

## The Charter in the Classroom: Students, Teachers and Rights

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**Topic:** *The Canadian Charter of Rights and Freedoms*, Section 2(a): Freedom of Conscience and Religion

**Case:** *Zylberberg v. Sudbury Board of Education* (1988) 65 O.R. (2) 641

**Instructional Expectations and Opportunities** have been selected by provinces and territories for secondary schools and may be found in **Resources** under **Curriculum Expectations**.

Students will understand that one purpose of s. 2(a) is to protect an individual's "freedom from coerced conformity to religious doctrine or practice"<sup>1</sup>

Educators are in a unique position to affect a broadening of students' rights with respect to freedom of religion and freedom of conscience. The classroom and the playground are excellent forums for modeling religious respect; these forums can expose students to in a meaningful way to the beliefs and practices of their classmates. This would achieve two laudable goals: students will be exposed, and therefore more likely to respect, different beliefs, and; students will not feel that their conscience, religious or otherwise, is being overwhelmed by the 'tyranny of the majority.'<sup>2</sup>

### Resources:

- Cue cards – one for each student (see Introduction below)
- Canadian Charter Section 2 a) visibly displayed on chart paper or on the chalk board:

*Canadian Charter of Rights and Freedoms*

2. *Everyone has the following fundamental freedoms:*

a) *freedom of conscience and religion*

- 4 copies of the "Regulation 262" resource (Appendix 1) – 1 copy per group of students participating in the Graffiti exercise
- 4 different coloured chart paper markers – 1 colour per group of students participating in the Graffiti exercise
- 4 Graffiti questions (see below) written on chart paper and taped in 4 different locations on the wall (with space on the chart paper for students to write on)

### Content and Suggested Strategies

#### Overview/Agenda/Review:

1. Introduction: Pointers and Movers Activity
2. Class Discussion about the Activity
3. Introduction of the *Zylberberg v. Sudbury Board of Education* case from the CC:STAR website (<http://www.thecharterrules.ca>)
4. Freedom of Religion Quiz – Explore Activity CC:STAR website Concept 4
5. Graffiti Exercise
6. Graffiti Questions
7. Consolidation: Ticket Out The Door

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<sup>1</sup> Funston, B.W. & Meehan E. (2003). *Canada's Constitutional Law In a Nutshell*. 3<sup>rd</sup> Ed. Toronto, ON: Thomson Canada Limited at 175.

<sup>2</sup> *R v. Jones*, [1986] 2 S.C.R. at para 232.

**Introduction:**

The intent of this introduction is to allow students to experience the actions of a majority group being coerced on a minority group. Students receive a card informing them that they belong to one of 2 groups. Instruct students to keep their group affiliation a secret.

80% of the cards will have the following description written on it:

You are a Mover: Movers believe that moving their arms in circles for a few seconds at the beginning of each lesson helps them think more clearly and learn better. When Movers see others who are not moving their arms in circles, they feel compelled to encourage them to do so out of good will.

20% of the cards will have the following description on written on it:

You are a Pointer: Pointers believe that moving their arms in circles is actually a symbol of disrespect. Pointers believe that making a pointing motion at the ground is a good way to warm up their brain before learning.

When handing out cards, ensure that "Pointer" cards are given to students whom you feel will not be embarrassed by being in a 'minority' position or singled out during this exercise.

You as the teacher belong to the "Mover" group. When all the students have read their cards, say the following to the class: "We're about to begin a new lesson. Let's all stand up and do our learning routine together." Stand in front of the class and start moving your arms in circles. Do this for about 30 seconds while taking note of what the "Pointer" students are doing. Some may eventually choose to join in, while others may point. Ask all students to sit down.

**Class Discussion Questions:**

Ask students who were "Movers" to raise their hands and have one volunteer explain what their customs are to the class.

Ask students who were "Pointers" to raise their hands and have one volunteer explain what their customs are to the class.

- 1) As a Pointer, how did you feel when you saw most of the class circling their arms? Did this feeling play a role in deciding whether or not to circle your arms/point your fingers/do nothing? What made you decide to circle your arms/point your fingers/do nothing?
- 2) As a Pointer, how did you feel when the Movers were trying to encourage you to circle your arms? Did 'peer pressure' play a role in your chosen action?
- 3) Movers, what did you think about the Pointers when they were doing something other than circling their arms?

**Content:**

After the exercise, explain that we are going to see how sometimes promoting the actions of the majority can impose on the rights of those in the minority.

Ask students what they think is the purpose of s. 2(a) of the Charter. Write down their responses on chart paper.

- Students will likely state that s. 2a) gives everyone the freedom to practise the religion of their choice.

- Through the discussions to follow in the Graffiti exercise, guide students to realize that section 2a) also protects individuals from being coerced to conform to a religious belief that is not their own (i.e., the beliefs of the religious majority).

Introduce the case *Zylberberg v. Sudbury Board of Education* and show the students the *Zylberberg* clip from the CC: STAR website (Concept 4) <http://www.thecharterrules.ca> found at Case Study Tab. Working individually, students complete the Freedom of Religion Quiz found in the Explore page of the CC:STAR website Concept 4.

### **Graffiti Exercise:**

- Divide students into 4 groups
- Provide each group with a copy of Regulation 262 s. 28 and one marker per group (ensure that each group has a different coloured marker)
- Each group will rotate from chart to chart, and write their response to the graffiti question on the chart paper. Students will also be permitted to write responses to any graffiti already recorded on the charts (ensure that students understand that only constructive, respectful comments are permitted when responding to other classmates' graffiti).
- When all groups have responded to all four questions, collect the charts and discuss the responses as a class.

### **Graffiti Questions:**

- 1) Does Regulation 262 infringe on the right to 'freedom of conscience and religion' as guaranteed by the Charter? Why or why not?
- 2) Do you think that it is fair/reasonable to use the "majority rules" approach in determining which religion should be practised in public schools? Why or why not?
- 3) The Sudbury School Board allowed students who were not practising Christians to "opt out" either by being excused from the classroom during religious exercises or refrain from participating during religious exercises. Are these exemptions enough to protect the students' freedom of religion? Why or why not?
- 4) What might be a possible solution to this problem that would not infringe on religious freedoms?

### **Consolidation:**

Give students a *ticket out the door* -- a small slip of paper with the following question written on it: "What are the two ways in which section 2 a) of the Charter protects your freedom of religion?" Students return the answers as they leave class.

## **Appendix 1**

In 1988, religious exercises in public schools were governed by s. 28 of the Ontario Regulation 262 R.S.O. 1980, Operation of Schools – General made pursuant to s. 10(1), the relevant parts of which provide:

### *RELIGIOUS EXERCISES AND RELIGIOUS EDUCATION IN THE PUBLIC SCHOOLS*

28.-(1) A public school shall be opened or closed each school day with religious exercises consisting of the reading of the Scriptures or other suitable readings and the repeating of the Lord's Prayer or other suitable prayers.

(2) The readings and prayers that form part of the religious exercises referred to in subsection (1) shall be chosen from a list of selections approved for such purpose by the board that operates the school where the board approves such a list and, where the board does not approve such a list, the principal of the school shall select the readings and prayers after notifying the board of his intention to do so, but his selection is subject to revision by the board at any time.

(3) The religious exercises under subsection (1) may include the singing of one or more hymns.

...

(10) No pupil shall be required to take part in any religious exercises or be subject to any instruction in religious education where his parent or, where the pupil is an adult, the pupil applies to the principal of the school that the pupil attends for exemption of the pupil therefrom.

(11) In public schools without suitable waiting rooms or other similar accommodation, if the parent of a pupil or, where the pupil is an adult, the pupil applies to the principal of the school for the exemption of the pupil from attendance while religious exercises are being held or religious education given, such request shall be granted.

(12) Where a parent of a pupil, or a pupil who is an adult, objects to the pupil's taking part in religious exercises or being subject to instruction in religious education, but requests that the pupil remain in the classroom during the time devoted to religious exercises or instruction in religious education, the principal of the school that pupil attends shall permit the pupil to do so, if he maintains decorous behaviour.

In addition, the same Regulation at section 50 provided for Religious Instruction.

Section 50 of Regulation 262 stated that

### *RELIGIOUS INSTRUCTION*

50.-(1) Subject to the regulations, a pupil shall be allowed to receive such religious instruction as his parent or guardian desires or, where the pupil is an adult, as he desires.

(2) No pupil in a public school shall be required to read or study in or from a religious book, or to join in an exercise of devotion or religion, objected to by his parent or guardian, or by the pupil, where he is an adult.