

POV

Lesson Plan 1: Freedom of Religion: A Supreme Court Simulation

Grade Level: 7-12

Subjects: American History, Civics, Government.

Estimated Time of Completion: 4 to 5 class periods, in addition to homework preparation.

Overview

The subject of this lesson is the Establishment Clause and the Free Exercise Clause of the First Amendment. Students view an episode from *IN THE LIGHT OF REVERENCE* which probes conflicting opinions about how a site held sacred by the Wintu Indians of California should be used today. Through analyzing the claims of conflicting parties, students envision how such a controversy might reach a court of law. Students then look at five historic Supreme Court cases (1972-2000) based on freedom of religion. These five cases provide the basis for students to research and present hearings before a Supreme Court of fellow students, following Supreme Court procedures. The lesson uses two Web sites with extensive records of Supreme Court cases.

1. Objectives
2. Standards
3. Materials Needed
4. Procedure
5. Assessment Suggestions
6. Extensions/Adaptations

Objectives

Students will:

- i. Understand the Establishment Clause and Free Exercise Clause of the First Amendment.
- ii. Learn how these clauses apply to land held sacred by several American Indian nations.
- iii. Learn how the Supreme Court functions to resolve conflicts arising under the First Amendment.
- iv. Learn how to formulate arguments as they reenact several key decisions made by the Supreme Court concerning First Amendment rights.

Standards

This lesson addresses the following national curriculum standards.

Civics and Government, National Standards For Civics and Government
<http://www.civiced.org/912erica.htm>, 9-12.

II. A. 2.

Explain how features of the Constitution, such as federalism and the Bill of Rights, have helped shape American society.

Describe, giving historical and contemporary examples, how Americans have attempted to make the values and principles of the Constitution a reality.

II. D. 3

Explain the following principles: rule of law, checks and balances, individual rights, and separation of church and state.

V. A. 1.

Explain the importance to the individual and to society of such personal rights as freedom of thought and conscience; right to due process of law and equal protection of the law.

American History, National Center for History in the Schools
<http://www.sscnet.ucla.edu/nchs/standards/>, 5-12.

Era 6 Standard 4A: The student understands various perspectives of federal Indian policy, westward expansion, and the resulting struggles. The students can therefore evaluate the legacy of 19th century federal Indian policy.

Era 10 Standard 2C: The student understands changing religious diversity and its impact on American institutions and values.

Era 10 Standard 2E: The student understands how a democratic polity debates social issues and mediates between individual or group rights and the common good.

Materials Needed

1. Video tape of the P.O.V./PBS program "In the Light of Reverence."
2. Computers with Internet access.
3. Writing materials

Procedure

Viewing the Video

Prepare the class to view the segment from **IN THE LIGHT OF REVERENCE** about the Wintu, an American Indian nation in California. It begins approximately 46 minutes into the video with images of serene mountains, followed by scenes of a radio-broadcasting studio. This segment runs until the end of the video (approx. 73 minutes). Tell students that the video they are about to watch involves conflicting opinions about what should happen to land the Wintu hold sacred. A spring, essential to their religious rituals, is on land now managed by the Forest Service, a division of the Department of Agriculture. Another religious group, spawned by the New Age Harmonic Convergence, wants to use this site for their religious ceremonies as well. In addition, a third party, a realty developer, would like to open a ski resort on land near the spring.

Ask students if they have ever been aware of a dispute in their community over how a piece of public (or private) land should be used. Who wanted to build something? Who opposed the new use of land, and on what grounds?

Tell students that you would like them to sort out what Constitutional issues are at stake, and for whom, as they watch the video. Ask students to focus especially on Amendment I, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

Print out Activity Sheet 1 for students to fill in as they watch the video. Tell them that they are not expected to follow every argument; even general impressions of who wants what and why will be useful.

Discussing the Video

Ask students the following questions after they have filled in their charts:

- For purposes of religious freedom under the First Amendment, is it important that we define what a religion is? If so, who should define it and on what basis?
- Would it be easier to accord the Wintu their religious rights if their religious practices were just like those practiced by a majority of Americans?
- Would it be easier to accord the Wintu their rights if they were a tribe recognized by the U.S. government?
- How did California history conspire to make it very unlikely that the Wintu would have either the land or population of more powerful recognized nations such as the Hopi or Sioux?
- Should the Wintu's religious practices be safeguarded by the First Amendment? Should the religious practices of the group spawned by the New Age Harmonic Convergence also be safeguarded?

- What if two religions come into conflict with one another? On what basis would you decide whether the Wintu have a claim to the Mount Shasta spring which might take precedence over the claims of "New Age" religions?
- Mount Shasta is on Federal land, administered by the Forest Service. The First Amendment guarantees the separation of church and state. Should the Federal government therefore prohibit all religious groups from worshipping on federal land? Some groups but not others? What rights would you accord or deny realty developers to Mount Shasta, and on what basis?

The Video and the Filmmaker:

Now ask students the following questions:

- Why do you think the filmmaker made this film?
- Do you think the filmmaker has a personal point of view about the issues raised in the video?
- Does the filmmaker present differing viewpoints in a fair light?
- Now ask students to go the companion web site of the video to learn about the filmmaker and how this film was made. What does the web site add to your assessment of how and why the film was made?

Ask students to imagine several scenarios in which the disputes discussed in this video went to court. For example, the Wintu might claim that their First Amendment rights were being violated if the Forest Service did not allow them to worship at their spring, or permitted its use in ways that interfered with their practices. The New Age Harmonic Convergence might sue the Forest Service if it gave preference to one religion (the Wintu) over another (theirs). The realty developer might sue the Forest Service if he felt he were denied the right to develop a ski resort because the Federal government was protecting any religion on Federal land, under the claim that this would violate the principle of separation of church and state.

Now review with students Article III Section 2 of the U.S. Constitution under which "The Judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution." Review with students how cases are appealed from lower courts up to the Supreme Court which then chooses which cases it will and will not hear.

Tell students that they are going to stage several court cases based on ones that were actually heard before the Supreme Court. All involve the First Amendment. Write on the board: "Congress shall make no law respecting an establishment of religion." Write next to it "the Establishment Clause" and explain that this clause guarantees the separation of church and state. Then write "or prohibiting the free exercise thereof." Write next to it "Free Exercise Clause" and explain that it ensures that individuals are free to practice religion as they choose.

Establishment Clause or Free Exercise Clause?

Print out and distribute Activity Sheet 2 to help students distinguish how each of these two important clauses functions to protect religious freedom. Leave the above definition on the board. Tell students that next to each case they must answer if the issue at stake is primarily one regarding the Establishment Clause or the Free Exercise clause.

Assigning Cases and Roles

Divide the class into groups of five. Each group will present a case before a "Supreme Court" of fellow students. Each group of five will then role play a court which serves to decide a case brought to it by a different team of five students.

(Note: Teachers accommodating different class sizes can vary these numbers. For example, you may wish to have students either present a case or judge a case, but not do both. Groups presenting a case can be composed of only two lawyers per case, rather than four. Or, you may wish to find more cases to use from the web sites listed later in the lesson.)

Assign to each group of five students one of the five cases listed above. One student will serve to introduce the case (up until it reaches the Supreme Court) in a dramatic monologue. The student can role-play one of the petitioners in the case, or simply re-tell the events leading up to the trial.

Two students will act as lawyers for the petitioner(s) and together prepare one brief.

Two students will serve as lawyers for the respondent(s) and together prepare one brief.

The role play (insofar as possible) will enact the way in which a case is actually heard before the Supreme Court. Remind students that it does not matter how the real case was adjudicated. The Supreme Court has reversed itself many times. Dissenting opinions have later become the basis of a reversal, and so forth.

Sequence

The petitioners and the respondents will research the case using the web sites listed below.

Each team will then write one brief which should be concise, logically arranged, and free of irrelevant or immaterial matter. Five copies must be made of each brief.

The five justices who will hear the case must each read the brief written on behalf of the petitioner and the one written on behalf of the respondent. They are to prepare questions to ask both the lawyers for the petitioner and the respondent.

Oral arguments will be heard in front of the justices and the rest of the class. As with the actual Supreme Court, it will be frowned upon to read from a prepared text. The lawyers should have a written outline from which to speak. The lawyers for the petitioner have 7 minutes in which to present their case. The lawyers for the respondent have 7 minutes in which to present their case. (In Supreme Court cases 30 minutes is allotted.) All meaningful points must be made in these speeches as there will be no time set aside for rebuttal. The petitioner's lawyers go first.

During the oral arguments, the justices may interrupt the lawyers and ask questions. The questions and the time the lawyers take to answer them will be deducted from the 7 minutes allotted to each side.

It should take approximately two class periods for all cases to be presented. During the third class period, the justices who heard each case will meet as a team. (Note: the same group which may have presented a case (e.g. *Allegheny v. ACLU*) may then be the group that acts as justices for another case (e.g. the group that presented *Employment Division v. Smith*.)

Each group of five justices will meet to deliberate on the case presented before it. The eldest member of the court acts as Supreme Court Justice. Members must speak beginning with the second eldest and working down to the youngest. (This mimics the rule of seniority that actually governs who speaks in what order in Supreme Court deliberations.)

The justices will deliberate and then vote on the merits of the case. The majority will write a majority opinion citing the Constitution or other relevant cases bearing on this one. (The Chief Justice should take a leading role in writing the majority decision, or assign members who will do so.) If any one in the majority so wishes, he or she may write a concurring opinion which agrees with the majority but does so on a different legal basis from that of the majority. If any members dissent, they shall write a dissenting opinion citing the Constitution and any other relevant cases. (Technically, a decision may affirm a lower court ruling, remand it for further discussion or elaboration to a lower court, or reverse the lower court.)

The entire class will reconvene. Each group of justices will go before the class and read its majority, concurring and dissenting opinions.

Legal Terms Used in the Lesson

Legal Brief: A concise statement of a client's case that sets forth the main contentions with supporting statements and evidence.

Docket: Calendar or agenda of court cases.

Abstract: A summary of a legal case.

Syllabus: A summary outline of a legal case usually made by a law clerk after a case has been decided.

Petitioner: The party that makes a formal written request to the court.

Respondent: The party that answers the petitioner in various legal proceedings.

Amicus Brief: A case made by a "friend of the court," a person, organization, etc. represented by a lawyer who speaks with the consent of the petitioner or respondent.

Majority Opinion: The legal ruling which the Supreme Court hands down with the assent of at least five of the nine justices. One justice, often the Chief Justice, writes the majority opinion.

Concurring Opinion: An opinion written by a justice who agrees with the majority, but who does so for different reasons.

Dissenting Opinion: An opinion written by a member of the court who voted against the majority position. It expresses the legal reasoning behind the dissent.

Vacate: To make legally void. The Supreme Court may make legally void the ruling of a lower court.

Remand: To send back to a lower court for further explanation or consideration.

Reverse: To overthrow, set aside or make void a legal decision by a lower court.

Researching the Cases

All students should start researching their cases with the Dockets and Abstracts at the Oyez Project web site of Northwestern University <http://oyez.nwu.edu/>. The Web site has an excellent virtual tour of the Supreme Court along with oral clips of Supreme Court arguments, dockets and abstracts of many cases, as well as the decisions. For less advanced students, the dockets and abstracts themselves will suffice. Students can search the Oyez site for similar cases to their own which they may want to cite as precedents for their cases. They can search for similar cases using the subject index search. An excellent list of Supreme Court cases involving freedom of religion is available at <http://w3.trib.com/FACT/1st.religion.html>. Also see the ACLU Web page on Religious Liberty at <http://www.aclu.org/issues/religion/hmrf.html>.

Advanced classes can move on to research each case in greater depth, either at the Oyez site or at the Supreme Court Collection of Cornell Law School <http://supct.law.cornell.edu/supct/>. Click on "search" for a variety of ways to look for cases. At this site the most useful route for advanced students is to click on the Syllabus of a case which is written by a court reporter to summarize the decision after it has been made. From the syllabus, students can click on "Opinions" for both majority and dissenting opinions.

Below are Abstracts from the Oyez Project for the cases used in this lesson:

Lyng v. Northwest Indian CPA

http://oyez.nwu.edu/cases/cases.cgi?command=show&case_id=218&page=abstract

Employment Division v. Smith

http://oyez.nwu.edu/cases/cases.cgi?command=show&case_id=110&page=abstract

For a similar case go to Church of the Lukumi Babalu Aye v. Hialeah 1993

http://oyez.nwu.edu/cases/cases.cgi?command=show&case_id=793&page=abstract

At the end of IN THE LIGHT OF REVERENCE the American Indian Religious Freedom Act of 1978 is discussed. It was passed "to protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions' including but not limited to access to sites." The full text can be accessed at <http://web.hamline.edu/law/lawreign/sacred/airfa78.ssw.html>. A subsequent amendment to the act was made by Congress in 1994: <http://www.councilfire.com/nefera/1023a.htm>. An Executive Order relating to Native American sacred sites was made in 1996, <http://web.hamline.edu/law/lawreign/sacred/execorder96.htm>.

Allegheny County v. ACLU

http://oyez.nwu.edu/cases/cases.cgi?command=show&case_id=87&page=abstract

For a related case see Lynch v. Donnelly 1984
http://oyez.nwu.edu/cases/cases.cgi?command=show&case_id=217&page=abstract

Santa Fe Independent School District v. Doe
http://oyez.nwu.edu/cases/cases.cgi?command=show&case_id=683&page=abstract

Wisconsin v. Yoder
http://oyez.nwu.edu/cases/cases.cgi?command=show&case_id=449&page=abstract

Assessment Suggestions

Ask each member of a team presenting a court case to assess his or her own performance when presenting a court case as follows:

- When preparing your case did you listen to your fellow team members?
- Did you contribute positively to group discussion?
- Did you follow through on research the team assigned to you?
- Did you help to present an effective legal case?
- If you wrote a brief, was it concise, well organized and well reasoned?
- Did you deliver your oral presentation with force and flair?

Ask each member of a team that adjudicated at a trial to assess his or her own performance at the trial as follows:

- Did you read the briefs presented to you carefully?
- Did you ask pertinent questions at the trial?
- When deliberating with fellow judges did you listen carefully to debate?
- Did you present your reasoning of the case effectively to fellow jurists?
- If you were assigned to write a majority or dissenting opinion, did you express your legal reasoning with clarity? Did you cite other cases and/or important documents in U.S. history?

The teacher can assess students on the basis of:

The research they did to prepare for their roles. Their skills in cooperating as members of a team. The legal briefs and/or court decisions they may have written. Their oral contributions to the trials they presented or judged. Their understanding of First Amendment Rights as they apply to a variety of controversial issues today. For example, using one of the two Supreme Court web sites listed in this lesson, the teacher can download an abstract about yet another decision regarding freedom of religion. Students can then write an essay about it in light of what they have learned from the simulation.

Students could also be asked to compare the new case to the ones they simulated in by creating a graphic organizer.

Extensions/Adaptations

1. Compare the mock court results with the decisions the Supreme Court actually made in each case.
2. Ask students to write an essay or prepare a visual organizer in which they compare two or more of the cases that were presented to the class.
3. Show the first two segments of *IN THE LIGHT OF REVERENCE*. A dispute concerning the Lakota Sioux's sacred site of "Mato Tipila" (Lakota for Bear's Lodge) at Devil's Tower opens the video and ends at approximately 24 minutes in. Ask students to compare the case of the Lakotas to *Lyng v. Northwest Indian CPA*. The Hopi lost control of land outside their reservation in the 1880s, but they still feel they have historic, cultural claims to sacred sites like Woodruff Butte, even though the land is now private property. The episode about the Hopi begins at approximately 25 minutes and ends 45 minutes in. Ask students to weigh the relative merits of the cases of the Hopi, Lakotas and Wintu? Which of these Native American nations has the strongest claim to its sacred site? On what basis did students make their decision?
4. Invite a lawyer to class who works on First Amendment cases, works for the Federal government, or who can otherwise share with students what it means to study and apply Constitutional law.

This lesson plan was written by Joan Brodsky Schur. Ms. Brodsky Schur teaches social studies and English at the Village Community School in New York City. She has written many articles over the years for *Social Education*. Joan and fellow-colleague Sari Grossman are co-authors of *In A New Land: An Anthology of Immigrant Literature*. Joan is also a contributing author to the Constitution Community, a Web site of the National Archives.

Activity Sheet 1		Groups with a vested interest.		
		Wintu	New Age Harmonic Convergence	Land Developer
Issues	Forest Service			
	Goal for Use of Mout Shasta			
	Reasons			
	Conflicts with Other Groups			
	Constitutional Issues			

Activity Sheet 2- Lesson Plan I	
Case Studies	Establishment Clause or Free Exercise Clause?
<p><i>Lyng v. Northwest Indian</i> CPA 1988</p> <p>The United States Forest Service planned to build a road on Federal property that would cut through land held to be sacred by American Indians who conduct religious rituals there. An organization of American Indians brought a case against the Secretary of Agriculture, Richard Edmund Lyng, who oversees the Forest Service. On which basis did they do so— the Establishment Clause or the Free Exercise clause?</p>	
<p><i>Employment Division v. Smith</i> 1990</p> <p>Two American Indians who worked as rehabilitation counselors were fired for using peyote as part of their religious ceremonies in the Native American Church. They were denied unemployment compensation by their state. The two workers brought a case against the state. On what basis?</p>	
<p><i>Allegheny County v. ACLU</i> 1989</p> <p>The Allegheny County Courthouse displayed a Christian nativity scene inside the courthouse and a Chanukah menorah outside. The American Civil Liberties Union brought a case against the City of Pittsburgh. On what basis?</p>	
<p><i>Santa Fe Independent School District v. Doe</i> 2000</p> <p>A school district permitted student-initiated and student led non-sectarian prayer at school football games. The Court of Appeals held that the football prayer was a violation of the First Amendment. The District Court appealed the ruling to the Supreme Court. Which aspect of the First Amendment is in dispute in this case?</p>	
<p><i>Wisconsin v. Yoder</i> 1972</p> <p>The State of Wisconsin prosecuted an Amish family for failing to send their children to public school after the 8th grade. The family claimed that it had been prosecuted unfairly because it was against their religious beliefs to send their children to school beyond 8th grade. Which aspect of the First Amendment is in dispute in this case?</p>	



Lesson Plan 2: SACRED GROUND OR FEDERAL LAND? A Conflict Resolution Role-Play

Grade Level: 7-12

Subjects: American History, Civics, Government

Estimated Time of Completion: 3 to 5 class periods, in addition to homework preparation.

Overview

The subject of this lesson is a controversy that has deep roots in American History, the Constitution and the Bill of Rights. Using the PBS documentary video **IN THE LIGHT OF REVERENCE** students closely examine the struggles of the Lakota Sioux to maintain their sacred site at Mato Tipila (Lakota for Bear's Lodge) at Devils Rock in Wyoming. Although the site was never ceded by treaty to the U.S. government, it is now under the administration of the National Park Service. Rock climbers claim any U.S. citizen should have complete access to the site because it is on Federal land. In deference to the religious practices of the Lakota, the National Park Service asks that people do not climb there during the entire month of June. The case has been litigated up to the Supreme Court.

After watching the video and discussing various aspects of the controversy, students role-play members of four teams: the Lakota, rock climbers, National Park Service and the courts. Using extensive on-line resources linked to the lesson, students research the issues and evaluate the sources. The first three teams present their demands in a hearing. The court tries to help them reach a compromise and then adjudicates any unresolved issues. The lesson continues as students compare the plight of the Lakota to that of the Hopi and Wintu, (as presented in the video) who also struggle to maintain their sacred lands.

1. Objectives
2. Standards
3. Materials Needed
4. Procedure
5. Assessment Suggestions
6. Extensions/Adaptations

Companion lesson plan to P.O.V.'s **IN THE LIGHT OF REVERENCE**
by Christopher McLeod & Malinda Maynor
National P.O.V. broadcast week of Tuesday, August 14th at 10pm ET on PBS

Objectives

Students will:

- i. Understand the concept of "rights in conflict" arising under the First Amendment (freedom of religion).
- ii. Interpret a current conflict from multiple perspectives.
- iii. Learn to advocate for a point of view.
- iv. Learn to resolve a conflict through a conflict resolution scenario.

Standards

This lesson addresses the following national curriculum standards:

I. Civics and Government, National Standards For Civics and Government
<http://www.civiced.org/912erica.htm>

II. B. 3.

The role of organized groups in political life. Students should be able to evaluate, take, and defend positions on the contemporary role of organized groups in American social and political life.

II. B. 4.

Diversity in American Society: Students should be able to evaluate, take and defend positions on issues regarding diversity in American life.

II. D. 4.

Conflicts among values and principles in American political and social life.

III. D. 1.

What is the place of law in American society?

V. B. 1. 2. 3.

Students should be able to evaluate, take and defend positions on issues regarding (1) personal rights, (2) political rights, and (3) economic rights.

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V. B. 4.

Relationships among personal, political and economic rights. Explain and give examples of situations in which personal, political, or economic rights are in conflict.

2. *American History, National Center for History in the Schools*
<http://www.sscnet.ucla.edu/nchs/standards/>

Era 6 Standard 4A: The student understands various perspectives of Federal Indian policy, westward expansion, and the resulting struggles. The students can therefore evaluate the legacy of 19th century Federal Indian policy.

Era 10 Standard 2C: The student understands changing religious diversity and its impact on American institutions and values.

Era 10 Standard 2E: The student understands how a democratic polity debates social issues and mediates between individual or group rights and the common good.

3. *Geography 9-12, McRel* <http://www.mcrel.org/compendium/Standard.asp? SubjectID>

Standard 6: Understands why places and regions are important to individual human identity and act as symbols for unifying a fragmented society.

Standard 14: Knows how people's changing attitudes toward the environment have led to landscape changes.

Standard 18: Understands why policies should be designed to guide the use and management of the Earth's resources and to reflect multiple points of view.

Materials Needed

1. Video tape of the P.O.V./PBS program "In the Light of Reverence."
2. Computers with Internet access.
3. Some art materials for making posters
4. Writing materials

Procedure

Companion lesson plan to P.O.V.'s **IN THE LIGHT OF REVERENCE**
by Christopher McLeod & Malinda Maynor
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Introduction to the Issues

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof"

The first part, known as the Establishment Clause, guarantees the separation of church and state. The second, or the Free Exercise Clause, guarantees that individuals can practice their chosen religion. Tell students that we often think of these first two clauses from the First Amendment as working together to protect the religious freedom of all Americans.

(For an excellent lesson on the separation of church and state go to the Bill of Rights in Action <http://www.crf-usa.org/bria/bria134.html>.)

Ask students to brainstorm famous cases or issues in American history that have arisen or continue to arise under the Establishment Clause, such as school prayer. Make a list of these on the board. Under a separate heading focus on the second clause, "Congress shall make no law prohibiting the free exercise thereof [of religion]." Again, ask for any examples students may be familiar with. For example, students do not need to salute the American flag if doing so violates their religious practices.

Now tell students that they are going to investigate a controversial issue today in which a group of American citizens believe they are being denied their right to religious freedom, despite the protection under the First Amendment. In fact, they believe they are unable to preserve their religion in part because of the First Amendment.

Ask students what kind of situation could lead to such an impasse? Let them ponder this ironic twist before explaining the current issue investigated in the first segment of "In the Light of Reverence."

Then explain the riddle: A site held sacred by the Lakota Indians is owned by the Federal Government. Because it is on Federal land, the U.S. Government cannot endorse its exclusive use for a particular religion. Are the Lakota (Sioux) then being denied their right to practice their religion? Like all "rights in conflict" issues, this one only becomes more complicated on closer inspection. Various other interest groups also claim they have rights of access to Bear's Lodge (Mato Tipila), also called Devils Rock.

Tell students that after viewing the first segment of **IN THE LIGHT OF REVERENCE** (approx. 24 minutes) they are going to play the roles of three groups in conflict with one another over this issue, and the court who help negotiate and/or decide the issue.

Companion lesson plan to P.O.V.'s **IN THE LIGHT OF REVERENCE**
by Christopher McLeod & Malinda Maynor
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You can print out the background information below as a guide to help students follow the issues in the video.

Team I will take the position of the Lakota Indians. They feel that U.S. judges fail to understand their religious beliefs and practices and thus do not grant them the same status as a "real" religion. Standing Bear is on Federal land that is now administered by the National Parks Service, under the jurisdiction of the Department of the Interior. It was never ceded to the U.S. government by the Sioux; rather it was taken from the Sioux after the U.S. Government broke a treaty with them in 1874.

Team II will take the position of the rock climbers. Climber Andy Petefish sought the help of the Mountain States Legal Foundation, to sue the National Parks Service. The National Park Service had asked rock climbers not to climb Devils Tower during the entire month of June, in deference to the religious practices of the Lakota. The climbers feel their rights as U.S. citizens are in and are in danger of being abrogated if Federal land is "voluntarily" off limits to U.S. citizens. Furthermore they feel the request to limit climbing for religious purposes sets a dangerous precedent, which threatens the separation of church and state.

Team III will take the position of the National Park Service. In its administration of Federal land it has tried to reach a compromise between the Sioux and the rock climbers in accordance with its mission and Federal law.

Team IV will take the position of the Federal courts that will first try to seek a compromise between the parties in conflict. If any issues remain unresolved among the parties, this team will act as a supreme court and by majority vote, decide how to resolve the issues in conflict. (This team should be composed of an odd number of students so as to avoid a tie.)

Viewing and Discussing the Video, Segment 1

Once you have divided the class into these four groups, ask every team member to take notes under the three columns on the next page (Worksheet 1). Then show the film from the opening until approximately 23 minutes in. You may wish to stop with images of the Lakota's 500 mile run accompanied by music because just after this the final judicial decision is made.

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WORKSHEET 1

- Position of the Lakota Sioux:

Opinions

Reasons

- Position of the Rock Climbers:

Opinions

Reasons

- Position of the National Park Service:

Opinions

Reasons

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Before splitting up into teams, hold a class discussion in which students share their observations on the conflicting interests of the various groups.

Pose the following questions:

- For purposes of religious freedom under the First Amendment, how should a religion be defined? Is it important to define? If so, who should define it?
- In what ways are the American Indian religious practices viewed in the program similar and/or different to those practiced by the majority of U.S. citizens? What problems might this cause the Sioux?
- The video segment includes many Lakota myths and stories. How do these stories tie the Lakota to the land? How do they transmit and maintain their culture?
- Using the companion web site to the series, research other places Americans deem to be sacred. What seems to make them so? Why would you protect these sites, or not?
- Why is the actual site so important to the Lakota? What specific sites are important to Christians, Jews or Muslims?
- Mato Tipila (Lakota for Bear's Lodge) is on Federal land. In judging this case, does it matter how the U.S. government acquired the land from the Sioux?
- Does separation of church and state mean that the Lakota should never perform religious ceremonies on Federal land?
- What role do economic interests play in conflicting interpretations of how the site should be used?
- How does the National Park Service view its role?
- At the end of *IN THE LIGHT OF REVERENCE* the American Indian Religious Freedom Act of 1978 is discussed. It was passed "to protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions including but not limited to access to sites. The full text can be accessed at: <http://www2.cr.nps.gov/laws/religious.htm>. A subsequent amendment to the act was made by Congress in 1994: <http://www.councilfire.com/nefera/1023a.htm> You may also wish to discuss a Supreme Court decision (*Employment Division v. Smith*, 494 U.S. 872 (1990)) which held that the First Amendment does not protect Indian religious practitioners who use peyote. http://oyez.nwu.edu/cases/cases.cgi?command=show&case_id=110&page=abstract
- What other sections of the Constitution are relevant to the debate over Bear's Lodge? For example, Article IV Section III gives Congress the power "to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States." Amendment V says that no one shall be "deprived of life, liberty, or property, without due process of law."
- What other options are open for satisfying the demands of the Lakota? Of the rock climbers? Of the National Park Service?

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Working as a Team

Team Tasks:

Phase 1. Meet, assign roles, and discuss the video and issues it raises from the team's point of view.

Phase 2. Research. (See list of relevant Web sites below.)

Phase 3. Plan a presentation in which the team sets forth its most important priorities and demands. In this initial phase the team should not think of compromising with any other groups. It should present in the clearest and most forceful terms possible what it wants most. (Their positions may or may not correlate to ones presented in the video segment.)

Speaker A must present a 3 minute position statement setting forth its team's most important priorities and demands.

Speaker B must present a 2 minute position statement.

Speaker C must present a 2 minute position statement.

Give each team time to meet and prepare its strategy. Assign students the roles below (or ask them to), after which they should research the issues and meet to discuss team strategy.

Team roles:

Team I should consist of one or more persons assigned to the following tasks:

A. Lakota Tribal historian(s).

The historian's role is to be able to recount Sioux history, from the Sioux point of view, from 1850 to 1890, and to convey their religious practices. It may be useful to replay the video segment in order to hear again relevant tribal myths.

- B. Constitutional scholar(s) and First Amendment rights specialist(s) who will interpret the laws in light of Lakota history and religion.
- C. Environmentalist(s) who will give the Lakota view of how to care for the environment and what it entails.
- D. Student who will make a strong visual statement in a poster of its team's position.

Team II should consist of one or more persons assigned to the following tasks:

- A. Member(s) of the rock climbing advocates such as Friends of Devils Tower, and the Access Fund. (Some of these groups disagree with one another over the best strategies to pursue.)
- B. Constitutional scholar(s) and First Amendment rights specialist(s) who will interpret the laws from the point of view of citizens who want access to Devils Tower at all times, as do the Mountain States Legal Foundation.
- C. Environmentalist(s) who will present the point of view of the rock climbers in terms of environmental issues.
- E. Student who will make a strong visual statement on a poster of its team's position.

Team III should consist of one or more persons assigned to the following tasks:

- A. Spokesperson(s) for the National Park Service, its mission, and history.
- B. Constitutional scholar(s) and First Amendment rights specialist(s) who will interpret the laws from the point of view of the N.P.S. and the Department of Interior under which it works.
- C. Environmentalist(s) who will present the N.P.S. point of view regarding rock climbing and religious rites in terms of their impact on Federal lands.
- D. Student who will make a strong visual statement a poster of its team's position.

Team IV should consist of one or more persons assigned to the following tasks:

- A. Student(s) assigned to research the Lakota viewpoint and pose questions about it.
- B. Student(s) assigned to research the mountain climber's viewpoint and pose questions about it.
- C. Student(s) assigned to research the National Park Service's perspective and pose questions about it.
- D. Constitutional scholar(s) who will review other Supreme Court cases in light of this controversy.

Relevant web sites for research:

Before asking students to begin online research (see suggested web sites below), ask students to evaluate the likely reliability of the information the sites convey by assessing the following:

- Who maintains the web site? Is it a government organization, a non-profit organization, a for-profit organization, a university, or an individual?
- Does the site advocate a particular viewpoint? To what audience is it mainly appealing? Is its use of language propagandistic?

Mountain States Legal Foundation

Its mission is to provide, "a strong and effective voice for freedom of enterprise, the rights of property ownership and the multiple use of Federal and State resources" by seeking a proper interpretation of the Constitution.

<http://www.mountainstateslegal.org/mission.htm>

Councilfire for "Top American Indian and Canadian First Nations news stories and current events".

<http://www.councilfire.com/topnews.htm>

National Park Service:

For its mission statement and "Who We Are" go to

<http://www.nps.gov/legacy/index.htm>

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National Park Service Devils Tower National Monument

For a complete history of the park in relationship to the mission of the National Park Service:

<http://www.nps.gov/deto/>

The Access Fund

A "national non-profit organization dedicated to keeping climbing areas open and to conserving the climbing environment."

<http://www.accessfund.org/>

American Civil Liberties Union

"Defending First Amendment Freedoms, equality, privacy rights and fundamental fairness" See their page on Religious Liberty at:

<http://www.aclu.org/issues/religion/hmrf.html>

Sites maintained at Hamline University School of Law:

American Indian Religious Freedom Act of 1978

<http://web.hamline.edu/law/lawreign/sacred/airfa78.ssw.htm>

Annotated Chronology for Bear Butte (with a good timeline of Sioux history)

<http://web.hamline.edu/law/lawreign/sacred/bearbchron.html>

Bear's Lodge Multiple Use Association V. Babbitt

<http://web.hamline.edu/law/lawreign/sacred/lodge2.htm>

President Clinton's Executive order on Indian Sacred Sites, 1996

<http://web.hamline.edu/law/lawreign/sacred/execorder96.htm>

Role Play Sequence

ROUND ONE

1. Speaker A from each team should set forth the team's position (3 minutes).
2. Members of the 4th team (the court) should pose two questions to each team. Two speakers from each team have a minute to reply per question.
3. Speaker B (Constitutional experts) from each team should present a statement backing up Speaker A (2 minutes).

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4. Members of the Court should pose one question to each team regarding the points made by its second speaker. A speaker from each team has one minute in which to reply to the question posed.
5. Speaker C from each team should present a statement (2 minutes) .
6. Members of the Court should pose one question to each team regarding the statements made by the third speaker from each team. A speaker from each team has one minute in which to answer the question posed.

ROUND TWO

1. Members of the Court should meet in private session and formulate a compromise plan. It should take into account the views of all three teams, but focus on what is best and fair under the Constitution for the American people. If possible, the court should cite other relevant cases (using the two suggested Supreme Court Web sites).
2. The compromise plan should be presented to all three groups in writing.
3. Each of the 3 teams should read the compromise plan, meet, and plan a response. The team should prepare a written statement in which it specifies why it has either:
 4. Rejected the entire plan
 5. Accepted the entire plan
 6. Accepted parts of the plan and rejected others.

ROUND THREE

1. All four teams should reconvene.
2. Each of the 3 teams should read their responses to the compromise plan.
3. If all teams agree on the Court's plan, the role play ends there.

ROUND FOUR

1. If the parties reject parts of the plan, The Court should then moderate a discussion of the outstanding differences, calling in succession on a member of each of the 3 teams so as to insure fairness.
2. The Court must meet again to come up with a revision of its original plan or an alternative plan.

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3. It should present its new plan either orally or in writing (as time permits).
. Each team will deliberate briefly on the alternative plan.
4. If the alternative plan is rejected by any one of the three teams, the Court must meet and make a final judgment as to what should happen on its own. It must justify its position with reference to the demands of all groups, the Constitution, environmental law, and the best interests of the American people.

Debriefing: Other Issues Raised by the Video:

Show the remaining minute or two of segment 1 of the video (at approximately 24 minutes in) which discusses what the Supreme Court did about Bear's Lodge and compare it to the outcome arrived at by the class. With your class view either or both of the remaining segments of IN THE LIGHT OF REVERENCE about the struggles of the Hopi (approx. 25 minutes in to 46 minutes) and the Wintu (46 minutes to 111 minutes) to retain their sacred lands.

Discussion Questions for Viewing the Segment on the Hopi:

- The Hopis wish to reclaim land that is currently privately owned, rather than in the public domain. Does this strengthen or weaken their case?
- Did the Hopi have a fair chance to ever buy the property that was once theirs? Should this alter the case or not?
- Who should determine what is sacred ground, and by what measure?
- What redresses are the Hopis seeking for the loss of their sacred land?
- What environmental issues are at stake in the fight over lands the Hopi call sacred?
- What are the rights of property owners? Would the Hopi's claims (if they were acceded to) weaken the rights of all property owners?
- Does the application of Federal funds to the development of private property alter the claims of either side?

Discussion Questions for Viewing the Segment on the Wintu:

- Does the fact that the Wintus are not recognized as a tribe by the U.S. government weaken their case relative to that of the Lakota and Hopi?
- What is unique about California history that makes it difficult for large tribes to stay intact? Are the Wintu being further penalized because there are so few of them?

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- Why do realty investors feel the American public would be better served by developing the land?
- The religious rights of the Wintu are being challenged by other "New Age" religious groups. Who should decide what constitutes a religion, and whether one religion should take precedence over another?

Assessment Suggestions

Students can be assessed for how they worked in their "cooperative learning" teams. Ask each member to assess his or her own performance using a rubric such as the following:

- Did you listen to your fellow team members?
- Did you contribute positively to group discussion?
- Did you follow through on research the team assigned to you?
- Did you help resolve any conflicts while working with one another?
- Did you express your viewpoint effectively during the role play?
- Did you help the team reach appropriate compromises in the last phases of the role play?

Team members should share their individual assessments with the whole team and then evaluate the team's performance with a rubric such as the following:

- How effectively did the team listen to one another?
- Did everyone contribute positively to group discussion?
- Did each member follow through on research the team assigned to him or her?
- Did the team resolve any conflicts while working with one another?
- Was the team able to present its viewpoint effectively to other teams during the role play?
- Did the team suggest appropriate compromises in the last phases of the role play?

The teacher can assess students for the presentations they made during the role play using a rubric such as the following:

- Did the presentation reflect research into the issues?
- Did the presentation reflect a grasp of what rights came into conflict?
- Was the presentation carefully prepared, well organized, and delivered in a convincing manner?

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- Ask students to contribute to the discussion board at the companion web site to the video, expressing how they would resolve the conflict, based on what they learned in their role play.

Extensions/Adaptations

1. After students view the 2nd and 3rd segments of the video ask students to write an essay comparing the Constitutional issues that were depicted in the 1st segment (Lakota Sioux) to those arising in one or two of the subsequent segments (Hopi or Wintu). Students can use the questions in the Debriefing section of this lesson to guide them as they make comparisons. Alternatively, ask students to design a chart in which two or more of the segments are analyzed in terms of categories such as "religious rights," "property rights," "historical precedents" and so forth.

2. *IN THE LIGHT OF REVERENCE* suggests that there are different ways to resolve problems when the interests of different groups conflict. In segment 1 about the Sioux and Bear's Lodge, an aggrieved party (the rock climbers) went to court. In the case of the Wintu, the Forest Service tried to negotiate a compromise among the groups in conflict, and finally, through its mandate as a government agency, made decisions about the use of the land. Ask students to compare and contrast these two methods of settling disputes in either a graphic organizer or an essay. What are the costs and benefits of each method?

3. Invite a lawyer to class who can share relevant information about conflict resolution, what happens when a case goes to trial, or other issues relating to the program.

4. Ask students to research the history of the Wintu, Hopi and Sioux. What other issues are at stake for them today?

This lesson plan was written by Joan Brodsky Schur. Ms. Brodsky Schur teaches social studies and English at the Village Community School in New York City. She has written many articles over the years for Social Education. Joan and fellow-colleague Sari Grossman are co-authors of *In A New Land: An Anthology of Immigrant Literature*. Joan is also a contributing author to the Constitution Community, a Web site of the National Archives.

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