Lesson Plan: Freedom of Religion

Student Handouts:

Settlement Reached in Lawsuit Concerning Rights of Baptized Sikh Students to Wear Symbolic Ceremonial Knives to School
Thursday, June 12, 1997

SAN FRANCISCO -- The Livingston Union School District and the ACLU of Northern California announced today that they have resolved a lawsuit concerning the rights of baptized Sikh students to wear symbolic ceremonial knives -- known as kirpans -- to school.

The parties described the settlement -- which will allow the students to wear the kirpans subject to strict limitations on size and other restrictions designed to assure that they cannot be misused -- as an agreement intended to promote the two important goals of religious freedom and school security.

Stephen V. Bomse of Heller, Ehrman, White & McAuliffe, a cooperating attorney for the ACLU, who, with ACLU staff attorney Margaret Crosby, represented the plaintiffs, said: "This is an important achievement for religious liberty, but it is an achievement that does not come at the cost of safety in our schools."

Henry Escobar, Superintendent of the Livingston Union School District, said: "We are pleased to have reached a resolution among all parties. Our primary concern at all times has been the safety issues. We have always been and continue to be respectful of the Sikhs' religious beliefs. We are happy we have been able to accommodate their religious needs without jeopardizing the safety of our students, faculty or staff."

The Cheema children have been attending school with their Kirpans pursuant to an order by the Ninth Circuit Court of Appeals in September 1994. The court's order allowed the children to wear their kirpans to school pending a full trial on the School District's claim that kirpans pose an unacceptable danger to school safety.

Settlement was reached when the parties were able to agree upon terms that, they believe, adequately insure student safety without compromising the Sikh students' religious beliefs.

Under the agreement, the kirpan blade must be no longer than 2.5 inches. It must also be dulled and sewn securely into a sheath and further secured in a cloth pouch which the Sikh community in Livingstone designed to accommodate the District's concerns over safety. The parties further agreed to give the District limited inspection rights to be sure that the restrictions are being followed.

The settlement was approved by the Livingstone Union School Board at its June 10, 1997 meeting.

Monday, Jun. 13, 2011

San Francisco's Circumcision Ban: An Attack on Religious Freedom?

By Adam Cohen

In the 1960s and '70s, the San Francisco Bay Area was where the counterculture really started — the Free Speech Movement in Berkeley, the Summer of Love in Haight-Ashbury, gay rights in the Castro. Today, the Bay Area is challenging the larger culture in a new and controversial way: there will be a referendum on the ballot in November that would make it the first major city in the U.S. to outlaw circumcision.

The San Francisco debate over circumcision initially centered on the value of the procedure itself — opponents call it barbaric, supporters point to its long tradition and say it prevents disease. But increasingly the debate is becoming one about religion, in which critics accuse backers of the referendum of bigotry and insist a ban would violate the First Amendment's religious freedoms.

There is plenty of reason to oppose the ban on its own merits. There is no need for a law: if people do not believe in circumcision, they should not have it done to themselves or their children. And even if there were to be a circumcision ban, this one is poorly constructed because of the well-founded religious objections that are being raised.

The anti-circumcision debate began in April when a group of self-proclaimed "intactivists" — people who believe strongly that infant boys have a right to keep their foreskins intact — submitted enough signatures to put a circumcision ban on the ballot. The intactivists have taken up the language of international human rights: they are fighting, they say, for "genital autonomy" and "male-genital-integrity rights." Framed this way, it seemed like an appropriately earnest next step for a city that last year banned any kind of Happy Meal that paired toy giveaways with fast food.

The intactivists argue that circumcision needlessly inflicts pain on newborns, and they compare it to female genital mutilation — which is, in fact, a far more serious

procedure. (Female genital mutilation can produce severe harm, including infertility and an increased risk of newborn deaths.)

Supporters of circumcision argue that there is a long tradition behind it, both religious and nonreligious, and that the pain involved is fleeting. They also say circumcision has proven health benefits. Removal of the foreskin has been found to help prevent the spread of HIV and other infections. In clinical trials in Africa, the incidence of HIV infection was 60% lower in circumcised men. The World Health Organization has said circumcision is an important component in fighting HIV infection.

Still, the drafters of the San Francisco referendum could have avoided the religious issue — and kept the focus on the harms and benefits of circumcision — if they had included an exception for circumcisions done for religious reasons. Jews, whose religious traditions require male children to be circumcised eight days after birth, and Muslims, who also practice circumcision, are a small part of the city's population.

Instead, the referendum expressly states that the ban would apply equally to religious circumcisions. If it passes, Jewish parents in San Francisco who hold a traditional bris, or circumcision ritual, could be sentenced to a year in jail.

This strict policy certainly seems insensitive. Jews who circumcise their sons trace the tradition back thousands of years. It is a sign, they believe, of a covenant with God, and an affirmation that the Jewish people will survive. There are accounts of circumcisions performed in the direst of circumstances, including in concentration camps. The intactivists aren't swayed by such arguments and insist it's gone on long enough.

Cohen, a former TIME *writer and a former member of the New York* Times *editorial board, is a lawyer who teaches at Yale Law School. Case Study, his legal column for* TIME.com*, appears every Monday.*

http://www.time.com/time/nation/article/0,8599,2077240,00.htm

Saturday, Jun. 29, 2002

To Pledge or Not To Pledge...

By Nadya Labi

For a hysterical moment, Alfred Goodwin replaced Osama Bin Laden as the most reviled man in America. The federal judge's crime was to attack two of the 31 words that constitute the Pledge of Allegiance. Writing for the majority of a three-judge panel on the Ninth Circuit Court of Appeals, which has jurisdiction over nine western states including California, Goodwin held last week that the words under God were unconstitutional because they violated the separation of church and state required by the First Amendment. He was responding to a case brought by Sacramento, Calif. emergency-room physician Michael Newdow, an atheist who argued that his daughter's rights were infringed when the phrase was included in the pledge at her school each morning. Goodwin reasoned that saying, "we are a nation under God" is equivalent to saying "we are a nation under Jesus, a nation under Vishnu, a nation under Zeus or a nation under no god."

That's when all hell broke loose. Newspapers and TV reports were filled with denunciations by average citizens and political commentators alike. In a display of bipartisanship not witnessed since the days immediately following Sept. 11, politicians from both parties called the decision "ridiculous," "unbelievable," "nuts." The Senate quickly passed a 99-0 bill endorsing the unexpurgated pledge. The House condemned the decision by a 416-3 vote. Perhaps deciding that retreat is the better part of valor, Goodwin stayed his decision even before an appeal was filed. The case is virtually certain to be heard by an 11-judge panel of the Ninth Circuit and virtually certain to be overturned either then or later by the Supreme Court.

Lost amidst all the flag-waving and God-avowing furor was the fact that Goodwin may have had a point. "As a matter of common sense, a court should struggle not to reach this result," says Jack Balkin, a professor at Yale Law School. "But the reasoning isn't crazy. It's technically correct." Vincent Blasi, a law professor at Columbia University and

the University of Virginia, agreed. "If you're being true to the idea that government must not take positions on religious questions, then the Ninth Circuit opinion is quite persuasive," he says. "There is a powerful desire by majorities to assert a religious identity for the country." That desire was strengthened by the terrorist attacks, as schools across the nation turned more openly to prayer for solace.

Goodwin was a victim of bad timing. The pledge, written by a socialist clergyman in 1892, has often served as a rallying cry in times of national crisis. During World War II, Congress officially recognized the pledge and changed its accompanying salute from an outstretched arm that resembled Hitler's favored salute to the current right hand over the heart. In 1954, in the midst of the cold war against godless communism, President Eisenhower urged Congress to add the words under God to the oath to reaffirm "the transcendence of religious faith in America's heritage and future." Now faced with a war of uncertain definition and length, the country has once again embraced the pledge as a talisman against harm.

But even in times of peace, Americans have grown accustomed to invoking God's name in everything from the motto on their currency ("In God we trust") to the saying at the start of every Supreme Court session ("God save the United States and this honorable Court"). Yet while the word God has become omnipresent in the nation's ceremonial language, it should be noted that when the Founding Fathers were crafting the Constitution, the blueprint for a bold new nation, they left it out.

With reporting by Sean Scully/Los Angeles

http://www.time.com/time/nation/article/0,8599,267701,00.html

Case	Free Exercise or Establishment	Judgment – Is it Constitutional?	Explanation of Judgment
State law that banned the teaching of evolution			
American Indian worker fired for smoking peyote			
Student religious organization at a public university limited membership to those with similar beliefs and consequently refused to allow a homosexual member			
Ban against polygamy			
Federal government provides computers to public and private, parochial schools			
Clergy led prayer at the opening of a high school graduation ceremony			
Amish students forced to follow state law of attending school from 14-16 year olds, despite religious beliefs against			
Religious clubs banned on public school campuses			
6 foot monument of Ten Commandments at a courthouse next to other monuments			
Private company fired worker for refusing to			

work on their Sabbath			

Case	Free Exercise or Establishment	Judgment – Is it Constitutional?	Explanation of Judgment
State law that banned the teaching of evolution	Establishment	No	An Arkansas law prohibiting the teaching of evolution was unconstitutional, because it was based on "fundamentalist sectarian conviction" and violated the Establishment Clause.
American Indian worker fired for smoking peyote	Free Exercise	Yes	Oregon could deny unemployment benefits to someone fired from a job for illegally smoking peyote during a religious ceremony. The Free Exercise Clause does not excuse people from obeying the law.
Student religious organization at a public university limited membership to those with similar beliefs and consequently refused to allow a homosexual member	Free Exercise	No	The court ruled that a student organization at a public university was not free to limit their members to those who shared their belief system if that resulted in discrimination on the basis of sexual orientation.
Ban against polygamy	Free Exercise	Yes	A federal law banning polygamy was upheld. The Free Exercise Clause forbids government from regulating belief, but does allow government to regulate actions such as marriage.
Federal government provides computers to public and private, parochial schools	Establishment	Yes	The federal government could provide computer equipment to all schools—public, private, and parochial—under the Elementary and Secondary Education Act. The aid was religiously neutral and did not violate the Establishment Clause.
Clergy led prayer at the opening of a high school graduation ceremony	Establishment	No	The court ruled that a student organization at a public university was not free to limit their members to those who shared their belief system if that resulted in discrimination on the basis of sexual orientation.
Amish students forced to follow state law of attending school from 14-16 year olds, despite religious beliefs against	Free Exercise	No	The Court ruled that Amish adolescents could be exempt from a state law requiring school attendance for all 14- to 16-year-olds, since their religion required living apart from the world and worldly influence. The state's

			interest in students' attending 2 more years of school was not enough to outweigh the individual right to free exercise.
Religious clubs banned on public school campuses	Establishment	No	The 1990 Equal Access Act, which required that public schools give religious groups the same access to facilities that other extracurricular groups have, was upheld. Allowing religious clubs to meet did not violate the Establishment Clause.
6 foot monument of Ten Commandments at a courthouse next to other monuments	Establishment	Yes	A 6-foot monument displaying the Ten Commandments donated by a private group and placed with other monuments next to the Texas State Capitol had a secular purpose and would not lead an observer to conclude that the state endorsed the religious message, and therefore did not violate the Establishment Clause.
Private company fired worker for refusing to work on their Sabbath	Free Exercise	Yes	Private companies are free to fire people who refuse to work on any day they claim is their Sabbath, because the First Amendment applies only to government, not to private employers.

The Religious Liberty Foundation has asked you to submit a brief to the Supreme Court in the case of *Elk Grove School District v. Newdow*. Your brief should include the following items:

- This heading:

In The Supreme Court of the United States
Elk Grove School District (*Petitioner*)
v. Newdow(*Respondent*)
To the Supreme Court of the United States
Brief of the Religious Liberty Foundation
In Support of _____ [respondent or petitioner]

- A position statement of at least three sentences in which you take a stance on this question: *Does the reciting the pledge of allegiance, which includes the words "under God," in school violate a student's first amendment rights?*

- Three one-paragraph arguments that support your position statement. Each paragraph should begin with a clear topic sentence and incorporate evidence – facts, examples, or quotations – that support your topic sentence.

- A conclusion of at least three sentences in which you restate your position and reiterate your most important points.

- A signature line that reads,

Respectfully submitted,

_____ (your name)
Attorney at Law, Religious Liberty Foundation