARF. He thanked NARF for their hard work and dedication on getting Congressional legislation passed in 1994 that protects the religious use of peyote. Frank talked about how NARF is still assisting them in negotiating with the Mexican government for the importation of peyote and in working with the State of Texas on changing the language in their law so as to allow for the cultivation of peyote. Walter Echo-Hawk told the participants that these human rights issues, in particular religious freedom, is what gives meaning to everything else that we do. Walter went on to say that many of our contemporary problems are not recent in origin but are problems that have evolved through the centuries since white contact. Our way of life is what has given us strength to survive and to endure in order to overcome this historical intolerance for our religions.

A reception and dinner was held the evening of the Symposium at which time NARF was honored for their 25 years of service to Indian people. The highlight of the ceremony was the pledge to NARF made by Richard Hayward, Chairman of the Mashantucket Pequot Tribe and Chairman of NARF's National Support Committee. Chairman Hayward, on behalf of the Mashantucket Pequot Tribe, pledged a monthly revenue of $60,000 from their monthly charity bingo night and other fundraising assistance from the Tribe to bring their contribution to $1 million per year. This contribution to NARF was very well appreciated as NARF, which receives 40% of its funding from federal sources, is facing cuts in federal funding in 1996 and beyond.

NARF's 25th Anniversary activities ended on August 5, 1995, with a 5K run with Billy Mills, 1964 Olympic Gold Medalist and NARF National Support Committee member. That afternoon, NARF hosted the 25th Anniversary Pow Wow. We were pleased to have Verna Williamson Teller, former NARF Board member and W. Richard West, Jr., Director of the National Museum of the American Indian, participate as Head Woman and Head Man dancers. Both are members of NARF's National Support Committee. The Pow Wow was NARF's time to honor friends and donors who joined us to celebrate this very special occasion and to recognize the thousands who could not join us.

With all of the wisdom shared during the 25th Anniversary activities, the Native American Rights Fund looks toward the next twenty-five years with renewed vigor and strengthened dedication to our tribal peoples.

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At the conclusion of his keynote address at the Indian Law Symposium, Professor Charles Wilkinson had these closing comments:

“We are drawn here to this common effort by one main, unifying force, the idea of tribal sovereignty. For me, and I think for each of you as well, it is the most luminous idea that my mind has ever encountered, more so even than the ideas of freedom and justice, in part because those two ideas are so glorified and fulfilled by a vibrant tribal sovereignty. It pays to know, in the final analysis, what value a person will sacrifice most for, lie across the train tracks for. For us, that is the idea of tribal sovereignty.

“Indian lawyers can be enormously proud of their work over the course of this past quarter century. Back then, there barely was Indian law, barely was a great and luminous idea to fuel it. The idea existed, really, only in the minds and memories of the elders. They said, “Help us get that idea back.” Most of us had only glimmerings of what they meant, but we believed in them and did the best we could. It turned out that our best was very good indeed.

“Indian lawyers have the finest, the most worthy, clients. Most of them lack a full understanding of this commercial world, but they know another and better world, and they in fact are very sophisticated people, able to make right and true decisions. And they are fighters.

“Nobody has given Indian people anything over the past twenty-five years, not anything. Indian people insisted on every acre, salmon, Sun Dance, and sovereign right and achieved them out of their own wisdom, persistence, and courage, not anyone else’s. And so in that fundamental sense the next twenty-five years will be like the past twenty-five.

“Please, all of you, in a tough and troubled time, take some moments now, during this weekend, and then when you get back home, to appreciate and honor what you and many others have done in the name of a great idea, over this quarter of a century.

“What do Indian lawyers do for the next twenty-five years? There probably is no better answer than to do what we have learned to do in the past twenty-five: listen hard and long to our clients; present all the options, and the pluses and minuses of each, for their informed choice; revere the great, age-old idea of tribal sovereignty; and fight. And when the going gets hard, which it will, remember that it has always been that way and always will be, and keep remembering always that the idea is right, that the people are right, and that we lawyers are blessed, not burdened, by the gift of being a part of the noblest effort there ever could be.”
NARF's 25th Anniversary  (from top left clockwise)

- Fun Run - (left to right) Mildred Cleghorn, Billy Mills, Kathryn Harrison
- NARF Staff
- Pawnee Singers
- Pow Wow Participants
- NARF Staff
- Frank Dayish Jr., President, Native American Church of North America
FREE EXERCISE OF RELIGION BY NATIVE AMERICAN PRISONERS:
A Plan of Action

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by Chris LaMarr

Since the coming of Christopher Columbus, Native people have had to struggle against European expansionists to maintain their traditional cultures, religions and way of life.

Return to reservation communities as productive members of their Native cultures and societies. The ability to practice traditional tribal religions while incarcerated is the single most important factor in this rehabilitative process.

Among the religious freedom rights Native inmates seek to protect are: 1) the establishment of, and access to a sweat lodge; 2) access to, and use, of the sacred pipe, sacred herbs, medicine bags, eagle feathers; 3) access to medicine men and spiritual leaders; and 4) ability to wear longhair and headbands pursuant to religious beliefs. Native inmates who may

today, Native American prisoners are engaged in a struggle to protect their religious and cultural practices which began in 1492. Since the coming of Christopher Columbus, Native people have had to struggle against European expansionists to maintain their traditional cultures, religions and way of life. In the shadows of American prisons, this human rights struggle continues.

For those Natives who are imprisoned, the freedom to follow the religion of their fathers is a longstanding struggle which has worsened in recent years. As stated by Lenny Foster, Director of the Navajo Nation Corrections Project, "the paramount Native American human right in American prisons today is the denial of their right to practice tribal religion." Today, the National Congress of American Indians (NCAI) has designated this growing concern as a major human rights problem and Indian Country has embarked upon a major human rights initiative to address the problem.

Prison policies directly implicate all Indian tribes. It is of utmost importance to Indian country that tribal members

return to reservation communities as productive members of their Native cultures and societies. The ability to practice traditional tribal religions while incarcerated is the single most important factor in this rehabilitative process.

This Native concern is compatible with fundamental corrections principles as articulated in the American Correctional Association’s (ACA) Manual of Correctional Standards (1971). “From its very inception in 1870, the American Correctional Association has recognized and emphasized the role of religion in the correctional process.” Because the ACA feels religion plays such an important role in the correctional process, it is ironic that Native inmates continually have had to struggle to exercise their religious freedom rights.

This battle has prompted over 50 lawsuits since 1970, many of which are pending today.
Lenny Foster, Director of the Navajo Nation Corrections Project, “the paramount Native American human right in American prisons today is the denial of their right to practice tribal religion.”
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case, the lack of a free atmosphere in which to practice one's chosen religion.

In overturning Smith and O'One, RFRA provides that government may "substantially burden" a person's exercise of religion only if it demonstrates that the burden is (1) in furtherance of a compelling government interest; and (2) is the least restrictive means of furthering that interest.

RFRA clearly provides a ray of hope for Native inmates seeking to practice their Native religions as a strong legal test. However, the implementation of the RFRA is not automatic. It requires litigation. Thus, Indian Country has not seen an immediate resurgence of Native inmates' religious freedom, because much of the present case law concerning their rights was decided under the O'Lone and Turner standard and remains current law until overturned.

Indeed, Native prisoners and organizations have observed an increase in free exercise problems since the passage of RFRA in such frequency that is best described as a growing human rights crisis that can no longer be ignored.

RFRA provides Indian Country with the opportunity to overturn bad prison caselaw rendered under the O'Lone standard and establish positive legal precedents. However, the challenge is great. Currently, RFRA has been applied to five cases involving Native American inmates' free exercise of religion claims. In Hamilton v. Schriro, the Eighth Circuit Court recently interpreted RFRA to allow a Missouri prison to prohibit a Native inmate's right to wear his traditional Native hairstyle for religious purposes, access to a sweat lodge, and possession of numerous sacred objects. Thus, passage of RFRA does not automatically guarantee that all cases in this area of the law will be won.

One pro se case, Diaz v. Collins, did apply the RFRA standard and upheld a Texas prison's policy of denying long hair and headbands, access to the sacred pipe and the possession of medicine pouches. Relying upon a pre-RFRA case, the Magistrate rejected the claims under the "compelling government interest" test in the particular facts of the case and found that the prison had a "compelling interest" and that the policy was the "least restrictive means" of meeting its security and
safety interests. The inmate in the Diaz case acted without the aid of legal counsel and represented himself. As a result of the inmate's inexperience and lack of legal knowledge, many mistakes were made which resulted in a bad caselaw decision.

Diaz greatly illustrates the need for competent legal counsel to be deeply involved in cases of this nature to furnish sound legal advice and to avoid making bad caselaw under the new statute which could lead to the further denial of religious freedom rights to Native prisoners. RFRA has sparked hope for greater legal protection for Native inmates. However, much costly litigation may be necessary to implement this new law in federal courts.

Proposed U.S. Attorney General Directive

To avoid unnecessary litigation regarding the numerous infringements of Native inmates' religious freedoms, a coalition of local and regional Native organizations who work in the field of corrections have created the National Native American Prison Rights Advocates Coalition (NNAPRAC). Founded in 1995, NNAPRAC includes groups such as the Native American Rights Fund, the National Congress of American Indians, Association of American Indian Affairs, and the American Indian Movement. It is co-chaired by President Albert Hale of the Navajo Nation and President Ron Allen of the National Congress of American Indians.

A primary purpose of NNAPRAC is to advocate that the Attorney General of the United States issue a directive to protect the free exercise of religion by Native American prisoners. The proposed directive addresses primary issues that are at the heart of Native inmates' free exercise problems and provides sound remedies for these problems. This directive, if signed by the Attorney General, would more fully protect Native religious freedom in American prisons and obviate unnecessary litigation by clarifying such rights.

The Attorney General has the constitutional authority to issue a Directive to carry out equal protection and free exercise mandates, including affirmative steps to implement the RFRA on behalf of Indian people to whom a federal trust duty is owed.

Sections 1-3 of the Directive mandate steps necessary to afford Native federal prisoners with “equal access” to their religion, comparable to that which prisons afford to prisoners who practice Judeo-Christian religions. Section 4 implements these equal protection provisions by instituting a system-wide and mandatory training program for correctional and parole staff, and by mandating federal prison consultation with Native leaders to identify improved ways to obtain, possess and use sacred objects in the correctional setting. In addition, the directive calls for an Attorney General study regarding the free exercise of Native American religion in American prisons and the development of necessary recommendations. The directive also asks that the Civil Rights Division identify a section responsible for bringing litigation to protect the free exercise of religion of Native Americans incarcerated in state and local prisons.

This directive can be an important step towards securing, at long last, the lawful practice of Native religious freedom rights in American prisons. This proposal is presently under Justice Department review pursuant to the Department of Justice's Indian Policy of June 1, 1995. With strong Indian country support, it is hoped that this initiative can be accomplished in 1996.

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Conclusion: Future of RFRA and Society's Religious Freedom Rights

Based on recent activity in the 104th Congress regarding RFRA and various anti-prisoner bills, the future of religious freedom in American prisons remains in doubt.

In 1993, during the passage of RFRA by the 103rd Congress, an amendment was offered to strike prisoners from the scope of the Act. The intent of this effort was to target inmates as the sole class of American citizens without adequate legal protection in the area of worship. This amendment was narrowly defeated by a 58-41 vote. However, a resurgence of efforts of this kind have arisen in the 104th Congress.

For example, the Religious Freedom Act of 1993 Amendment Act of 1995 (S. 1093) would exclude prisoners from RFRA protection. The sponsor’s remarks, in support of this bill, starkly state:

"Have we become so concerned with prison rights that we have forgotten the rights of society? Remember these people are in jail because they have been convicted of felonies. They are not there because we are trying to check to find if they are good or bad. They are felons. And we are spending 40 percent of the court's time on this trash."

Further backlash reactions to the human and legal rights of American prisoners include the Legal Services Appropriation Act (H.R. 2076), which prohibits legal services attorneys from providing prisoners with any representation whatsoever. Moreover, the passage of various provisions of the so-called Stop Turning Out Prisoners Act (S. 400 and H.R. 667), which were incorporated into Title III of the Commerce, Justice, States and Judiciary Appropriation Bill (H.R. 2076), limit the power of federal courts to remedy prisoner rights and would retroactively terminate favorable consent decrees previously entered into by prisons and inmates. While H.R. 2076 was vetoed, we can expect efforts to revive legislation of this nature in the second session of the 104th Congress.

Legislative attempts to strip prisoners of basic legal protection and to single them out for punitive treatment is troubling. Treatment of prisoners is an indicator of society’s humanity that mirrors its human rights value system.

To look proudly into this mirror, there is pronounced need for an Attorney General Directive and a national litigation strategy to protect the religious freedom rights of Native prisoners. The support of Indian Tribes and practitioners of federal Indian law is imperative in this effort.

Let us never forget that the weakening of prisoner’s religious freedom rights in O’Lone foreshadowed what Smith did to the rest of society, when the latter decision weakened religious freedom rights for all. Constant vigilance by the public interest is required to prevent such lapses in our constitutional protection, which often begins in the dark corners on the margins of our society.

As Senator Daniel K. Inouye once wrote, history has shown that when the fundamental human rights of one group are taken away, the rights of others soon follow. Let us reaffirm our commitment to protecting all people’s human rights, including prisoners, in order to better secure our own rights. A good start is to support present efforts to protect the free exercise of religion by Native American prisoners in 1996.

About the Author: Chris LaMarr is a Paiute/Pit River Indian from Susanville, California. He has recently graduated from the University of Colorado at Boulder School of Law, Fall 1995. Chris externed for the Native American Rights Fund’s Prison Project and is the Director of the Native American Prison Project and the Denver Project for the Indian Law Clinic at CU-Boulder. Chris is also lead singer for the Native American rap group, “WithOut Reservation” and has started an all-Native record label called WithOut Rez Productions.
For further information on the Attorney General Directive, contact Lenny Foster at (520) 871-7106.

For further information on litigation efforts to protect free exercise of Native Religion, contact Walter Echo-Hawk or Laura West at (303) 447-8760.

For further information on prisoner legislation in the 104th Congress, contact Robert Peregoy at (202) 785-4166, or Kathy Westcott at (202) 234-4830.
The Native American Rights Fund will not be awarded a grant from the Legal Services Corporation in 1996. The United States Congress has enacted appropriations legislation for 1996 which prohibits the Corporation from funding “national support.” Since 1971 NARF has operated the Indian Law Support Center (ILSC) with funds from Congress, first from the Office of Economic Opportunity, and subsequently from the Corporation, upon its creation by Congress in 1974. LSC is one of sixteen national support centers, funded in whole or in part with LSC funds. NARF has funded the Center primarily with LSC funds over the years.

The NARF Board of Directors has approved an interim plan of operations for the Indian Law Support Center for fiscal year 1996. Under the plan, NARF will provide partial funding to continue overall support activities to Indian Legal Services Programs and will continue to plan fundraising efforts during the year with Indian Legal Services.

In addition to eliminating funding for national support, the Congress has substantially reduced overall funding for LSC, cutting it by 30 percent, from $415 million in 1995 to $278 million for 1996. Only about two and one-half percent (2.5) of this funding is allocated to serve Native Americans. As this edition of the Legal Review goes to print, President Clinton has threatened to veto the appropriations bill through which LSC is funded. If the President and the Republican leadership are unable to break the government appropriations impasse, much of the government, including Legal Services, may be funded on a continuing resolution for the entire Fiscal Year 1996.

There is some thought that the actual funding for LSC may improve, to close to $300 million, in the event of a veto and further negotiations between the Congress and the White House.

There are 34 Indian Legal Services Programs funded by the Corporation. These programs will sustain the 30 percent cut for 1996, with the rest of the LSC funded programs. NARF and the leadership of these Indian Legal Services Programs worked jointly on a national advocacy campaign to preserve the Legal Services Corporation. NARF will again work in the coming year to preserve a federal funding mechanism to keep Indian Legal Services and the Indian Law Support Center alive beyond 1996.

The future of NARF's other federal funding from the Bureau of Indian Affairs and Administration for Native Americans is still uncertain at this time as funding for these departments have been caught-up in the budget impasse in Congress. Of particular importance to Western tribes represented by the Native American Rights Fund, the BIA provides funding for water rights negotiations. Without such support, most tribes cannot meaningfully participate in settlement negotiations with the federal and state governments to resolve their claims to reserved Indian water rights so critical to their future livelihood in the West. The Administration for Native Americans in the Department of Health and Human Services funds social and economic development projects of great importance to Native American people that need to be continued.
NARF UPDATES

NATIVE HAWAIIANS VICTORIOUS IN LAND ACCESS CASE

On behalf of a group of Native Hawaiians, the Native American Rights Fund and the Native Hawaiian Legal Corporation has been challenging the State of Hawaii’s exchange of ceded lands to a private landowner for the development of a geothermal facility on the Island of Hawaii without protecting Native Hawaiian access rights. The State lands exchanged were ceded lands subject to a special trust under the 1959 Hawaii Admission Act for the benefit and use of Native Hawaiians, and once held by the Hawaiian Monarchy. The case, Pele Defense Fund v. Estate of James Campbell, went to trial in August, 1994, to establish precedent in determining Native Hawaiian hunting and gathering access rights on those former trust lands held by the State of Hawaii.

On January 4, 1996, Circuit Judge Riki May Amano notified the Pele Defense Fund attorneys that they had prevailed in their lawsuit against the Campbell Estate over access to the Estate land at Wao Kele ‘O Puna, an Island of Hawaii rain forest. The ruling will affirm and clarify the traditional access rights of Native Hawaiians to go on former Monarchy, now private, lands. The ruling will also establish that Native Hawaiians from other areas traditionally and customarily had access rights and will recognize current practices of perpetuators of ancestral traditions.

Attorneys from the Native American Rights Fund and the Native Hawaiian Legal Corporation will draft a decision for the judge’s approval. It is not known at this time whether the Campbell Estate will appeal the decision or not.
NEW NARF BOARD MEMBER

Rebecca Tsosie, Pasqua Yaqui, Associate Professor of Law at Arizona State University, was elected to the Native American Rights Fund Board of Directors, replacing John Lewis who completed his six year term on the Board. Rebecca Tsosie received her B.A. in American Indian Studies from UCLA and her J.D. from the UCLA School of Law. She teaches courses in Federal Indian Law, Property, Indian Cultural Property, and Tribal Environmental Policy. Rebecca has published numerous articles on Indian law and Indian issues. She is a member of the American Bar Association and is admitted to the State Bars in Arizona and California. Rebecca Tsosie will be a valuable addition to the Board of Directors.

GUIDE TO REPATRIATION AVAILABLE

The American Indian Ritual Object Repatriation Foundation is publishing Mending the Circle: A Native American Repatriation Guide (Understanding and Implementing NAGPRA, the Official Smithsonian and Other Repatriation Policies). A definitive resource, this guide explains the rights of Native Americans and the obligations of federally funded institutions under the Native American Graves Protection and Repatriation Act of 1990.

Writers, editors, and consultants for the Guide include Suzan Shown Harjo (Hodulgee/Muscogee), Jack Trope, Esq., Tessie Naranjo (Santa Clara Pueblo), Dean Suagee, Esq. (Cherokee), Rosita Worl (Tlingit), Clara Sue Kidwell (Choctaw/Chippewa/Creek), Tamara Bray (NMNH), Jackie Rand (Choctaw), Richard Hill, Sr. (Tuscarora), B. Lynne Harlan (Cherokee), Walter Echo-Hawk, Esq. (Pawnee), Elizabeth Sackler (AIRORF), Kate Morris (AIRORF), Denise Bambi Kraus (Tlingit), and Tim McKeown (NAGPRA Program Leader, National Park Service).

Mending the Circle: A Native American Repatriation Guide will be distributed in February of 1996 free of charge to the First Nations affected by this law, and will also be available for purchase by institutions and interested individuals for $25 plus shipping and handling. For more information, please contact the Repatriation Foundation by telephone at (212) 980-9441 or by fax at (212) 421-2746. This publication will also be available through the Native American Rights Fund National Indian Law Library. For information call (303) 447-8760 or fax (303) 443-7776.
Robert M. Peregoy, Flathead Tribe, joined NARF in June of 1984 as a staff attorney in the Boulder office. As a NARF attorney, his work has included litigation, legislative and administrative advocacy in state and federal forums in the areas of PL 280 retrocession/jurisdiction, oil and gas trust responsibility, off-reservation land acquisition for trust placement, federal recognition, tribal land claims, Indian education, and repatriation and other religious freedom issues, including Native prisoners' equal protection rights and assisting in securing the enactment of legislation protecting the religious use of peyote by Indians. In 1992, he transferred to the Washington, D.C. office where he coordinates NARF's Legislative and Administrative Advocacy Component. Bob is admitted to practice law in Colorado and the District of Columbia, before the Ninth Circuit Court of Appeals, the United States Court of Federal Claims and the United States Supreme Court. He received a B.A. from the University of California, Santa Barbara in 1969, an M.A. from UCLA in 1971, A doctorate from Montana State University in 1979, and his J.D. from the University of California, Berkeley in 1984. Prior to attending law school, Bob was a tenured associate professor at Montana State University where he served as the founding Director of the Center for Native American Studies from 1975-81. A Flathead Indian, he currently serves part-time as the Chief Justice of the Court of Appeals of the Confederated Salish and Kootenai Tribes, and also as an adjunct faculty member of Salish Kootenai College.
NARF RESOURCES AND PUBLICATIONS

THE NATIONAL INDIAN LAW LIBRARY

The National Indian Law Library (NILL) has developed a rich and unique collection of legal materials relating to federal Indian law and the Native American. Since its founding in 1972, NILL continues to meet the needs of NARF attorneys and other practitioners of Indian law. The NILL collection consists of standard law library materials, such as law review materials, court opinions, and legal treaties, that are available in well-stocked law libraries. The uniqueness and irreplaceable core of the NILL collection is comprised of trial holdings and appellate materials of important cases relating to the development of Indian law. Those materials in the public domain that are non-copyrighted, are available from NILL on a per-page-cost plus postage. Through NILL's dissemination of information to its patrons, NARF continues to meet its commitment to the development of Indian law.

Available From NILL

The NILL Catalogue.
One of NILL's major contributions to the field of Indian law is the creation of the National Indian Law Library Catalogue: An Index to Indian Legal Materials and Resources. The NILL Catalog lists all of NILL's holdings and includes a subject index, an author-title table, a plaintiff-defendant table and a numerical listing. This reference tool is probably currently the best of its kind in this subject area. It is supplemented periodically and is designed for those who want to know what is available in any particular area of Indian law. (1,000 + pgs. Price: $75) (1985 Supplement $10; 1989 Supplement $30).

Bibliography on Indian Economic Development.
Designed to provide aid on the development of essential legal tools for the protection and regulation of commercial activities on Indian reservations, this bibliography provides a listing of articles, books, memoranda, tribal codes, and other materials on Indian economic development. 2nd edition (60 pgs. Price: $30). (NILL No. 005166)

Indian Claims Commission Decisions. This 47-volume set reports all of the Indian Claims Commission decisions. An index through volume 38 is also available. The index contains subject, tribal and docket number listing. (47 volumes. Price $1,175). (Index priced separately at $25).

Also available from the National Indian Law Library:
Top Fifty, a Compilation of Significant Indian Cases, $75.00

Prices subject to change
1988 Update to The Manual for Protecting Indian Natural Resources.
The Indian Law Support Center is pleased to announce the availability of the 1988 Update to its Manual for Protecting Indian Natural Resources. The Manual covers the developments in natural resource law over the past six years since the publication of the original manual in 1982.

A Manual For Protecting Indian Natural Resources.
Designed for lawyers who represent Indian tribes or tribal members in natural resource protection matters, the focus of this manual is on the protection of fish, game, water, timber, minerals, grazing lands, and archaeological and religious sites. Part I discusses the application of federal and common law to protect Indian natural resources. Part II consists of practice pointers: questions to ask when analyzing resource protection issues; strategy considerations; and the effective use of law advocates in resource protection. (Must be purchased with Update.)
The update is available for the price of $30.00. The original manual and the update are available for $50.00.

This manual is designed to help Indian tribes and organizations on approaches to economic development which can ensure participation, control, ownership, and benefits to Indians. Emphasizing the difference between tribal economic development and private business development, the manual discusses the task of developing reservation economics from the Indian perspective. It focuses on some of the major issues that need to be resolved in economic development and identifies options available to tribes. The manual begins with a general economic development perspective for Indian reservations: how to identify opportunities, and how to organize the internal tribal structure to best plan and pursue economic development of the reservation. Other chapters deal with more specific issues that relate to the development of businesses undertaken by tribal government, tribal members, and by these groups with non-tribal entities. $35.00

This handbook discusses provisions of major federal Indian education programs in terms of the legislative history, historic problems in implementation, and current issues in this radically changing field. (Must be purchased with update.)

The Update is available for $30.00. The price for original manual and update is $45.00.

This manual focuses on a section-by-section legal analysis of the Act, its applicability, policies, findings, interpretations and definitions. With additional sections on post-trial matters and the legislative history. (Must be purchased with Update.)
The 1992 Update provides a section-by-section legal analysis of the Act as well as the developments in Indian Child Welfare Act case law over the past eight years since the publication of the original manual in 1984. The 1992 Update and the original Manual comprise the most comprehensive examination of the Indian Child Welfare Act to date.

The original manual and the 1992 Update are available for $50.00. If you have the original manual and require only the Update, it is priced at $35.00.

Prison Law and the Rights of Native Prisoners. This manual focuses on the first amendment religious free exercise rights of Indian prisoners in state and federal penal institutions, with an emphasis in legal forms and pleadings for use by prisoners in pro se litigation. $20.00

ANNUAL REPORT. This is NARF’s major report on its programs and activities. The Annual Report is distributed to foundations, major contributors, certain federal and state agencies, tribal clients, Native American organizations, and to others upon request.

THE NARF LEGAL REVIEW is published biannually by the Native American Rights Fund. Third class postage paid at Boulder, Colorado. Ray Ramirez, Editor. There is no charge for subscriptions, but contributions are requested.

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Our work on behalf of thousands of America's Indians throughout the country is supported in large part by your generous contributions. Your participation makes a big difference in our ability to continue to meet ever-increasing needs of impoverished Indian tribes, groups and individuals. The support needed to sustain our nationwide program requires your continued assistance. Requests for legal assistance, contributions, or other inquiries regarding NARF's services may be addressed to NARF's main office: 1506 Broadway, Boulder, Colorado 80302. Telephone (303) 447-8760.

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