

THE RULE OF LAW

(In conjunction with the Judicial Track of the Checks and Balances Project)

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Description: This lesson plans further explores the concept of the rule of law as introduced in the telecast on this topic.

Objectives:

1. To reinforce the concepts discussed in the telecast on the rule of law.
2. To demonstrate how following the rule of law leads to an orderly society where all people may enjoy their rights.
3. To further explore the role of the judiciary in ensuring the rule of law is followed.

Suggested grade levels: 9-12

Materials needed: Handouts for and access to either a writing board or a flip chart.

Procedures

Suggestion 1—Explore with students how Civil Rights leaders followed the rule of law in getting this country to begin dismantling a highly unjust segregated society:

1. Some civil rights leaders like Dr. Martin Luther King, Jr. were ministers who spoke to their congregations about how to peacefully oppose racially discriminatory laws and practices. Within these churches, these leaders were using the freedom of religion guaranteed in the First Amendment to bring their message to the people who needed to hear it.
2. Civil rights leaders used the freedoms of speech and press guaranteed in the First Amendment to speak to people and to write articles about racially discriminatory laws and practices.
3. Civil rights leaders gathered together large groups of people for non-violent marches, sit-ins and demonstrations to bring racially discriminatory laws and practices to the attention of this nation and bring to light the injustice of these laws and practices. These leaders used the right to peaceably assemble guaranteed in the First Amendment to organize these events.
4. The civil rights leaders were successful in their efforts to educate this nation about discrimination and a cry went out for reform. This led to the passage of the Civil Rights Act of 1964 and the Voting Rights Act of 1965 and to a more integrated society at every level. Modern civil rights leaders continue to battle discriminatory laws and practices, not only in regard to race but also in regard to gender and ethnicity.

5. Throughout its history, the Civil Rights Movement has been characterized by the way it accomplished its goals by following the rule of law. Discuss with students what is meant by that. Discuss with them the roles of the courts, judges and lawyers in the Civil Rights Movement.

Suggestion 2—Explore the historical concept of the rule of law:

1. Refer to Judge Wolff's article on the rule of law.
2. Lead a discussion on the handout:
 - a. How does having laws and making sure that people obey them insure that we can all have "life, liberty and the pursuit of happiness"?
 - b. What laws do you think are most important to making our society safe and orderly?
 - c. Why is it important that government officials and law enforcement officers must follow the rule of law like everyone else? (Might want to talk about how most countries have laws but many countries do not truly follow the rule of law because government officials abuse their power i.e. Iraq under Saddam Hussein, the former Soviet Union, China.)
3. Share this historical example of our country's adherence to the rule of law has matured: At the recent Third Congressional Conference on Civic Education, United States Supreme Court Justice Stephen Breyer said that as a nation our respect for the rule of law has matured. He used three cases to support his conclusion:
 - a. In 1831, the United States Supreme Court held that the State of Georgia could not force the Cherokee Indian Nation from their lands. President Andrew Jackson was angry over the decision and defied the Court and sent federal troops to assist Georgia with evicting the Cherokees. Arguably President Jackson had no regard for the rule of law. (*Cherokee Nation v. Georgia*, 30 U.S. 1(1831))
 - b. Fast forward to 1958 when the schools in Little Rock, Arkansas, did not want to integrate the schools pursuant to the *Brown v. Board of Education* case. The Little Rock School Board argued that the federal courts could not order desegregation as education was a matter for the state government to decide and that neither the governor nor the school officials had to obey a federal court. In *Cooper v. Aaron*, 358 U.S. 1 (1958), the United States Supreme Court held that the actions of Arkansas's government officials was unconstitutional and ordered the officials to immediately implement integration plans. When these officials showed no sign that they would comply with the court's order, President Eisenhower sent federal troops to escort black students to Little Rock's Central High School. President Eisenhower was a huge believer in states' rights and this was a difficult decision for him but, unlike President Jackson in 1831, he recognized that

he had taken an oath to uphold the laws of the United States. Furthermore, unlike President Jackson, he used federal troops to enforce the rule of law, not defy it. Progress had been made—a president putting aside his own personal political beliefs to follow the rule of law.

- c. Fast forward again to December, 2000. The country was in the throes of an Electoral College stalemate in the State of Florida. Both Al Gore and George W. Bush were claiming the right to that state’s electoral votes and whoever got them would win the election. Emotions on both sides were very high. Al Gore had already won the popular vote. There had already been one recount with George W. Bush being declared the winner but Gore’s camp alleged there were voting irregularities and filed a lawsuit asking for yet another recount. The case made its way through the Florida Courts and came before the Supreme Court of the United States. The Court ruled in favor of Bush. That was the end of the controversy.

The country was very divided on this issue. But there were no riots. There was no violence. President Clinton did not have to call out federal troops like President Eisenhower had to do in 1958 to make sure that the court’s order was carried out. Justice Breyer cited the nation’s willingness to peacefully accept the Supreme Court’s 2000 *Gore v. Bush*, 531 US 98 (2000) decision as the “last word” on the 2000 presidential election as an excellent example of how our nation has matured into a people that deeply respect the rule of law.

4. Ask the students to react to Justice Breyer’s analysis. (You may want to note that Justice Breyer was in the minority in the *Bush v. Gore* opinion and yet supports the nation’s reaction to it.)
5. Discuss how judges are crucial players in insuring that our nation is one where the rule of law is followed.

Law Matters: Reflections of Chief Justice Michael A. Wolff
Why the Rule of Law?

(This is an excerpt from a syndicated column Judge Wolff writes for the Missouri Press Association.)

We are a nation first and foremost of laws. We have no common national origin or ethnicity that currently forms our shared identity as Americans. Instead, our identity has been forged by the rule of law and by our common experience that faithfulness to the law guarantees liberty, equality of opportunity and a functioning civil society even in the face of those who, through ambition for power or wealth, would seek to impose their will on the less powerful. But to understand the "rule of law" and why we have it more completely, we need to look back into our history as a nation.

The signers of the Declaration of Independence understood the oppression that occurs when those in power control the law for their own purposes. The signers understood that it was necessary to have a stable justice system – to have rules and laws based on certain fundamental principles and not the arbitrary whims of those holding government power at any moment. Only in this way could we protect ourselves from tyranny.

We all remember learning about "Life, Liberty, and the Pursuit of Happiness," the most memorable phrase of the Declaration of Independence. It has been not only part of our civics or social studies classes but also part of the popular culture. For some, school lessons might not have done the trick, but many remember television shows such as ABC's Saturday morning cartoon show, "Schoolhouse Rock." Those cartoons taught us the meaning of the Declaration of Independence: "if a government won't give you your basic rights, you better get another government;" that our constitution is a "list of principles for keeping people free;" that, in the preamble to the constitution, our Founding Fathers set out "to form a more perfect union" and "establish justice." "Schoolhouse Rock" showed us, as well, that in the three-ring circus known as our government (remember, this was for children), the courts in "ring three ... take the law and ... tame the crimes, balancing the wrongs with your rights" and that, through the system of checks and balances, "no one part can be more powerful than any other is."

Adherence to the rule of law helps to preserve the rights of all people in a democratic society; the operative words being "the rights of ALL people." As reflected in our Declaration of Independence, in the Preamble to our Constitution, and in the immortal words of Abraham Lincoln at Gettysburg: in the United States, the power of government comes from all people, not from those in positions of power or those who control a majority of government posts.

The rule of law is what makes our nation so different, so resilient and so free. The human capacity for justice makes democracy possible, as the theologian Reinhold Niebuhr noted years ago. But the human inclination to do injustice to others makes democracy – and the rule of law – necessary.