

## RULE OF LAW

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Analyze how landmark Supreme Court decisions maintain the rule of law and protect minorities.

### About These Resources

- [Rule of law overview](#)
- [Opening questions](#)
- [Discussion questions](#)

### Case Summaries

- [Express Unpopular Views:](#)  
Snyder v. Phelps (military funeral protests)  
Johnson v. Texas (flag burning)
- [Participate in the Judicial Process:](#)  
Batson v. Kentucky (race and jury selection)  
J.E.B. v. Alabama (gender and jury selection)
- [Exercise Religious Practices:](#)  
Church of the Lukumi-Babalu Aye, Inc. v. City of Hialeah (controversial religious practices)  
Wisconsin v. Yoder (compulsory education law and exercise of religion)
- [Access to Education:](#)  
Plyer v. Doe (immigrant children)  
Brown v. Board of Education (separate is not equal)  
Cooper v. Aaron (implementing desegregation)

### How to Use These Resources

#### In Advance

1. Teachers/lawyers and students read the case summaries and questions.
2. Participants prepare presentations of the facts and summaries for selected cases in the classroom or courtroom.
  - Examples of presentation methods include lectures, oral arguments, or debates.

#### In the Classroom or Courtroom

Teachers/lawyers, and/or judges facilitate the following activities:

1. Presentation: [rule of law overview](#)
  2. Interactive warm-up: [opening discussion](#)
  3. Teams of students present: [case summaries](#) and [discussion questions](#)
  4. Wrap-up: [questions for understanding](#)
- Program Times: 50-minute class period; 90-minute courtroom program. Timing depends on the number of cases selected. Presentations maybe made by any combination of teachers, lawyers, and/or students and student teams, followed by the discussion questions included in the wrap-up.
  - Preparation Times:
    - Teachers/Lawyers/Judges: 30 minutes reading

- Students: 60-90 minutes reading and preparing presentations, depending on the number of cases and the method of presentation selected.
- Courthouse Venue: If the teacher would like to have a federal judge preside over the presentations, use the [court locator](#) to find the nearest local courthouse.

## RULE OF LAW OVERVIEW

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More than 200 years ago, Alexander Hamilton, James Madison, and John Jay published a series of essays promoting the ratification of the United States Constitution now known as Federalist Papers. In explaining the need for an independent judiciary, Alexander Hamilton noted in [The Federalist # 78](#) that the federal courts "were designed to be an intermediate body between the people and their legislature" in order to ensure that the people's representatives acted only within the authority given to Congress under the Constitution.

The U.S. Constitution is the nation's fundamental law. It codifies the core values of the people. Courts have the responsibility to interpret the Constitution's meaning, as well as the meaning of any laws passed by Congress. [The Federalist # 78](#) states further that, if any law passed by Congress conflicts with the Constitution, "the Constitution ought to be preferred to the statute, the intention of the people to the intention of their agents."

"Nor does this conclusion by any means suppose a superiority of the judicial to the legislative power. It only supposed that the power of the people is superior to both; and that where the will of the legislature, declared in its statutes, stands in opposition to that of the people, declared in the Constitution, the judges ought to be governed by the latter rather than the former. They ought to regulate their decisions by the fundamental laws, rather than by those which are not fundamental."

The American democratic system is not always based upon simple majority rule. There are certain principles that are so important to the nation that the majority has agreed not to interfere in these areas. For instance, the Bill of Rights was passed because concepts such as freedom of religion, speech, equal treatment, and due process of law were deemed so important that, barring a Constitutional Amendment, not even a majority should be allowed to change them.

Rule of law is a principle under which all persons, institutions, and entities are accountable to laws that are:

- Publicly promulgated
- Equally enforced
- Independently adjudicated
- And consistent with international human rights principles.

The courts play an integral role in maintaining the rule of law, particularly when they hear the grievances voiced by minority groups or by those who may hold minority opinions. Equality before the law is such an essential part of the American system of government that, when a majority, whether acting intentionally or unintentionally, infringes upon the rights of a minority, the Court may see fit to hear both sides of the controversy in court.

### Related Resources

- [The Federalist Papers](#)  
Mark Dimunation talks about The Federalist Papers. The collection of 85 essays by Alexander Hamilton, James Madison, and John Jay were written between 1787 and 1788 to encourage the states to ratify the Constitution.

## OPENING DISCUSSION QUESTIONS

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1. How does the Constitution protect the impartiality of federal judges when they have to make unpopular decisions in order to follow the rule of law?

The Founders knew that various political majorities might try to adversely affect minorities. Therefore, when they wrote Article III of the Constitution, they gave federal judges life tenure, during good behavior, to reinforce their protection from majority pressures. The Founders knew that judges would sometimes have to make unpopular decisions on some of the most controversial issues of the day and, in light of this, the Founders thought that federal judges should be isolated from political and social pressures.

2. How can majority-democratic rule be reconciled with minority rights when the judiciary acts to safeguard the rule of law?

The protection of minorities is not undemocratic. As the existence of the Bill of Rights illustrates, the majority has voluntarily agreed to limit majority rule in certain areas because some rights are so cherished that, barring a Constitutional amendment, they should not be changed, even by majority vote. Moreover, the federal courts are limited by the text of the Constitution and applicable laws. Judges must look to the Constitution and these laws to make their decisions—they are not free to impose their own personal beliefs on others, but must always have a legal basis for their decisions.

## EXPRESS UNPOPULAR VIEWS

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Snyder v. Phelps   Texas v. Johnson   What is Your Opinion?

Summary of a First Amendment Landmark Supreme Court case:

Snyder v. Phelps [131 S. Ct. 1207 \(2011\)](#)

### FACTS:

Fred Phelps and his followers at the Westboro Baptist Church believe that God punishes the United States for its tolerance of homosexuality, particularly within the military. To demonstrate their beliefs, Phelps and his followers often picket at military funerals.

Albert Snyder's son, Lance Corporal Matthew Snyder, was killed in the line of duty in Iraq in 2006. Westboro picketed Matthew Snyder's funeral displaying signs that stated, for instance, "God Hates the USA/Thank God for 9/11," "Thank God for Dead Soldiers," and "Don't Pray for the USA." The church notified local authorities in advance that they intended to picket the funeral, staged the picket on public land adjacent to a public street, and complied with all police instructions. Church members also sang hymns and recited Bible verses.

Although Albert Snyder could see the tops of the picket signs on the day of the funeral, he could not read what was written on them and it was not until he saw a news story about the funeral and the picketing that he became aware of the church's message. Snyder sued Phelps and the church claiming, among other things, that their actions caused him severe emotional distress. In defense, Phelps argued that his speech (the picketing and the signs) was protected under the Free Speech Clause of the [First Amendment](#) to the Constitution.

### ISSUE:

Whether Westboro's signs and comments while picketing Matthew Snyder's funeral related to matters of public concern and were, thus, entitled to greater protection under the Free Speech Clause of the First Amendment?

### RULING:

Yes.

### REASONING:

(Chief Justice Roberts) The Supreme Court's holding turned largely on its determination that the church was speaking on "matters of public concern" as opposed to "matters of purely private significance." The Court explained that "[s]peech deals with matters of public concern when it can 'be fairly considered as relating to any matter of political, social, or other concern to the community' or when it 'is a subject of general interest and of value and concern to the public.'" Speech on public issues is entitled to special protection under the First Amendment because it serves the "the principle that debate on public issues should be uninhibited, robust, and wide-open."

To determine whether the speech dealt with matters of public concern, the Court examined the "content, form, and context" of the speech. The court noted that none of these factors would determine the outcome of the case and that a court must evaluate all the circumstances of the speech, "including what was said, where it was said, and how it was said."

Even though some of the picket signs arguably targeted only the Snyder family, most of them addressed issues regarding the moral conduct of the U.S., the fate of the U.S., and homosexuality in the military. As such, the "overall thrust and dominant theme" of the speech related to broader public issues. Furthermore, the church was picketing on public land adjacent to a public street. Finally, there was no pre-existing relationship between Westboro's speech and Snyder that might suggest that the speech on public matters was intended to mask an attack on Snyder over a private matter. Therefore, the Court held that the Phelps and his followers were "speaking" on matters of public concern on public property and thus, were entitled to protection under the First Amendment.

DISSENT:

(Alito, J.) Justice Alito argued that the national commitment to free and open debate is not a license for the vicious verbal assault that occurred in this case. He noted that "the First Amendment does not shield utterances that form 'no essential part of any exposition of ideas, and are of such slight social value as a step to truth that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality.'" Accordingly, he asserts that, in light of the grave injury inflicted by the statements in this case, the First Amendment should not interfere with recovery for tort damages.

## EXPRESS UNPOPULAR VIEWS

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Snyder v. Phelps   Texas v. Johnson   What is Your Opinion?

Summary of a First Amendment Landmark Supreme Court case:

Texas v. Johnson [491 U.S. 397 \(1989\)](#)

### FACTS:

While the Republican National Convention was taking place in Dallas in 1984, Gregory Lee Johnson participated in a political demonstration dubbed the "Republican War Chest Tour." The purpose of the demonstration was to protest the policies of the Reagan administration and of certain Dallas-based corporations.

The demonstrators marched through streets, chanted political slogans, and stopped at several corporate locations to stage "die-ins" intended to dramatize the consequences of nuclear war. At one point, Johnson accepted an American flag handed to him by a fellow protestor who had taken it from a flagpole outside one of the targeted buildings.

The demonstration ended in front of Dallas City Hall, where Johnson unfurled the American flag, doused it with kerosene, and set it on fire. While the flag burned, the protestors chanted: "America, the red, white, and blue, we spit on you." No one was physically injured or threatened with injury, though several witnesses testified that they had been seriously offended by the flag burning.

Johnson was arrested and charged with violating a Texas statute that prevented the desecration of a venerated object, including the American flag, if the person knows it will seriously offend others. A Texas court tried and convicted Johnson. He appealed, arguing that his actions were "symbolic speech" protected by the [First Amendment](#). The Supreme Court agreed to hear his case.

### ISSUE:

Whether flag burning constitutes "symbolic speech" protected by the First Amendment.

### RULING:

Yes.

### REASONING:

(Brennan, J.) The majority of the Court, agreed with Johnson and held that flag burning constitutes a form of "symbolic speech" that is protected by the First Amendment. "A law directed at the communicative nature of conduct must, like a law directed at speech itself, be justified by the substantial showing of need that the First Amendment requires."

The majority concluded that the Texas law impermissibly discriminated upon viewpoint. The Court noted, "If there is a bedrock principle underlying the First Amendment, it is that the government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable." For example, although the law punished actions, such as flag burning, that might arouse anger in others, it specifically exempted from prosecution actions that were respectful of venerated objects, e.g., burning and burying a worn-out flag. The majority said that the government could not discriminate in this manner based solely upon what message was communicated.

Finally, the Court concluded that Texas' interest in preventing breaches of the peace did not support Johnson's conviction because the conduct at issue did not threaten to disturb the peace. Moreover, Texas' interest in preserving the flag as a symbol of nationhood and national unity did not justify Johnson's criminal conviction for engaging in political expression.

### DISSENT:

(Chief Justice Rehnquist) Writing for the dissent, Chief Justice Rehnquist recounted the historic role the flag has played and asserted that it is a visible symbol embodying the nation

that represents neither a particular political party nor a particular political philosophy. The dissent further contended that the public burning of the American flag by Johnson was no essential part of any exposition of ideas and had a tendency to incite a breach of the peace. Therefore, because the American flag has occupied a unique position as the symbol of the nation, that uniqueness justifies a governmental prohibition against flag burning.

(Stevens, J.) Justice Stevens argued that the flag's unique status as a symbol of freedom, equal opportunity, religious tolerance, and good will for others who share such operations supports a prohibition on the desecration of the American flag in the same way that the public is prohibited from spray painting the Washington Monument or the Lincoln Memorial.



## EXPRESS UNPOPULAR VIEWS

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Snyder v. Phelps   Texas v. Johnson   What is Your Opinion?

### What is Your Opinion?

1. Why might it be important for the rule of law to protect those who express ideas that the majority may find offensive?
2. Should symbolic speech receive the same First Amendment protections as other forms of speech?
3. Are there times when the government should be able to limit speech? If so, under what circumstances and why?

### Related Resources:

- [Rule of Law Overview](#)
- [Rule of Law: Opening Discussion and Talking Points](#)
- [First Amendment: What Does Free Speech Mean?](#)

## PARTICIPATE IN THE JUDICIAL PROCESS

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Batson v. Kentucky   J.E.B. v. Alabama   What is Your Opinion?

Summary of a Fourteenth Amendment Landmark case:

Batson v. Kentucky [476 U.S. 79 \(1986\)](#)

### FACTS:

When selecting a jury, both parties may remove potential jurors using an unlimited number of challenges for cause (e.g., stated reasons such as bias) and a limited number of peremptory challenges (i.e., do not need to state a reason).

At the trial of James Kirkland Batson for burglary and receipt of stolen goods, the prosecutor used his peremptory challenges to remove all four African Americans from the jury pool. Batson challenged the removal of these jurors as violating his [Sixth Amendment](#) right to an impartial jury and the [Equal Protection Clause of the Fourteenth Amendment](#). The jury convicted petitioner on both counts.

On appeal, the Supreme Court of Kentucky affirmed the convictions. The Supreme Court agreed to hear the case.

### ISSUE:

Whether the use of peremptory challenges to remove a potential juror from the jury pool based on race violates the Equal Protection Clause of the Fourteenth Amendment to the Constitution?

### RULING:

Yes.

### REASONING:

(Powell, J.): In a 7–2 decision, the Court held that, while a defendant is not entitled to have a jury completely or partially composed of people of his own race, the state is not permitted to use its peremptory challenges to automatically exclude potential members of the jury because of their race. "The Equal Protection Clause guarantees the defendant that the state will not exclude members of his race from the jury venire on account of race or on the false assumption that members of his race as a group are not qualified to serve as jurors."

"The harm from discriminatory jury selection extends beyond that inflicted on the defendant and the excluded juror to touch the entire community. Selection procedures that purposefully exclude black persons from juries undermine public confidence in the fairness of our system of justice."

A defendant in a criminal case can make an Equal Protection claim based on the discriminatory use of peremptory challenges at a defendant's trial. Once the defendant makes a showing that race was the reason potential jurors were excluded, the burden shifts to the state to come forward with a race-neutral explanation for the exclusion.

### CONCURRENCE:

(White, J.) Justice White wrote that although the Court's prior precedent should have warned prosecutors that using peremptory challenges to exclude people based solely on race violates the Equal Protection Clause, the widespread practice of discriminatory elimination of jurors justifies the opportunity to inquire into the basis of the peremptory challenge.

(Marshall, J.) Justice Thurgood Marshall agreed with the decision in the case, but asserted that the Court should eliminate the use of peremptory challenges in all criminal proceedings so that they could not be used as a front for impermissible racial considerations. Justice Marshall asserted that under the current system, prosecutors are still free to discriminate so long as it is not blatant, and trial courts face a difficult burden of assessing a prosecutor's motive.

(Stevens, J) Justice Stevens asserted that the Equal Protection Claim was properly before the Court even though it was not initially presented by the petitioner because the party defending the judgment expressly relied on the issue as a basis for affirming the state court decision.

(O'Connor, J) Justice O'Connor wrote to agree that the rule announced does not apply retroactively.

DISSENT:

(Burger, C.J.) Chief Justice Warren Burger noted that the Equal Protection Clause issue should not have been decided because the petitioner did not properly raise that type of challenge. The Chief Justice also noted that reargument and further briefing on the issue should have been ordered given the importance and tradition of peremptory challenges in the legal system. Peremptory challenges had a long history in both England and America before the Revolution, and the purpose of peremptory challenges was to allow elimination of a particular juror without reason. The Chief Justice also noted that the Court did not apply the conventional Equal Protection Clause framework to the claims before it because the state's interest in preserving peremptory challenges might be so compelling as to allow the types of challenges that happened in this case. In sum, the Chief Justice asserted that "[a]n institution like the peremptory challenge that is part of the fabric of our jury system should not be casually cast aside, especially on a basis not raised or argued by the petitioner."

# PARTICIPATE IN THE JUDICIAL PROCESS

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Batson v. Kentucky   J.E.B. v. Alabama   What is Your Opinion?

Summary of a Fourteenth Amendment Landmark case:

J.E.B. v. Alabama [511 U.S. 127 \(1994\)](#)

FACTS:	<p>The State of Alabama, acting on behalf of the child, J.T., filed a complaint for paternity and child support against J.E.B. The state used its peremptory challenges to strike nine of 10 potential male jurors from the jury. J.E.B., the defendant, used one challenge to strike the remaining male juror. As a result, all the selected jurors were female. J.E.B. claimed that the state's use of the peremptory challenge to exclude nearly all male jurors violated the Equal Protection Clause of the Fourteenth Amendment. The court rejected petitioner's claim. The jury found petitioner to be the father of the child, and the court entered an order directing him to pay child support.</p> <p>The Alabama Court of Civil Appeals affirmed, and the Supreme Court of Alabama refused to hear the case. The Supreme Court agreed to hear the case.</p>
ISSUE:	<p>Whether the use of peremptory challenges to remove a potential juror from the jury pool because of the potential juror's gender violates the <a href="#">Equal Protection Clause of the Fourteenth Amendment</a> to the Constitution?</p>
RULING:	<p>Yes.</p>
REASONING:	<p>(Blackmun, J.) In a 6–3 decision, the Court ruled that the Equal Protection Clause prohibits striking potential jurors not only because of their race or ethnicity, but also because of their gender. The Court concluded that discrimination on the basis of gender in jury selection does not substantially further the state's legitimate interest in achieving a fair and impartial trial.</p> <p>The Court noted that "[w]hile the prejudicial attitudes toward women in this country have not been identical to those held toward racial minorities, the similarities between the experiences of racial minorities and women, in some contexts, overpower those differences." "Discrimination in jury selection, whether based on race or on gender, causes harm to the litigants, the community, and the individual jurors who are wrongfully excluded from participation in the judicial process." Moreover, the Court held that when a state exercises peremptory challenges based on gender stereotypes, it ratifies and reinforces prejudicial views of the relative abilities of men and women. Finally, the Court noted that its holding does not imply the elimination of all peremptory challenges, but simply concludes that gender cannot serve as a proxy for bias.</p>
CONCURRENCE:	<p>(O'Connor, J) Justice O'Connor agreed with the Court's conclusion that the state's reasons for excluding jurors based on gender were far from "exceedingly persuasive," but asserted that the Court's conclusion should be limited to the government's use of gender-based peremptory strikes. Justice O'Connor noted the increased burden posed by additional constitutional restraints on the use of peremptory challenges. In light of the importance of peremptory challenge and the increased burden imposed by the majority's holding, Justice O'Connor argues that the Equal Protection Clause analysis should only apply to discrimination by state actors, namely the prosecution.</p> <p>(Kennedy, J.) Justice Kennedy agreed with the Court's conclusion and noted that an individual who is denied jury service because of a peremptory challenge on the basis of sex is not less injured than the individual who is denied jury service because of a law banning members of the sex from serving as jurors. Justice Kennedy also wrote that "it is important to recognize</p>

that a juror sits not as a representative of a racial or sexual group but as an individual citizen. Nothing would be more pernicious to the jury system than for society to presume that persons of different backgrounds go to the jury room to voice prejudice."

DISSENT:

(Rehnquist, C.J.) Chief Rehnquist asserted that there are sufficient differences between race and gender discrimination such that the principle of Batson should not be extended to peremptory challenges to potential jurors based on sex. Specifically, the Chief Justice noted that racial groups comprise numerical minorities in society, whereas the population is almost equally divided between men and women. He also contends that racial equality has proved a more challenging goal to achieve on many fronts than gender equality. Finally, he asserts that the two sexes differ, both biologically and in experience; as such, "it is not merely 'stereotyping' to say that these differences may produce a difference in outlook which is brought to the jury room." Accordingly, use of a peremptory challenge based on sex is "not the sort of derogatory and invidious act which peremptory challenges directed at black jurors may be."

(Scalia, J) Justice Scalia contends that much of the majority's discussion regarding prejudice against women is irrelevant because the case involves state action against men. Further, he asserts that the conclusion damages the whole character of the peremptory challenge system as well as the entire justice system due to the need for explanation and the increased potential for collateral review of the jury selection process.

## PARTICIPATE IN THE JUDICIAL PROCESS

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Batson v. Kentucky   J.E.B. v. Alabama   What is Your Opinion?

What is Your Opinion?

1. Why is it important not to exclude different races from jury service?
  
2. Why is it important not to exclude potential jurors on the basis of their gender?

Related Resources:

- [Rule of Law Overview](#)
- [Rule of Law: Opening Discussion and Talking Points](#)
- [First Amendment: What Does Free Speech Mean?](#)

## EXERCISE RELIGIOUS PRACTICES

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Church of the Lukumi-Babalu Aye v. Hialeah   Wisconsin v. Yoder   What is Your Opinion?

Summary of a First Amendment Landmark Supreme Court case:

Church of the Lukumi-Babalu Aye, Inc. v. City of Hialeah [508 U.S. 520 \(1993\)](#)

### FACTS:

The Church of the Lukumi-Babalu Aye, Inc. was a Florida not-for-profit organization that practiced the Santeria religion. The Santeria religion is considered by some to be a "fusion" between the religion of the Yoruba people of Western Africa, who were brought as slaves to Cuba, and significant elements of Roman Catholicism. The Cuban Yoruba express their devotion to spirits, called orishas, through the iconography of Catholic saints; Catholic symbols are often present at Santeria rituals; and Santeria devotees attend the Catholic sacraments. One of the principal forms of devotion in Santeria is animal sacrifice. Sacrifices are performed at birth, marriage, and death rites; for the cure of the sick; for the initiation of new members and priests; and during an annual celebration. The sacrificed animal is cooked and eaten at some ceremonies.

The Church leased land in the City of Hialeah, Florida, and announced plans to build a complex that included a house of worship, a school, a cultural center, and a museum. The prospect of a Santeria church was distressing to many members of the Hialeah community. In response, the city council held an emergency public session and subsequently passed several resolutions and ordinances aimed at preventing religious animal sacrifice. The local laws prohibited Santeria sacrifices; however, the laws contained exceptions for animal killings under comparable circumstances and for other religion-related purposes, including kosher slaughter.

The Church filed an action in a federal district court, alleging that the laws violated the [Free Exercise Clause of the First Amendment](#). The district court ruled for the City, concluding that the laws' effect on religious practice was incidental to the purposes of protecting public health and welfare. The Court of Appeals affirmed.

### ISSUE:

Whether the city laws directed at animal sacrifice as part of the Santeria religion violated the Free Exercise Clause of the [First Amendment](#)?

### RULING:

Yes.

### REASONING:

(Kennedy, J.) Justice Kennedy concluded that the local laws violated the Free Exercise Clause because they were designed to persecute or oppress a religion or its practices.

The Free Exercise Clause provides that "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof." "The Free Exercise Clause commits government itself to religious tolerance, and upon even slight suspicion that proposals for state intervention stem from animosity to religion or distrust of its practices, all officials must pause to remember their own high duty to the Constitution and to the rights it secures." Accordingly, "legislators may not devise mechanisms, overt or disguised to persecute or oppress a religion or its practice." Under the constitution, a law that is not neutral, but targets a specific action, and that does not apply generally to all people, but targets a specific group, must be justified by a compelling governmental interest and narrowly tailored to advance that interest.

The Court held that the purpose of the laws was to suppress the Santeria religion. The only conduct subject to the ordinances was animal sacrifice, the central element of the Santeria worship services, and they were therefore not neutral. The Court also held that the ordinances were not of general applicability but selectively targeted to conduct motivated by religious

belief.

Further the court held that the local laws, which were not neutral or generally applied, were not narrowly tailored to a compelling governmental interest. The interests advanced by the city were protecting the public health and preventing animal cruelty. The Court found, however, that the city failed to establish that these interests were compelling because the ordinances only restricted conduct by the Church and the Santeria religion and not other similar conduct that created the same type of harm. For example, the laws did not prohibit the private slaughter of animals for food or kosher butchering. Further, the Court held that, even if the interests were somehow compelling, they could be achieved by more narrowly tailored laws that burdened religion to a far lesser degree.

**CONCURRENCE:**

(Scalia, J.) Justice Scalia asserted that the focus should be on the effects of the law, not the intention of the lawmakers, because it is virtually impossible to determine the singular "motive" of a collective legislative body. Further, he contended that because the effect of the laws at issue was to single out a religious practice for special burdens, the Court need not look at the motivation in passing the laws.

(Souter, J.) Justice Souter asserted that, in his opinion, a law that targets religion fails strict scrutiny. However, he noted that the Court did not address the more difficult situation of whether the Free Exercise Clause is violated by a law of general applicability that incidentally burdens religious practices.



## EXERCISE RELIGIOUS PRACTICES

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Church of the Lukumi-Babalu Aye v. Hialeah    Wisconsin v. Yoder    What is Your Opinion?

Summary of a First Amendment Landmark Supreme Court case:

Wisconsin v. Yoder [406 U.S. 205 \(1972\)](#)

FACTS:	<p>The State of Wisconsin enacted a compulsory school attendance law which required all children to attend public or private school until attaining the age of 16. Practitioners of the Amish religion object to formal education beyond the eighth grade because it conflicts with the religious concepts central to their faith, takes adolescents away from the purposely closed Amish community during a crucial and formative period of their lives, and subjects them to influences in conflict with the Amish way of life.</p> <p>Three residents, all of the Amish faith, declined to send their children, ages 14 and 15, to school after they completed the eighth grade. As a result of parents' decision not to send their children to school, they were each convicted of violating the law and fined \$5 each.</p>
ISSUE:	<p>Whether Wisconsin's compulsory education law violated the <a href="#">Free Exercise Clause of the First Amendment</a>?</p>
RULING:	<p>Yes.</p>
REASONING:	<p>(Chief Justice Burger) The Court concluded that requiring Amish children to attend school beyond the eighth grade would violate their rights under the Free Exercise Clause. Specifically, the Court determined that the religious faith of the Amish and their mode of life are inseparable and interdependent, and that the enforcement of the Wisconsin compulsory education law "would gravely endanger if not destroy the free exercise of [their] religious beliefs."</p> <p>The Court noted the inherent tension between the state's interest in universal formal education and the high value society places on parental direction of the religious upbringing and education of their children in their early and formative years. The Court concluded that a state's interest in universal education must be balanced against parents' interest in the religious upbringing of their children.</p> <p>The Court held that the "fundamental interest" of parents to direct the religious upbringing of their children, combined with the burden placed on religious practices by Wisconsin's compulsory education law, outweighed the general interest of the state in educating its citizens. While the state made no particularized showing of how its interest would be adversely affected by granting an exemption to the Amish, the Amish parents introduced overwhelming evidence that forgoing one to two years of compulsory education would not impair the welfare of their children or society as a whole.</p>
CONCURRENCE:	<p>(Stewart, J.) Justice Stewart concurred in the judgment of the Court but cautioned that this would be a very different case if the Amish faith forbade children from attending school at all. According to Justice Stewart, while a high value is placed religious freedom, that value should not denigrate the interest of the state in enforcing minimal education standards.</p>
DISSENT:	<p>(Douglas, J.) Justice Douglas disagreed with the Court's reasoning on several grounds but primarily with its consideration only of the parents' rights, and not those of the children. According to Justice Douglas, the children's rights were put at issue in the case and "[w]here</p>

the child is mature enough to express potentially conflicting desires, it would be an invasion of the child's rights to permit such an imposition without canvassing his views." Because only one child had testified that her own religious views were opposed to high school, Justice Douglas joined in the judgment of the Court as to that child's father. Justice Douglas dissented from the judgment as to the other parents because the other children did not similarly testify.

## EXERCISE RELIGIOUS PRACTICES

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Church of the Lukumi-Babalu Aye v. Hialeah   Wisconsin v. Yoder   What is Your Opinion?

What is Your Opinion?

1. Should the government be allowed to ban certain religious practices?
  
2. How should the government balance educational requirements and religious freedom?

Related Resources:

- [Rule of Law Overview](#)
- [Rule of Law: Opening Discussion and Talking Points](#)
- [First Amendment: What Does Free Speech Mean?](#)

## ACCESS TO EDUCATION

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[Plyler v. Doe](#) [Brown v. Board of Education](#) [Cooper v. Aaron](#) [What is Your Opinion?](#)

Summary of a Fourteenth Amendment Landmark case:

[Plyler v. Doe](#) [457 U.S. 202 \(1982\)](#)

### FACTS:

In 1975, the Texas Legislature revised its education laws to deny enrollment in their public schools to and withhold any state funds for the education of children who were not "legally admitted" to the country.

A class action was filed on behalf of certain school-age children of Mexican origin residing in Texas who could not establish that they had been legally admitted into the United States. The class filed a motion for permanent injunctive relief, asking the district court to prevent defendants from denying a free public education to members of the class.

In deciding the motion, the district court found that neither the revised law nor its implementation had "either the purpose or effect of keeping illegal aliens out of the State of Texas." The district court also found that the increase in enrollment in Texas public schools was primarily attributable to the admission of children who were legal residents. Finally, the district court found that while barring undocumented children would save money, it would not necessarily improve the quality of the education. The court then concluded that illegal aliens were entitled to the protection of the [Equal Protection Clause of the Fourteenth Amendment](#) and that the Texas legislation violated it.

The Court of Appeals affirmed, and the Supreme Court agreed to hear the case.

### ISSUE:

Whether denying undocumented children of illegal immigrants the right to attend public school constitutes discrimination based on alienage that violates the Equal Protection Clause of the Fourteenth Amendment?

### RULING:

Yes.

### REASONING:

(Brennan, J.) By a 5–4 vote, the Court concluded that the Texas legislation violated the Equal Protection Clause. The Court explained that "education has a fundamental role in maintaining the fabric of our society" and "provides the basic tools by which individuals might lead economically productive lives to the benefit of us all." Further, while persuasive arguments support the view that a state may withhold benefits from people whose presence within the country is a result of unlawful conduct, the children of such illegal entrants "can affect neither their parents' conduct nor their own status," and "legislation directing the onus of a parent's misconduct against his children does not comport with fundamental conceptions of justice."

While the state has a legitimate interest in protecting itself from an influx of illegal immigrants, there was no evidence to suggest that any immigrants came to the country to avail themselves of a free education. Similarly, while the state has an interest in removing burdens on the state's ability to provide high-quality public education, there was no evidence that the exclusion of undocumented children was likely to improve the overall quality of education in Texas.

Accordingly, the majority affirmed the lower court's ruling.

### CONCURRENCE:

(Marshall, J.) [Justice Marshall](#) emphasized that he believed an individual's interest in education is fundamental and that this belief "is amply supported by the unique status accorded public education by our society, and by the close relationship between education and some of our most basic constitutional values."

(Blackmun, J.) Justice Blackmun noted that "when a state provides an education to some and denies it to others, it immediately and inevitably creates class distinctions of a type fundamentally inconsistent with" the purposes of the Equal Protection Clause because "an uneducated child is denied even the opportunity to achieve." When those children are members of an identifiable class, the state has created a separable and identifiable underclass.

(Powell, J.) Justice Powell emphasized the unique character of the case. He noted that under the Texas law, a group of children is deprived of the opportunity for education because of a violation of law by their parents. "A legislative classification that threatens the creation of an underclass of future citizens and residents cannot be reconciled with one of the fundamental purposes of the Fourteenth Amendment."

DISSENT:

(Burger, C.J.) The dissent asserted that any issues concerning whether or not to admit children of undocumented immigrants into public schools should be dealt with by the legislature as opposed to the judiciary. The dissenting Justices agreed that "it would be folly—and wrong—to tolerate creation of a segment of society made up of illiterate persons." However, they concluded that such a decision should be made by the political branches because it is a policy issue inappropriate for the Court to undertake.

## ACCESS TO EDUCATION

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[Plyler v. Doe](#)   [Brown v. Board of Education](#)   [Cooper v. Aaron](#)   [What is Your Opinion?](#)

Summary of a Fourteenth Amendment Landmark case:

[Brown v. Board of Education](#) [347 U.S. 483 \(1954\)](#)

FACTS:	In cases brought in Kansas, South Carolina, Virginia, and Delaware, African American children sought admission to the public schools in their community on a nonsegregated basis. In each state, they were denied admissions to schools attended by white children under laws requiring or permitting segregation on the basis of race. In each of the cases other than the Delaware case, federal courts denied relief to plaintiffs on the "separate but equal" doctrine set forth by the Court in <a href="#">Plessy v. Ferguson</a> . Under that doctrine, treatment is equal when races are provided substantially equal facilities, even if they are separate. In the Delaware case, the Supreme Court of Delaware adhered to that doctrine, but ordered that plaintiffs be admitted to the white schools because of their superiority to the other schools. The plaintiffs appealed to the Supreme Court, arguing that segregated schools are not equal and cannot be made equal.
ISSUE:	Whether requiring or permitting racial segregation in public schools violates the Equal Protection Clause of the Fourteenth Amendment?
RULING:	Yes.
REASONING:	<a href="#">(Warren, J.)</a> The Court concluded that separate educational facilities are inherently unequal. The Court noted that education is perhaps the most important function of state and local governments and the foundation of good citizenship. Education includes intangible considerations, such as the ability to study, to engage in discussions with other students, and in general, to learn a profession. To separate students on the basis of race creates "a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone." Therefore, the Court concluded that the doctrine of "separate but equal" has no place in public education.

## ACCESS TO EDUCATION

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[Plyler v. Doe](#)   [Brown v. Board of Education](#)   [Cooper v. Aaron](#)   [What is Your Opinion?](#)

Summary of a Fourteenth Amendment Landmark case:

[Cooper v. Aaron](#) [358 U.S. 1 \(1978\)](#)

### FACTS:

Following its decision in [Brown v. Board of Education](#), the Court formulated a decree to affect the decision. Specifically, the Court required that the defendants "make a prompt and reasonable start toward full compliance" with the Court's order and to end segregation in the public schools "with all deliberate speed."

Three days after the Court's opinion in Brown, the Little Rock District School Board in Little Rock, Arkansas, began preparing a comprehensive plan for the complete desegregation of the school system.

At the same time, however, various state authorities, including the state legislature and governor, were actively pursuing means to perpetuate racial segregation in the Arkansas public school system. For example, in 1957, the School Board and the Superintendent of Schools continued with preparations to carry out the first stage of the desegregation program with the admission of nine African American students to Central High School. The day before the students were to enter the school, the Governor of Arkansas dispatched units of the Arkansas National Guard to the school and placed it "off limits" to African American students. When the nine African American students attempted to enter the high school two days later, the Arkansas National Guard forcibly prevented them from entering the building. The Arkansas National Guard continued to do so every day for the next three weeks.

The federal government, through the United States Attorney and the Attorney General, filed a motion in federal court to stop the governor and the Arkansas National Guard from interfering with the nine students' attendance. A federal district court granted the motion, and the Arkansas National Guard was withdrawn from the school. Subsequently, the President of the United States dispatched federal troops to Central High School to ensure that the nine students would be admitted safely to school.

Because of the hostility, caused in large part by the acts of state authorities, the School Board and Superintendent sought postponement of the desegregation plan for two-and-a-half years. The district court granted their motion. The Court of Appeals reversed.

### ISSUE:

Whether the Court should uphold a suspension of a desegregation plan until state laws and efforts to challenge Brown v. Board of Education have been challenged and tested in the courts?

### RULING:

No.

### REASONING:

(Chief Justice Warren) The Court unanimously held that law and order cannot be preserved by depriving African American children of their constitutional rights. "The constitutional rights of children not to be discriminated against in school admission on grounds of race or color declared by this Court in the Brown case can neither be nullified openly and directly by state legislators or state executive or judicial officers, not nullified indirectly by them through evasive schemes for segregation." Because the Supreme Court has the ultimate authority in determining what the Constitution means and because it concluded that segregation in public schools violated the [Equal Protection Clause](#), no state authority or state law may require or allow for racial segregation in public education. Accordingly, the desegregation plan could not be suspended.

CONCURRENCE:

(Frankfurter, J.) Justice Frankfurter noted that while the State of Arkansas was not a formal party in the proceedings, it was legally and morally a party before the Court as a result of its use of armed force to thwart the law. Violent resistance to law, even if used by a state, cannot be used as a legal reason for the law's suspension. As such, Justice Frankfurter found that Arkansas' actions were "subversive not only of our constitutional system but of the presuppositions of democracy." He also noted that it is the responsibility of those who exercise power in a democratic government to help form the public's understanding and support the supreme law of the land, the Constitution.



## ACCESS TO EDUCATION

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[Plyler v. Doe](#) [Brown v. Board of Education](#) [Cooper v. Aaron](#) [What is Your Opinion?](#)

[What is Your Opinion?](#)

1. Why might it be important for courts to decide cases that tend to have an adverse impact on children?
  
2. Why should the government have a role in education?

Related Resources:

- [Rule of Law Overview](#)
- [Rule of Law: Opening Discussion and Talking Points](#)
- [First Amendment: What Does Free Speech Mean?](#)

## DISCUSSION QUESTIONS

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### Rule of Law: Questions to Check for Understanding

1. What does it mean that the United States is a country of laws and not of men?
2. What is the responsibility of judges when their personal opinions are in conflict with the rule of law in the case before them?
3. How does the majority benefit when minorities are protected by the rule of law.
4. Give examples of ways that the rule of law has an impact on your life?