



JUDICIAL LEARNING CENTER- Rule of Law v. Rule of Man: Lamp of Experience

GRADE LEVEL: 9-12

LESSON DURATION: 60-90 Minutes

Standards:

SS5.1.3 Understand the basic origins of the United States Constitution (e.g., Declaration of Independence)



Materials Needed:

- Quotes printed and cut out to give to various groups or to rotate between groups
- Graphic organizer for each student or large paper to hang on wall for each group to rotate to

Objective

Students will be able to analyze historical sources the founding fathers would have used and hypothesize why the sources would have led to a desire for the rule of law versus the rule of man.

Procedure:

Introduction/Hook: This lesson can be used as an introduction to the principle/history of the rule of law. You can use this activity before the rule of law scenarios in the Judicial Learning Center. The teacher will give the following scenario. Imagine you are creating a new government. You want this government to be stable and lasting. Ask some of the following questions to get students thinking:

- How will you determine what you need?
- Who would be involved?
- What sources would you use?
- What questions would you ask?

Explain that the founding fathers used “lamps of experience” (documents/experiences to guide them-like a lamp in the dark) to determine the principles of constitutionalism that became the framework of our government system based on rule of law. Explain that the students/groups will be looking at several excerpts of sources the founding fathers looked to to determine what their new government should be founded upon.

Task One: Read and discuss the first excerpt (Ring of Gyges-see student handouts) together as a class. By analyzing the document together you can show students the level of analysis/discussion you expect to have with the other sources. Source of text on student handout: <http://www.webpages.uidaho.edu/jcanders/Ethics/ringgygesreadexcerpt.htm>

Explain the first source comes from Plato. Founders studied classical governments and philosophers. Show the students the questions before they read. Give time to read and the discuss.

Which of Plato’s statements do you agree/disagree with?

What would you do if you found yourself in the same scenario of the shepherd? (Here is a good place to connect with a student who is really into something. For example, if a student is really into cars ask them their dream make/model. If that vehicle was sitting in front of the school-not plates-not locked-with keys in the ignition...what would they do?)

Are laws necessary?

How would people behave if there were no laws?



Have a student summarize the main idea/philosophy a founding father would take away from this source. You can have them add this idea to the graphic organizer.

Before beginning the next task, if you have not done so already, define the principle of rule of law. Contrast with rule of man. Tell the students to keep these definitions in mind as they move forward with the document analysis (task 2).

Task Two: Split students into groups to look at the other primary sources (see attached excerpts and graphic organizer). You can use any combination of the student excerpts and others from the idea list found below. Give them the discussion questions below and time to read and discuss with groups. You can include these questions on the graphic organizer, or have the students summarize each document into one main idea, two big ideas, etc... You can also hang a large paper on the wall for each group and have each group write some of their discussion on the paper-then rotate to another and add to the original groups thoughts/ideas.

Which statements do you agree with/disagree with?

What principles/ideas would you as a “founding father” want to implement in a new government from this document?

Does your source list any rights or liberties that are necessary in a system based on rule of law?

Documents Tips

All documents: It might be wise to choose one student as a vocabulary expert-have them with a dictionary or smartphone ready to look up unknown words.

Document #2: Aristotle’s “The Politics” Tip: This document may need some vocabulary frontloading if you have not discussed the terms yet with students (example aristocracy, oligarchy, etc...) Source for summary: <http://www.gradesaver.com/aristotles-politics/study-guide/summary>

Document #3: Thomas Hobbes “The Leviathan” Source: http://www.woldww.net/classes/General_Philosophy/Hobbes_on_the_state_of_nature.htm

Document #4 Magna Carta Summary Source: <http://www.independent.co.uk/news/uk/this-britain/the-big-question-what-was-the-magna-carta-and-are-its-contents-relevant-to-us-today-765920.html>

Document #5 Massachusetts Body of Liberty. Tip: This document is difficult to read, so this source can be saved for differentiation for students who are high proficient readers. Please preview this source especially before giving to students. Tip: May want to explain to the group that has this document that the colonies had many years of self rule before declaring independence and establishing a government (Articles of Confederation) and later creating the Constitution we use today. They created judicial systems and rules prior to the creation of the current constitution. Source: <https://history.hanover.edu/texts/masslib.html>



Task 3: Check for Understanding: When all groups have finished reading/discussing the questions, come back together as a class and have them give a summary of their discussions. (What light did they find for their “lamps of experience” to help guide them in creating a new government based on rule of law?). You can discuss and close with the following questions as a class. Is the rule of law still necessary today? Do you see evidence of the principles of rule of law found in your documents in today’s government?

Possible Extensions:

There are many different sources to use that relate to the rule of law. Other recommendations: John Locke’s Second Treatise of Government, historical explanation of Star Chamber Courts of England, Writs of Assistance used by King prior to the revolution, etc. You could also have students look to Federalist #51 and have students compare/contrast to the Ring of Gyges.



Name: _____

Lamps of Experience

Which statements do you agree with/disagree with?

What principles/ideas would you as a “founding father” want to implement in a new government from this document.

Does your source list any rights or liberties that are necessary in a system based on rule of law?

#1

#2

#3

#4

#5



Lamp #1 Ring of Gyges, Plato

According to the tradition, Gyges was a shepherd in the service of the king of Lydia; there was a great storm, and an earthquake made an opening in the earth at the place where he was feeding his flock. Amazed at the sight, he descended into the opening, where, among other marvels, he beheld a hollow brazen horse, having doors, at which he stooping and looking in saw a dead body of stature, as appeared to him, more than human, and having nothing on but a gold ring; this he took from the finger of the dead and reascended. Now the shepherds met together, according to custom, that they might send their monthly report about the flocks to the king; into their assembly he came having the ring on his finger, and as he was sitting among them he chanced to turn the collet of the ring inside his hand, when instantly he became invisible to the rest of the company and they began to speak of him as if he were no longer present. He was astonished at this, and again touching the ring he turned the collet outwards and reappeared; he made several trials of the ring, and always with the same result--when he turned the collet inwards he became invisible, when outwards he reappeared. Whereupon he contrived to be chosen one of the messengers who were sent to the court; where as soon as he arrived he seduced the queen, and with her help conspired against the king and slew him, and took the kingdom. Suppose now that there were two such magic rings, and the just put on one of them and the unjust the other; no man can be imagined to be of such an iron nature that he would stand fast in justice. No man would keep his hands off what was not his own when he could safely take what he liked out of the market, or go into houses and lie with any one at his pleasure, or kill or release from prison whom he would, and in all respects be like a God among men. Then the actions of the just would be as the actions of the unjust; they would both come at last to the same point. And this we may truly affirm to be a great proof that a man is just, not willingly or because he thinks that justice is any good to him individually, but of necessity, for wherever any one thinks that he can safely be unjust, there he is unjust. For all men believe in their hearts that injustice is far more profitable to the individual than justice, and he who argues as I have been supposing, will say that they are right. If you could imagine any one obtaining this power of becoming invisible, and never doing any wrong or touching what was another's, he would be thought by the lookers-on to be a most wretched idiot, although they would praise him to one another's faces, and keep up appearances with one another from a fear that they too might suffer injustice.



Lamp #2 Aristotle's The Politics

Correct regimes are those which look to the common advantage. Deviant regimes are those which look to the advantage of the rulers, and they involve mastery rather than political rule. The correct regimes are kingship, aristocracy and polity; the incorrect regimes are deviations from those and are tyranny, oligarchy and democracy respectively. Kingship is rule by one person, aristocracy is rule by a few based on merit, and polity is a mixture of democracy and oligarchy. Democracy is rule by the multitude, oligarchy is rule by the wealthy, and tyranny is monarchic rule of a master.

Justice is equality for equals and inequality for unequals. Because the city exists for the sake of living well, virtue must be a care for every city.

Which element of the city should have authority? The multitude may collectively be better judges of certain things, so it is proper for them to share in deliberating and judging, but they should not share in the highest offices. Laws need to be made in accordance with the regime. The just one's regime is, the more just the laws will be. The good of politics is justice. The best claim to rule is education and virtue, but there is also a claim to rule based on wealth and on numbers. A regime must be based on the rule of law.



Lamp #3 Thomas Hobbes, The Leviathan

Therefore, whatever results from a time of war, when every man is enemy to every man, also results from a time when men live with no other security but what their own strength and ingenuity provides them with. In such conditions there is no place for hard work, because there is no assurance that it will yield results; and consequently no cultivation of the earth, no navigation or use of materials that can be imported by sea, no construction of large buildings, no machines for moving things that require much force, no knowledge of the face of the earth, no account of time, no practical skills, no literature or scholarship, no society; and - worst of all - continual fear and danger of violent death, and the life of man solitary, poor, nasty, brutish, and short... In this war of every man against every man nothing can be unjust. The notions of right and wrong, justice and injustice have no place there...we can see what way of life there *would be* if there *were* no common power to fear, from the degenerate way of life into which civil war has led men who had formerly lived under a peaceful government.



Lamp #4 Magna Carta

Until 1215, the King of England was an absolute monarch. In theory at least, the will of the King was the law of the land. In practice, there were always powerful nobles who would challenge his power, if they thought they could get away with it. There were no rules in the contest between King and barons, except one whoever had the strongest army got what he wanted. Then on 15 June, 1215, King John met a delegation of barons on Runnymede island, and between them they drew up a document, written in Latin, which they called the Big Charter, setting out the limits and terms of the King's powers. It is seen as the symbolic beginning of the rule of law in England. For the first time, the English had something in writing to protect them against arbitrary rule.

Clause 39 is possibly the best known. It has never been rescinded and is immediately relevant to the present government. It says that "No free man shall be seized or imprisoned, or stripped of his rights and possessions, or outlawed or exiled, or deprived of his standing in any other way, nor will we proceed with force against him, or send others to do so, except by the lawful judgement of his equals or by the law of the land." When MPs try to block the Government's proposal to hold suspected terrorists for up to 42 days without charges, they will be, in effect, upholding a piece of law signed by King John 792 years ago.

Clause 38 is almost as important. It said: "No official shall place a man on trial upon his own unsupported statement, without producing credible witnesses to the truth of it." Most of the worst injustices in recent legal history have occurred when people have been convicted on no real evidence other than confessions made under interrogation. Clause 40 promised to end the system by which rich offenders could simply buy their way out of trouble. For a medieval monarch to make promises like these, even with his fingers figuratively crossed, was an extraordinary moment in history.



Lamp #5 Massachusetts Body of Liberties

Wee doe therefore this day religiously and unanimously decree and confirme these following Rites, liberties and priveledges concerneing our Churches, and Civill State to be respectively impartiallie and inviolably enjoyed and observed throughout our Jurisdiction for ever.

1. No mans life shall be taken away, no mans honour or good name shall be stayned, no mans person shall be arested, restrayned, banished, dismembred, nor any wayes punished, no man shall be deprived of his wife or children, no mans goods or estaite shall be taken away from him, nor any way indammaged under colour of law or Countenance of Authoritie, unlesse it be by vertue or equitie of some expresse law of the Country waranting the same, established by a generall Court and sufficiently published, or in case of the defect of a law in any parteculer case by the word of God...

8. No mans Cattel or goods of what kinde soever shall be pressed or taken for any publique use or service, unlesse it be by warrant grounded upon some act of the generall Court, nor without such reasonable prices and hire as the ordinarie rates of the Countrie do afford. And if his Cattle or goods shall perish or suffer damage in such service, the owner shall be suffitiently recompenced.

42. No man shall be twice sentenced by Civill Justice for one and the same Crime, offence, or Trespasse.

44. No man condemned to dye shall be put to death within fower dayes next after his condemnation, unles the Court see spetiall cause to the contrary, or in case of martiall law, nor shall the body of any man so put to death be unburied 12 howers unlesse it be in case of Anatomie.

45. No man shall be forced by Torture to confesse any Crime against himselfe nor any other unlesse it be in some Capitall case, where he is first fullie convicted by cleare and suffitient evidence to be guilty...

46. For bodilie punishments we allow amongst us none that are inhumane Barbarous or cruel.

47. No man shall be put to death without the testimony of two or three witnesses or that which is equivalent thereunto.

