

**TEACHING AMERICAN HISTORY PROJECT**  
**Lesson Title - Freedom of Expression: Flag Burning**  
**From Lisa Bastien**

**Grade** – 9/10

**Length of class period** – 85 minutes (Block)

**Inquiry** – (What essential question are students answering, what problem are they solving, or what decision are they making?)

Should flag burning be considered a freedom of speech/expression?

**Objectives (What content and skills do you expect students to learn from this lesson?)**

- Students will be able to identify the current limits on freedom of speech/expression.
- Students will analyze two sources regarding flag burning to develop an informed opinion as to whether the action should be considered a freedom of expression.
- Students will write a persuasive letter to a Connecticut state representative expressing their position on flag burning as a legal form of protest.

**Materials (What primary sources or local resources are the basis for this lesson?) – (please attach)**

The Pledge of Allegiance - Senator John McCain (see below)  
Texas v. Johnson (1989) Supreme Court Case Overview

**Activities (What will you and your students do during the lesson to promote learning?)**

- Students will complete a questionnaire regarding what they think is or is not protect as a freedom of speech/expression. Collect for later use. (Teacher created based on what they would like to include for discussion) Examples:
  - Shout “fire” in a crowded movie theater (no real fire)
  - Debate the value of nuclear arms with another person
  - Not participate in reciting the “Pledge of Allegiance”?
- Give notes on the freedom of speech as it appears in the constitution and the limits that have been added through Supreme Court interpretation.

- Distribute questionnaires randomly so that the students do not have their own. Correct as a class and discuss responses using the information from notes.
- Last question on the questionnaire should involve the burning of the American flag in governmental protest. (Many think it's not allowed – restricted)
- Hand out and read as a class John McCain's 'The Pledge of Allegiance' Speech and the overview of the Texas vs. Johnson Supreme Court Case.
- Ask students to write in their Bill of Rights journals regarding flag burning and whether it should be restricted. They must incorporate both sources in their reasoning.
- Reveal to the students the outcome of the case and that it is allowed as a freedom.
- With the time remaining introduce the homework: write a letter to one of your state's federal government representatives (Senate or House) regarding flag burning and whether it should still be upheld as a freedom or whether it should be restricted through an additional Amendment.
- Do a quick whip through the class to get an idea as to where they all stand and try to add additional thoughts for consideration.

### **How will you assess what the students learned during this lesson?**

Discussion Participation

Persuasive letter to a U. S. Representative regarding flag burning (CAPT Writing Rubric)

### **Connecticut Framework Performance Standards**

**1.9 (43)** Give examples of how individuals or groups have worked to expand or limit citizens' rights in the United States

### **The Pledge of Allegiance - Senator John McCain**

From a speech made by Capt. John S. McCain, US Navy, (Ret) who represents Arizona in the U.S. Senate: As you may know, I spent five and one half years as a prisoner of war during the Vietnam War. In the early years of our imprisonment, the NVA kept us in solitary confinement or two or three to a cell. In 1971 the NVA moved us from these conditions of isolation into large rooms with as many as 30 to 40 men to a room. This was, as you can imagine, a wonderful change and was a direct result of the efforts of millions of Americans on behalf of a few hundred POWs 10,000 miles from home.

One of the men who moved into my room was a young man named Mike Christian. Mike came from a small town near Selma, Alabama. He didn't wear a pair of shoes until he was 13 years old. At 17, he enlisted in the US Navy. He later earned a commission by going to Officer Training School. Then he became a Naval Flight Officer and was shot down and captured in 1967. Mike had a keen and deep appreciation of the opportunities this country and our military provide for people who want to work and want to succeed.

As part of the change in treatment, the Vietnamese allowed some prisoners to receive packages from home. In some of these packages were handkerchiefs, scarves and other items of clothing. Mike got himself a bamboo needle. Over a period of a couple of months, he created an American flag and sewed on the inside of his shirt. Every afternoon, before we had a bowl of soup, we would hang Mike's shirt on the wall of the cell and say the Pledge of Allegiance. I know the Pledge of Allegiance may not seem the most important part of our day now, but I can assure you that in that stark cell it was indeed the most important and meaningful event.

One day the Vietnamese searched our cell, as they did periodically, and discovered Mike's shirt with the flag sewn inside, and removed it. That evening they returned, opened the door of the cell, and for the benefit of all of us, beat Mike Christian severely for the next couple of hours. Then, they opened the door of the cell and threw him in. We cleaned him up as well as we could. The cell in which we lived had a concrete slab in the middle on which we slept. Four naked light bulbs hung in each corner of the room. As I said, we tried to clean up Mike as well as we could. After the excitement died down, I looked in the corner of the room, and sitting there beneath that dim light bulb with a piece of red cloth, another shirt and his bamboo needle, was my friend, Mike Christian. He was sitting there with his eyes almost shut from the beating he had received, making another American flag. He was not making the flag because it made Mike Christian feel better. He was making that flag because he knew how important it was to us to be able to Pledge our allegiance to our flag and country.

So the next time you say the Pledge of Allegiance, you must never forget the sacrifice and courage that thousands of Americans have made to build our nation and promote freedom around the world. You must remember our duty, our honor, and our country.

***"I pledge allegiance to the flag of the United States of America and to the republic for***

*which it stands, one nation under God, indivisible, with liberty and justice for all."*

## Texas v. Johnson (1989)

In 1984, the Republican Party convened in Dallas, Texas for their national convention. President Ronald Regan, seeking a second term in office, was to be officially delegated as the GOP candidate for President. Scores of individuals organized a political protest in Dallas that voiced opposition to Reagan administration policies and those of some Dallas-based corporations—among the protesters was a man by the name of Gregory Lee Johnson. As the demonstrators marched through the streets, chanting their message, a fellow protestor handed Johnson an American flag that had been taken from a flag pole at one of their protest locations.

Upon reaching the Dallas City Hall, Johnson doused the flag with kerosene and set it ablaze. Johnson and his fellow demonstrators circled the burning flag and shouted “America, the red, white, and blue, we spit on you.” No one was hurt or threatened with injury by the act, but many who witnessed it were deeply offended. Johnson was arrested, charged, and convicted of violating a Texas law that made it a crime to desecrate a “venerable object.” Texas was not the only state to have anti-flag burning laws on the books, 47 other states also criminalized flag desecration. For his crime, Johnson received a sentence of one year in prison and was ordered to pay a \$2,000 fine.

Johnson appealed his conviction and his case eventually went to the Supreme Court. Johnson argued that the Texas flag desecration statute violated the First Amendment, which says “Congress shall make no law ... abridging the freedom of speech ... or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.” The state of Texas argued that it

had an interest in preserving the flag as a symbol of national unity. The Court had to consider: Are there certain symbols that are so widely cherished and understood to convey certain meanings that the government can regulate their use?

The Court agreed with Johnson (5-4) and struck down the Texas statute. Burning a U.S. flag in protest was expressive conduct protected by the First Amendment. “The First Amendment literally forbids the abridgment only of ‘speech,’ but we have long recognized that its protection does not end at the spoken or written word.... 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....”

Though *Texas v. Johnson* has been upheld in subsequent Supreme Court cases, flag desecration itself remains unpopular in America. The House of Representatives has, on six different occasions, voted on a Constitutional Amendment known as the Flag Desecration Amendment, which states: “The Congress shall have power to prohibit the physical desecration of the flag of the United States.” Each time this Amendment has been introduced, it has passed the House by the required two-thirds majority. The Amendment never passed the Senate with the 67 votes needed, but it also has never received less than 63 votes in support.

<http://www.billofrightsintstitute.org/page.aspx?pid=813>

## **Class Discussion Notes**

### **Freedom of Speech**

- guarantees Americans the right to say what is on their minds in public or in private without fear of punishment
- Extending Free Speech (Freedom of Expression)
  - \* Art, music, style of clothing, decorating house
  - \* Self-Expression

### **Limits to Speech:**

Slander: the criminal act of lying about another person to harm that person's reputation

Treason: an act that endangers one's country or gives assistance to the enemy (ex. U.S. secrets)

Speech that may cause physical harm to others:  
ex. Yelling fire in a crowded movie theater

Public School: can not cause physical danger or disruption  
\* takes away from others opportunity to education

Disturbing the peace: ex. loud music

# Is It “Speech”?

**Directions: Read the following scenarios. Decide whether each would be protected as “freedom of speech” and write a Y (yes) or N (no) in the blank. Give a brief explanation for your answer.**

**Does freedom of speech give a person the right to:**

\_\_\_\_\_ 1.) Shout “fire” in a crowded movie theater?

\_\_\_\_\_ 2.) Debate the value of nuclear arms with another citizen?

\_\_\_\_\_ 3.) Sing the national anthem in a screeching manner at a National League baseball game?

\_\_\_\_\_ 4.) Wear political symbols to school, such as a button that says “Down with America”?

\_\_\_\_\_ 5.) Demonstrate peacefully in front of the White House to protest federal decisions?

\_\_\_\_\_ 6.) Use sexually suggestive, but not obscene, language in a campaign speech for high school student council?

\_\_\_\_\_ 7.) Verbally abuse another person?

\_\_\_\_\_ 8.) Not participate in reciting the “Pledge of Allegiance”?

\_\_\_\_\_ 9.) Damage another person’s reputation by spreading false rumors?

\_\_\_\_\_ 10.) Encourage general illegal action, such as violence, in a public speech?

\_\_\_\_\_ 11.) Stage a march by the Ku Klux Klan?

\_\_\_\_\_ 12.) Burn the American flag?