

WISCONSIN v. YODER (1972)

Wisconsin state law requires all persons having control of a child between the ages of 7 and 16 to make the child attend school regularly.

The Amish are a religious group who have kept a separate and distinct identity from the mass of American society for about 250 years. As part of their religion, the Amish retain their 18th Century way of dressing and do not own automobiles, radios, telephones, etc.; they speak the German dialect of their ancestors and keep separate from society by forming self-contained communities with their own rules for behavior, education, social welfare, etc.

They obey that part of the Bible which says, “Be not conformed to this world . . .;” their social values are quite different from those of the larger society. Seeking wealth beyond what is necessary for the family and community is sinful. They discourage competition and the seeking of personal status. They allow for the need to know how to “read, write, and cipher,” but the pursuit of higher worldly knowledge is seen as encouraging personal pride. Higher knowledge also may lead to disaffection with Amish society and alienation from God.

The Amish are in many respects model citizens. They pay their taxes and debts, take care of their own medical and health problems, and are seldom involved in any kinds of unlawful behavior.

In earlier times, when the law required education for all until the eighth grade, the Amish sent their children to small country schools, usually filled with Amish children, taught by an Amish teacher, and run by a board of Amish citizens. In recent years, the schools have been consolidated, and the Amish children have had to attend the larger schools in town, where they mingle with non-Amish children and are taught by non-Amish teachers.

The Amish have attempted to set up their own parochial schools; however, to comply with state laws these schools must maintain general standard curriculum, use certificated teachers, and meet other requirements which are objected to by the Amish.

Recently the Amish have been concerned about the increasing numbers of young people who are leaving the Amish communities. During childhood and early adolescence, the youth are trained to become participating adults in the Amish community. But for a few years, up to the age of 19 (when they are baptized and accepted as full members), they are expected to consider carefully whether they will turn their backs upon the worldly society and accept the burdens of Amish life. This decision may, in part, be made in some degree of ignorance if the youth has not attended high school where he may learn of other ways of life from that of the Amish. In addition, those young people who have chosen to leave the Amish community often enter regular society with the disadvantage of not having gone to high school.

Also, many school districts which have large members of Amish lose considerable amounts of money because of the lack of attendance by the Amish youth. State aid to schools is based upon the number of students who attend the school regularly.

As a result, there is often a strong feeling in counties where there are large numbers of Amish that the Amish youth should be forced to attend school

In the fall of 1968, several Amish fathers, including Yoder, were arrested and charged with disobeying the Wisconsin law which requires parents to send their children under the age of 16 to school.

Questions for discussion

1. What is the interest of the State in requiring all children to attend schools and to experience a standard curriculum?
2. What reasons do the Amish have for wanting their children to attend their own school?
3. Is the State's requirement that Amish children attend schools with a required curriculum an unfair limitation of the Amish's freedom of religion?
4. Who, if anyone, is harmed by the Amish practice of refusing to allow their children to attend high school? Non-Amish society? The Amish parents? The Amish children?
5. Which of the following practices should be tolerated under the constitutional guarantee of freedom of religion? Why?
 - a. the use of wine in religious ceremonies
 - b. the use of mild narcotics in religious ceremonies
 - c. ceremonial use of poisonous snakes
 - d. ceremonial animal sacrifice

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After being convicted in the trial court, the Amish parents appealed to the State Supreme Court which reversed the convictions.

The United States Supreme Court upheld the reversal. In an opinion by Chief Justice Burger, the Court said:

“There is no doubt as to the power of a State, having a high responsibility for education of its citizens, to impose reasonable regulations for the control and duration of basic education. Providing public schools ranks at the very apex of the function of a State. Yet even this paramount responsibility [has been] made to yield to the right of parents to provide an equivalent education in a privately operated system

“It follows that in order for Wisconsin to compel school attendance beyond the eighth grade against a claim that such attendance interferes with the practice of a legitimate religious belief, it must appear either that the State does not deny the free exercise of religious belief by its requirement, or that there is a state interest of sufficient magnitude to override the interest claiming protection under the Free Exercise Clause

“. . . In evaluating those claims we must be careful to determine whether the Amish religious faith and their mode of life are, as they claim, inseparable and interdependent. A way of life, however virtuous and admirable, may not be interposed as a barrier to reasonable state regulation of education if it is based on purely secular considerations; to have the protection of the Religion Clauses, the claims must be rooted in religious belief [I]f the Amish asserted their claims because of their subjective evaluation and rejection of the contemporary secular values accepted by the majority, much as Thoreau rejected the social values of his time and isolated himself at Walden Pond, their claim would not rest on a religious basis. Thoreau’s choice was philosophical and personal rather than religious, and such belief does not rise to the demands of the Religion Clauses

“The conclusion is inescapable that secondary schooling, by exposing Amish children to worldly influences in terms of attitudes, goals, and values contrary to beliefs, and by substantially interfering with the religious development of the Amish child and his integration into the way of life of the Amish faith community at the crucial adolescent stage of development, contravenes the basic religious tenants and practice of the Amish faith, both as to the parent and the child.

“For the reasons stated we hold, with the Supreme Court of Wisconsin, that the First and Fourteenth Amendments prevent the State from compelling respondents to cause their children to attend formal high school to age 16”

FREEDOM OF RELIGION

HYPOTHETICAL

A pregnant woman has been badly injured in an automobile accident. She refuses a blood transfusion at the hospital because of her religious beliefs. Her husband concurs, quoting a biblical passage as evidence. The doctor phones the hospital's lawyer, who in turn phones the woman's lawyer. A judge is called in an attempt to secure a court order. In the Judge's home, the two lawyers argue about the woman's right to believe and act on her beliefs versus the rights of the unborn child. Leave the decision up to the students.

Questions to Hypothetical

1. What similarities, if any, do you find between this case and the Amish case? What differences do you think exist?
2. What are the values and interest of the pregnant woman and her husband in this situation? What arguments could you give to support their positions?
3. What are the values and interests of the doctor and the hospital in this situation? What arguments could you give to support their position?
4. What might be the consequences of acknowledging the husband's and wife's freedom to follow their religious beliefs in this instance?
5. What might be the consequences of denying the husband and wife the freedom to follow their religious beliefs in this instance?
6. Do you think that there should be a distinction between the freedom to believe and the freedom to act in this situation?
7. What would your decision be if you were the judge in this situation?

HANDOUT ON YODER CASE

Questions

1. On what legal grounds do the Amish claim the right NOT to send their children to school after the 8th grade?
2. On what legal grounds does the state of Wisconsin dispute these claims?
3. What do you think may be some of the interests and values underlying the Amish people's claim?
4. What do you think may be some of the interests and values of the state in this situation?
5. What might be the consequences of acknowledging the Amish people's freedom to follow their religious beliefs in the education of their children?
6. What might be the consequences of denying the Amish people the freedom to follow their religious beliefs in the education of their children?

Read the First Amendment, then ask these questions.

1. Do you see a conflict between the First Amendment guarantee that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof" and compulsory school attendance laws as they apply to the Amish? Explain.
2. Do you think that the exercise of freedom of religion as it applies to the Amish people's religious beliefs about schooling might infringe upon other more important values? If so, can you explain why or why not?
3. Do you think that the First Amendment's guarantee of freedom of religion should be upheld in this instance, or do you think that the state's position--that it has a "reasonable interest" in requiring uniform compulsory attendance of all school age children--should be upheld?
4. How would you decide this case if you were a member of the Supreme Court?

Distribute the results of the Yoder case.