



**FLORIDA JOINT CENTER
FOR CITIZENSHIP**

THE IMPACT OF CONSTITUTIONAL RIGHTS

SS.7.C.3.6 Evaluate constitutional rights and their impact on individuals and society.

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Lesson Summary

Essential Questions

How do constitutional rights impact individual citizens? How do constitutional rights impact our society?

NGSSS Benchmark

SS.7.C.3.6 Evaluate the constitutional rights and their impact on individuals and society.

Florida Standards

LAFS.68.RH.1.1	LAFS.68.RH.1.2	LAFS.68.RH.3.7	LAFS.68.RH.3.9
LAFS.68.WHST.1.1	LAFS.68.WHST.1.2	LAFS.68.WHST.4.10	LAFS.7.SL.1.1
LAFS.7.SL.1.2	LAFS.7.SL.2.4	MAFS.K12.MP.5.1	MAFS.K12.MP.6.1

Overview

In this lesson, students will evaluate how constitutional rights impact both individual citizens and American society and how the government plays a role in upholding or restricting these rights.

Learning Goals/Benchmark Clarifications

- Students will recognize how individual rights shape involvement in the social, political, and economic systems.
- Students will recognize how the social, political, and economic systems in the United States are dependent upon individual rights.
- Students will use scenarios to recognize and/or evaluate options for exercising constitutional rights.
- Students will evaluate the impact of the government upholding and/or restricting individual constitutional rights.

Benchmark Content Limits

- Items will not require students to recall specific events in history.
- Items will not require students to identify characteristics of a specific economic system.

Civics EOC Reporting Category

Reporting Category 2 – Roles, Rights, and Responsibilities of Citizens

Suggested Time Frame

- Four 45-50 minute class periods

Civics Content Vocabulary

- civil disobedience, economic freedom, eminent domain, forced internment, freedom of assembly, property rights

Instructional Strategies

Collaborative learning Analysis of case studies Presentation skills

Materials

Computer with internet access to project lesson activity sheets

Highlighters for all students

Student activity sheets and reading materials:

- Bill of Rights Text: <http://constitutioncenter.org/learn/educational-resources/historical-documents/bill-of-rights>
- Case Study 1: Property Rights
- Houston Chronicle article excerpt, <http://www.chron.com/news/nation-world/article/Supreme-Court-set-to-consider-hearings-in-key-1636842.php>
- Case Study 2: Freedom of Assembly
- Case Study 3: War vs. Individual Rights
- Presentation Guidelines
- Response Worksheet

Lesson Activities and Daily Schedule

Please use the chart below to track activity completion.

Day	Task #	Steps in Lesson	Description	Completed? Yes/No
Day One	Task 1	1 & 2	Hook Activity	
	Task 2	3-16	Background Information and Direct Instruction	
	Task 3	17-32	Property Rights Case Study	
Day Two	Task 3	17-32	Property Rights Case Study (continued)	
	Task 4	33	Checking for Understanding A	
Day Three	Task 5	34-37	Small Group Case Studies	
Day Four	Task 5	34-37	Small Group Case Studies (continued)	
	Task 6	38-41	Case Study Presentations	
	Task 7	42	Checking for Understanding B	

Suggested Student Activity Sequence

Teacher note: Teach this lesson after your students have learned the content related to benchmarks: SS.7.C.1.8, SS.7.C.2.4, and SS.7.C.2.5.

1. To begin this lesson, project the following questions on the board: “Do you care about your constitutional rights? Should you care? Why or why not?”
2. Provide students with time to brainstorm and share out.
3. Share with students that two reasons why constitutional rights are worth caring about are that constitutional rights protect us as individuals and they protect us as a society.
4. Explain to students that, as a whole class, they will first discuss how the U.S. Constitution protects us as individuals.
5. Instruct students to take out their copy of the Bill of Rights or pass out text copies of the document: <http://constitutioncenter.org/learn/educational-resources/historical-documents/bill-of-rights>.
6. Pose the following questions for discussion: “What are the individual rights contained in the Bill of Rights? Which rights have to do with personal freedom? What about the rights related to those accused of crimes?”
7. Have students share out.
8. Provide students with the following key points about the rights contained in the Bill of Rights and instruct students to take notes on their own notebook paper.
 - The Bill of Rights protects our rights in our daily lives as free people, and then – if we are accused of a crime – it ensures that we are treated fairly.
 - Personal freedoms are represented in the following rights: rights of speech, religious exercise, press, assembly, petition, bearing arms.
 - Rights and protections related to being accused of a crime are represented in the following rights: protection from illegal search and seizure, right to knowing the charges against you if accused, right to a speedy and public jury trial, right to legal representation, protection from being required to testify against yourself, protection from cruel and unusual punishment, due process.
 - The relationship between the people and the government in the U.S. is based on the idea that both individual rights and the public interest should be protected by government.
 - The Bill of Rights protects social (First Amendment freedoms of association, peaceable assembly, speech, press), political (First Amendment freedom to petition the government for redress of grievances) and economic (Fifth Amendment protections that life, liberty or property may not be taken without due process of law and that private property may not be taken for public use without just compensation) rights.
9. Explain to students that, as a whole class, they will discuss how the U.S. Constitution protects us as a whole society.
10. Provide students with the following key points and instruct students to take notes on their own notebook paper.
 - The Founders believed that the U.S. Constitution was necessary to establish the rule of law, which means that the U.S. government is based on a set of fair laws everyone must obey, and that no one is above the law.
 - “We the people” agree to give some of our power to our elected leaders, as long as they do not abuse it. If they do, “we the people” can get rid of these leaders.
 - When we all agree to live by the U.S. Constitution, we are able to form a society capable of holding together peacefully.
11. Pose the following questions for discussion: “Based on the understanding that social, political and economic rights are in the Bill of Rights, what is the impact of these rights? How do these individual rights impact involvement in social, political, and economic systems? How might these systems be dependent on individual rights?”
12. Provide students with time to brainstorm and then share out.

13. Lead students to the understanding that individual rights shape involvement in social, political and economic systems. These systems are also dependent upon individual rights. Provide students with the following key points and instruct them to take notes on their own notebook paper:
 - The First Amendment freedoms of association, peaceable assembly, speech, and press provide individuals with an ability to be involved in social and political systems. Individuals are able to assemble and speak freely. At the same time, social and political systems, such as the press are dependent upon freedom of speech.
 - The First Amendment freedom to petition the government for redress of grievances supports individual involvement in the political system. Individuals are free to create and sign petitions and contact their government officials to express their views on issues. The political system is also dependent upon individuals making their voices and grievances heard. The government represents “We the People” and in order for the government to be representative of the people, the opinions and issues of the people must be heard by the government.
 - The Fifth Amendment protections that life, liberty or property may not be taken without due process of law and that private property may not be taken for public use without just compensation, support individual involvement in the economic system. Individuals are free to purchase private property and build their lives on that property. The economic system is also dependent on individuals exercising their economic freedoms, building businesses and strengthening the economy. At the same time, government is able to take private property from individuals in order to benefit the public interest, but they must provide just compensation.
14. Project the following statement on the board: *One of the biggest challenges our country has always faced is keeping a balance between the need to protect the rights of the individual and the need to protect our society.*
15. Provide students with a few minutes to brainstorm what they think this statement means and share out. Teacher note: There are many possible appropriate answers. Allow students to share their responses while keeping the focus on the idea that individual rights and the public interest can conflict with each other, and that, as citizens, we are constantly making choices that require us to consider both individual rights and the public interest.
16. Explain to students that they will look more in depth at how constitutional rights impact both individuals and society, and how the United States has experienced some of the conflicts between the two. Explain to students that they will look at these issues through analyzing three “case studies” and the choices that have been made in these historical situations.
17. Pass out the “Case Study 1: Property Rights” activity sheets and explain to students that they will read and analyze the case study as a whole class.
18. Begin the case study by reviewing the civics content vocabulary at the top of the page. Read each term and definition aloud. Have students summarize what each term means in their own words.
19. Ask for two volunteers to stand at the board and become scribes for a discussion about property rights.
20. Pose the following questions for discussion:
 - What do you think when you hear the word "property"?
 - Why do physical pieces of property have value for you?
 - Do you have a piece of property that has more value than others?
 - What would you do if someone attempted to take that property from you or damage it in some way?
 - What does your reaction say about the value of the property?
 - What kinds of actions against property does society view as criminal (e.g. stealing, vandalism, physical abuse, etc.)? Why?
21. Return student attention back to the “Case Study 1: Property Rights” activity sheets and read through Step #2.
22. Read through the first quote, highlight text and summarize the main idea as a whole class.
23. Place students into pairs and instruct them to complete the same process for the remaining quotes.
24. Review as a whole class.

25. Read through Step #3 and answer the questions as a whole class. Instruct students to take notes on the answers on their activity sheet.
26. Read through Step #4 and summarize the scenario as a whole class.
27. Read through Step #5 and pass out the “Supreme Court set to consider hearings in key cases” article.
Teacher Note: This is an excerpt of the article.
28. Preview the guiding questions and read the article as a whole class.
29. Pose the following questions for discussion: “If you were a justice on the U.S. Supreme Court, what would your opinion be on this case? Why?”
30. Read through Step #6 and explain to students that they will look at the actual ruling of the U.S. Supreme Court in this case. Project the following link from Oyez.org on *Kelo v. City of New London*:
http://www.oyez.org/cases/2000-2009/2004/2004_04_108. Teacher note: Read through the “Conclusion” section as a whole class. If there is time, have students listen to the 4:30 minute opinion announcement.
31. Pose the following questions for discussion: “How would you summarize the U.S. Supreme Court’s decision? Do you agree? Why or why not?”
32. Pass out the “Response Worksheet” and as a whole class fill in the row labeled “Property Rights.”
33. Checking for Understanding A (Formative Assessment):
Instruct students to write a well-crafted response using the following prompt:
Prompt
Property rights are important in a democratic society, but they should be limited. Using what you have learned during this case study, argue for or against this statement. Cite specific examples from the case study readings, activity sheets and discussion to support your argument.
34. Move students into small working groups of 3-4. Pass out “Case Study 2: Freedom of Assembly” to half of the groups and “Case Study 3: War vs. Individual Rights” to the other half.
35. Pass out the “Presentation Guidelines” to every group and review the guidelines as a whole class.
36. Provide time for students to work in their groups to complete all seven steps of their case study and to prepare to present their case study to the class.
37. Monitor group work and student understanding.
38. Instruct students to take out their “Response Worksheet” from earlier in the lesson.
39. Have each group report their case study to the rest of the class based on the presentation guidelines. Ask questions to keep students focused on the main ideas of their case study.
40. Instruct students to fill in their worksheet based on what they hear during the presentation.
41. Collect the “Response Worksheet” and check for accuracy.
42. Checking for Understanding B (Formative Assessment):
Instruct students to write a well-crafted response using one of the following prompts:
Prompt 1
How do the three case studies explain limitations of constitutional rights? Cite specific examples from each case study to support your explanation.
Prompt 2
Using what you have learned during the case studies, explain the impact of the government on individuals when the government restricts individual constitutional rights.

CASE STUDY 1: PROPERTY RIGHTS

This case study focuses on the following civics vocabulary terms:

- **economic freedom** – the freedom to produce, trade, or use any goods or services without use of force, fraud, or theft
- **eminent domain** - the right of a government to take private property for public use; found in the 5th Amendment
- **property rights** - the right to own private property; not specifically mentioned in the Constitution but considered an important right in a democratic society

1. Whole Class Discussion Questions on Property Rights:

- What do you think when you hear the word "property"?
- Why do those physical pieces of property have value for you?
- Do you have a piece of property that has particular value?
- What would you do if someone attempted to take that property from you or damage it in some way?
- What does your reaction say about the value of the property?
- What kinds of actions against property does society view as criminal (e.g. stealing, vandalism, physical abuse, etc.)? Why?

2. Let's take a look at the Founders' ideas about property and the basis of their ideas on the natural rights philosophy of John Locke. Read the following quotations from James Madison's essay on property from 1792, highlight or mark text in the quotation that helps you summarize the main idea, and then write the main idea in your own words.

Quotation	Summary In Your Own Words
"A man has a property in his opinions and the free communication of them."	
"[Property] embraces everything to which a man may attach value and have a right, and which leaves to everyone else the like advantage."	
"As a man is said to have a right to his property, he may equally be said to have a property in his rights."	
"Where an excess of power prevails, property of no sort is duly respected. No man is safe in his opinions, his person, his faculties, or his possessions."	
[From the Virginia Convention]: "The rights of persons, and the rights of property, are the objects, for the protection of which Government was instituted."	

3. Based on your understanding of the quotations, answer the following questions:

- If Madison were asked the same question you were asked at the beginning of this lesson—"What is property?"—what do you imagine he would say?
- Do you agree with Madison that a man has "a property in his rights"? What do you think he means?
- What do you think that Madison wanted the government to protect—rights or physical property or both?
- Why would Madison say a guaranteed right to private property is a protection against tyranny or government oppression?
- What kinds of property rights are enumerated and protected in the Bill of Rights?

4. Consider the following scenario: The U.S. Supreme Court is back in session, and the justices have decided to take some important cases this term. One such case involves the city of New London, Connecticut, and the residents of the Fort Trumbull area. Local resident Susette Kelo has filed a suit against the city after New London decided to clear her home and several others' homes in order to build some new office buildings. The city states that the tax revenue the new businesses will generate will benefit private citizens, but the Fort Trumbull residents say that taking their homes violates their 5th Amendment rights because the land will not be for "public use."

5. To learn more about this case, let's read an excerpt of an article from the Houston Chronicle: "[Supreme Court set to consider hearings in key cases](#)" (*Houston Chronicle*, September 24, 2004). While reading, we will highlight evidence that helps us answer each question. Then, we will answer each question in our own words.

Article Questions	Evidence from Text	Answer
What businesses does the city plan to build in place of the homes?		
Why does the city of New London want to get rid of the homes?		
Why do the residents oppose the taking of homes in Fort Trumbull?		
Why do you think the Supreme Court decided to hear this case?		
Extension Questions		
Read the 5th Amendment. Why do you think the Founders allowed the possibility of the government taking private property in some circumstances? What do you think the Founders meant by "nor shall private property be taken for public use, without just compensation"?		

6. How do you think you would rule on the case? What is the reason for your opinion?

7. Now read this brief summary of the *Kelo v. City of New London* case from the Supreme Court's actual ruling: http://www.oyez.org/cases/2000-2009/2004/2004_04_108. Answer the following questions:

- What was the Supreme Court's ruling? What reason did the Supreme Court give for its decision?

- Do you agree or disagree? Why?

Supreme Court set to consider hearings in key cases Justices return to decide a city's power to take a person's home

MARK HELM, Copyright 2004 Hearst News Service
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WASHINGTON - The U.S. Supreme Court returns to work this week to weigh whether to hear several key cases that could be the hallmarks of its new term, including whether a Connecticut city can take away a person's home to clear the way for upscale development. The court also will consider whether to hear appeals in four cases involving displays of the Ten Commandments on public property.

The court will officially start the term Oct. 4 — the traditional starting date on the first Monday in October — by hearing oral arguments in some of the 40 cases it already has accepted.

The Connecticut case involves Susette Kelo's pink house on the Thames River in New London and whether the city of New London can take her land away and sell it to real estate developers because they promise to pay more taxes and create jobs by converting the neighborhood into trendy condominiums.

"This case hits at the heart of the American dream ... a person's home," says Gregory Garre, a former law clerk to Chief Justice William Rehnquist and a former assistant to the solicitor general. "The idea that the government can kick you out of your home because they want expensive condos in your neighborhood really scares people."

But the issue is much bigger than the fate of one house on the Thames — businesses, developers and homeowners throughout the United States have a stake in its outcome, says Garre, who doesn't represent any party in the case.

The Constitution allows governments to take private land for "public use," also known as eminent domain authority.

Garre says many constitutional scholars consider the phrase "public use" to restrict government takings to uses that are directly owned or primarily used by the general public, such as roads, bridges or public buildings.

But the Connecticut Supreme Court said the term "public use" means that a taking need only have some anticipated public benefit, such as increased tax revenues and improving the area's economy.

Kelo lost in the state courts and is asking the U.S. Supreme Court to hear her case.

"If the court agrees with the Connecticut Supreme Court on the definition of 'public use,' cities would have a much easier time justifying the taking of any property," Garre says.

Excerpt from Houston Chronicle article, "Supreme Court set to consider hearings in key cases"
<http://www.chron.com/news/nation-world/article/Supreme-Court-set-to-consider-hearings-in-key-1636842.php>

CASE STUDY 2: FREEDOM OF ASSEMBLY

This case study focuses on the following civics vocabulary terms:

- **civil disobedience** - the refusal to obey certain laws as a form of political protest
- **freedom of assembly** – the right to hold meetings and form groups without interference by the government; guaranteed in the 1st Amendment

1. To begin this case study, determine a group leader and scribe. The leader will pose the following questions for discussion and the scribe will record responses.

- What do you think when you hear the term “freedom of assembly”?
- Is freedom of assembly important to you? Why?
- Do you have a group that is important to you? Why is it important?
- What would you do if someone attempted to take that group away from you or break it up in some way?
- What does your reaction say about the value of this group?
- When should freedom of assembly be seen as illegal? Why?

2. As a group, read the following historical account together:

- In 1965, at the height of the modern Civil Rights Movement, activists organized a march for voting rights from Selma, Alabama, to Montgomery, Alabama, the state capital. On March 7, some 600 people assembled at a downtown church, knelt briefly in prayer, and began walking silently, two-by-two through the city streets.
- With Hosea Williams of the Southern Christian Leadership Conference (SCLC) leading the demonstration, and John Lewis, Chairman of the Student Nonviolent Coordinating Committee (SNCC), at his side, the marchers were stopped as they were leaving Selma, at the end of the Edmund Pettus Bridge, by some 150 Alabama state troopers, sheriff’s deputies, and white men, who ordered the demonstrators to break up their assembly and leave.
- One minute and five seconds after a two-minute warning was announced, the troops advanced, wielding clubs, bullwhips, and tear gas. John Lewis, who suffered a skull fracture, was one of fifty-eight people treated for injuries at the local hospital. The day is remembered in history as “Bloody Sunday.” Less than one week later, Lewis recounted the attack on the marchers during a federal hearing at which the demonstrators sought protection for a full-scale march to Montgomery.

As a group, summarize the main idea:

3. Read through the following excerpts from the testimony of John Lewis resulting from the 1965 march from Selma to Montgomery and answer the following questions.

Excerpts from Testimony of John Lewis from a hearing resulting from the March 7, 1965, march from Selma to Montgomery in support of voting rights

These excerpts show the questions posed by Attorney Hall and John Lewis's responses.

Excerpt 1

Lewis: . . . a State Trooper made announcement on a bullhorn or megaphone, and he said, "This march will not continue."

Hall: What happened then; did the line stop?

Lewis: The line stopped at that time.

Hall: You stopped still?

Lewis: Yes, sir.

Hall: You didn't advance any further?

Lewis: We stopped right then.

Hall: Then what happened?

Excerpt 2

Lewis: He said, "I am Major Cloud, and this is an unlawful assembly. This demonstration will not continue. You have been banned by the Governor. I am going to order you to disperse."

Hall: What did you then do?

Excerpt 3

Lewis: Mr. Williams said, "Mr. Major, I would like to have a word, can we have a word?" And he said, "No, I will give you two minutes to leave." And again Mr. Williams said, "Can I have a word?" He said, "There will be no word." And about a minute or more Major Cloud ordered the Troopers to advance, and at that time the State Troopers took their position, I guess, and they moved forward with their clubs up over their—near their shoulder, the top part of the body; they came rushing in, knocking us down and pushing us.

Hall: And were you hit at that time?

Lewis: At that time I was hit and knocked down.

Hall: Where were you hit?

Excerpt 4

Lewis: I was hit on my head right here.

Hall: What were you hit with?

Lewis: I was hit with a billy club, and I saw the State Trooper that hit me.

Hall: How many times were you hit?

Lewis: I was hit twice, once when I was lying down and was attempting to get up.

Hall: Do we understand you to say were hit . . . and then attempted to get up and were hit—and was hit again.

Lewis: Right.

4. Answer the following questions about the EXCERPTS

Question	Answer
What are three things that you think are important from these excerpts?	
Why do you think the excerpts were written?	
What evidence in the excerpts helps you know why they were written?	
List two things the excerpts tell you about life in the United States at the time they were written.	
Write a question that is left unanswered by the excerpts.	

5. As a group, look at the photographs on the next page and answer the following questions.

Question	Photograph of John Lewis being beaten by state troopers	Photograph of John Lewis and Hosea Williams
What people are in the photos?		
What objects are in the photos?		
What activities are going on in the photos?		
Based on what you observe, what might you conclude from these photos?		
What questions do they raise in your mind?		

6. Discuss the following questions as a whole group and have the scribe record responses:

- Why would Alabama have had a law against these types of marches? Why would the state troopers and other law enforcement officials have said the marchers were breaking the law?
- Why did the marchers go ahead, knowing they were breaking Alabama law?
- In general, why are protesters sometimes willing to go to jail when they assemble?
- The First Amendment says the government may not violate our right to freedom of assembly, yet there are limits to this right. In your opinion, is it ever good for our society to limit freedom of assembly? Why?
- Do you think civil disobedience can have a positive effect on society? Why or why not? Under what circumstances might it be okay?
- At the end of the hearing, on March 17, Judge Frank Johnson, Jr., ruled that the demonstrators had a constitutional right to march. On March 21, under the protection of a Federalized National Guard, 3,200 demonstrators set out from Selma in a mass demonstration that became a turning point in the civil rights movement. Why do you think the judge made this ruling?

7. Checking for Understanding: As a group, write a well-crafted paragraph responding to the following questions: *Why is freedom of assembly so important in a democratic society? Why are there some limits on freedom of assembly?*



John Lewis (in the foreground) being beaten by state troopers, March 7, 1965



John Lewis (left) and Hosea Williams, July 26, 1965

Six months after “Bloody Sunday,” President Lyndon B. Johnson signed into law the Voting Rights Act. One of the pens used by the President hangs framed today in the living room of Representative John Lewis, Fifth U.S. Congressional District of Georgia. He has been elected to that office nine times.

CASE STUDY 3: WAR VS. INDIVIDUAL RIGHTS

This case study focuses on the following civics vocabulary term:

- **forced internment** - the confinement of a group of people, especially during a war

1. To begin this case study, determine a group leader and scribe. The leader will pose the following questions for discussion and the scribe will record responses.

- What do you think when you hear the term “individual rights”?
- Are individual rights important to you? Why?
- Do you have a specific individual right that is important to you? Why is it important?
- What would you do if someone attempted to take that right away from you or break it up in some way?
- What if the U.S. was at war? Would you be willing to have that right taken away from you? Why or why not?
- Under what circumstances do you think the U.S. government has the right to take away or limit individual rights during wartime?

2. Read Executive Order 9066 together in your group. Pretend that your group represents a journalist working for a major radio station news program. One of your contacts in the White House has leaked a copy of this document and told you it would be issued and announced in one week. Discuss what would you report about it by gathering evidence from your text and answering the following questions.

Question	Evidence from Text	Answer
What will this Executive Order do?		
What reasons are used to justify this order?		
To whom did President Roosevelt give authority to carry out the evacuation?		
List two things the documents tell you about life in the United States at the time they were written.		
According to this order, what specific steps does Roosevelt authorize?		

Executive Order No. 9066

The President

Executive Order

Authorizing the Secretary of War to Prescribe Military Areas

Whereas the successful prosecution of the war requires every possible protection against espionage and against sabotage to national-defense material, national-defense premises, and national-defense utilities as defined in Section 4, Act of April 20, 1918, 40 Stat. 533, as amended by the Act of November 30, 1940, 54 Stat. 1220, and the Act of August 21, 1941, 55 Stat. 655 (U.S.C., Title 50, Sec. 104);

Now, therefore, by virtue of the authority vested in me as President of the United States, and Commander in Chief of the Army and Navy, I hereby authorize and direct the Secretary of War, and the Military Commanders whom he may from time to time designate, whenever he or any designated Commander deems such action necessary or desirable, to prescribe military areas in such places and of such extent as he or the appropriate Military Commander may determine, from which any or all persons may be excluded, and with respect to which, the right of any person to enter, remain in, or leave shall be subject to whatever restrictions the Secretary of War or the appropriate Military Commander may impose in his discretion. The Secretary of War is hereby authorized to provide for residents of any such area who are excluded therefrom, such transportation, food, shelter, and other accommodations as may be necessary, in the judgment of the Secretary of War or the said Military Commander, and until other arrangements are made, to accomplish the purpose of this order. The designation of military areas in any region or locality shall supersede designations of prohibited and restricted areas by the Attorney General under the Proclamations of December 7 and 8, 1941, and shall supersede the responsibility and authority of the Attorney General under the said Proclamations in respect of such prohibited and restricted areas.

I hereby further authorize and direct the Secretary of War and the said Military Commanders to take such other steps as he or the appropriate Military Commander may deem advisable to enforce compliance with the restrictions applicable to each Military area hereinabove authorized to be designated, including the use of Federal troops and other Federal Agencies, with authority to accept assistance of state and local agencies.

I hereby further authorize and direct all Executive Departments, independent establishments and other Federal Agencies, to assist the Secretary of War or the said Military Commanders in carrying out this Executive Order, including the furnishing of medical aid, hospitalization, food, clothing, transportation, use of land, shelter, and other supplies, equipment, utilities, facilities, and services.

This order shall not be construed as modifying or limiting in any way the authority heretofore granted under Executive Order No. 8972, dated December 12, 1941, nor shall it be construed as limiting or modifying the duty and responsibility of the Federal Bureau of Investigation, with respect to the investigation of alleged acts of sabotage or the duty and responsibility of the Attorney General and the Department of Justice under the Proclamations of December 7 and 8, 1941, prescribing regulations for the conduct and control of alien enemies, except as such duty and responsibility is superseded by the designation of military areas hereunder.

Franklin D. Roosevelt

The White House,

February 19, 1942.

[F.R. Doc. 42-1563; Filed, February 21, 1942; 12:51 p.m.]

Source: Executive Order No. 9066, February 19, 1942.

3. Now, read the background of this event together as a group:

Background Information

The Japanese attacked the port of Pearl Harbor, Hawaii, in December 1941. After this, the American government was worried that the West Coast of the United States would also be attacked. Many Americans were angered by the bombing of Pearl Harbor and blamed Japanese Americans who were living in the United States. Some people thought that the many Japanese and Japanese Americans who lived there would help the Japanese military. But at the time, there was no known case of spying from any person of Japanese descent. In February, 1942, President Franklin D. Roosevelt signed Executive Order 9066. This order allowed the military to use curfews and to move Japanese and Japanese Americans to special camps. Japanese Americans were only allowed to bring very basic items with them. Moving people to camps is called forced internment. Fred Korematsu was an American citizen. He was born in America and had Japanese parents. He wanted to be in the United States military, but he was not healthy enough. Korematsu did not want to go to the internment camps. He moved away and changed the way he looked to avoid the order. But he was arrested later and sent to a camp.

Korematsu took his case to the courts. He said that Congress, the President, and the military authorities did not have the power to send people to internment camps. He also said that the government was discriminating against him because of his race.

The government argued that the evacuation of all Japanese Americans was necessary because there was evidence that some were working for the Japanese government. The government said that because there was no way to tell the loyal from the disloyal, all Japanese Americans had to be treated as though they were disloyal. The federal appeals court agreed with the government. Korematsu appealed this decision, and the case came before the U.S. Supreme Court.

4. As a group, answer the following questions:

- Why was Korematsu (and other people of Japanese descent) forced to go to an internment camp? What is the in text to help you answer this question?
- Look at a copy of the Constitution. Which part (Article and Section) describes the war power of the President? Which Article and Section describe the war powers of the Congress? What are the war powers of the President and Congress?
- The United States was also at war with Germany and Italy. People of German and Italian descent were also interned in the United States, but there were fewer people interned from these groups than who had Japanese ancestors. Why do you think people whose ancestors were from Japan were treated differently?
- In times of war, governments have to balance the safety of the country with citizens' rights. In your opinion, did internment of Japanese descendants strike a good balance?

5. The following table lists arguments in the *Korematsu v. United States* U.S. Supreme court case. Read through each argument and decide whether it supports **Korematsu's side against internment (K)**, **the United States' side in favor of internment (US)**, **both sides (BOTH)**, or **neither side (N)**. In the column labeled "Decision" place a K, US, B or N to mark your answer.

Argument	Decision
<p>The Fifth Amendment of the Constitution states: No person shall...be deprived of life, liberty, or property, without due process of law....</p> <ul style="list-style-type: none"> • By subjecting Japanese and Japanese Americans to internment as a group, the United States has denied them due process of law. Proper due process requires individuals to be proven guilty through individual, established procedures. 	
<p>The Fourteenth Amendment of the Constitution states: No State shall...deny to any person within its jurisdiction the equal protection of the laws.</p> <ul style="list-style-type: none"> • Though the Fourteenth Amendment refers to states, it also applies (through the Fifth Amendment) to the federal government. The government is obliged to provide equal rights; if the rights of a particular racial group are taken away, the reason for doing so must pass the highest possible standards. 	
<p>Article II, Section 2 of the Constitution gives the President the power as commander in chief of the military. Commanding the military includes issuing orders as necessary to help the military carry out its duties to protect the nation. Such orders include Executive Order 9066, which specifically allowed restrictions on the movement and presence of groups of people in certain areas of the country.</p>	
<p>German Americans and Italian Americans were treated differently from the Japanese during World War II. Though some were interned and suffered discrimination, they were not gathered up as a group without hearing or evidence as the Japanese were.</p>	
<p>In <i>Hirabayashi v. United States (1943)</i>, the Supreme Court supported the conviction of a Japanese American who violated a curfew order imposed through the same presidential Executive Order and Congressional Act at issue in this case.</p>	
<p>No Japanese or Japanese American had been accused of or convicted for espionage or sabotage in the months between the attack on Pearl Harbor and the beginning of internment.</p>	
<p>There was no evidence that Fred Korematsu engaged in any spying or criminal activity.</p>	
<p>The armed services must protect a society, not merely its Constitution.</p>	
<p>We may not be able to keep military actions within the boundaries of the Constitution, but that does not mean that the Constitution should be misused to approve of everything the military thinks is necessary.</p>	
<p>If the Supreme Court issues a ruling supporting racial discrimination in this case, it becomes a principle for supporting racial discrimination in any case where an urgent need is claimed.</p>	

6. Discuss in your group how you think you would rule on the case. You may come to a consensus, or you may take a vote and have a split decision. What is the reason for your opinion? Now look at the actual ruling: <https://www.oyez.org/cases/1940-1955/323us214>.

How does the U.S. Supreme Court’s ruling compare to the group’s decision?

7. Checking for Understanding: As a group, write a well-crafted paragraph responding to the following questions: *Why are individual rights important to a democratic society in wartime? Why are there some limits on these rights?*

Presentation Guidelines

- **What is the “story” in your case study? Tell us about the main events and characters, when and where the events took place, etc.**
- **What are the civics content vocabulary terms for the case study? How are they related to the case?**
- **How was the judicial branch of government involved in the case?**
- **What is the main constitutional right that your case study focuses on?**
- **What is the conflict in the case study?**
- **How does your case study illustrate the difficulty of balancing individual rights and the needs of society?**
- **Why is the individual right that your case focuses on important to a democratic society?**
- **Why are there some limits on the right that your case focuses on?**

Response Worksheet

Case Study	Main Events/People in Case Study	Civics Content Vocabulary for this case	Main Constitutional Right the Case Study Focuses On	Conflict in Case Study (Conflict Between Rights)	How is the constitutional right being exercised or infringed in this case?	What is the impact of the government upholding or restricting this right?
Property rights						
Freedom of assembly						
Individual rights in wartime						

Sources

Case Study #1: “Honoring Property Rights” Lesson Plan:

<http://constitutioncenter.org/learn/educational-resources/lesson-plans/honoring-property-rights>,

Accessed April 2013

and <http://www.billofrightsinstitute.org>

“What is Public Use” Lesson Plan:

<http://constitutioncenter.org/learn/educational-resources/lesson-plans/what-is-public-use>, Accessed

April 2013

and <http://www.billofrightsinstitute.org>

Houston Chronicle Article for Case Study 1#: [http://www.chron.com/news/nation-](http://www.chron.com/news/nation-world/article/Supreme-Court-set-to-consider-hearings-in-key-1636842.php)

[world/article/Supreme-Court-set-to-consider-hearings-in-key-1636842.php](http://www.chron.com/news/nation-world/article/Supreme-Court-set-to-consider-hearings-in-key-1636842.php)

Case Study #2: “Eyewitness: Confrontations for Justice”:

<http://www.archives.gov/exhibits/eyewitness/html.php?section=2>

Case Study #3: Korematsu v. United States Lesson Plan:

http://www.streetlaw.org/en/landmark/cases/korematsu_v_united_states#Tab=Teaching

Korematsu v. United States: <https://www.oyez.org/cases/1940-1955/323us214>

Primary Source Analysis Questions:

<http://www.archives.gov/education/lessons/worksheets/document.html>

Photograph Analysis Questions:

http://www.archives.gov/education/lessons/worksheets/photo_analysis_worksheet.pdf

Executive Order 9066:

<http://www.pbs.org/childofcamp/history/eo9066.html> and <http://historymatters.gmu.edu/d/5154/>

CASE STUDY 1: PROPERTY RIGHTS – *Sample Answers*

2. Let's take a look at the Founders' ideas about property and the basis of their ideas on the natural rights philosophy of John Locke. Read the following quotations from James Madison's essay on property from 1792, highlight or mark text in the quotation that helps you summarize the main idea, and then write the main idea in your own words.

Quotation	Summary In Your Own Words
"A man has a property in his opinions and the free communication of them."	A man owns his opinions and has freedom in sharing his opinions.
"[Property] embraces everything to which a man may attach value and have a right, and which leaves to everyone else the like advantage."	Everyone is entitled to the right to own property
"As a man is said to have a right to his property, he may equally be said to have a property in his rights."	A man has a right to property and owns his rights.
"Where an excess of power prevails, property of no sort is duly respected. No man is safe in his opinions, his person, his faculties, or his possessions."	When there is too much government power, man's rights are infringed.
[From the Virginia Convention]: "The rights of persons, and the rights of property, are the objects, for the protection of which Government was instituted."	Government was formed to protect the rights of people and property.

3. Based on your understanding of the quotations, answer the following questions:

- If Madison were asked the same question you were asked at the beginning of this lesson—"What is property?"—what do you imagine he would say?
Property is man's opinions and whatever else he places value.
- Do you agree with Madison that a man has "a property in his rights"? What do you think he means? ***He means that man owns his rights.***
- What do you think that Madison wanted the government to protect—rights or physical property or both? ***Both***
- Why would Madison say a guaranteed right to private property is a protection against tyranny or government oppression? ***By protecting the right to private property, the government is respecting individual rights.***
- What kinds of property rights are enumerated and protected in the Bill of Rights? ***Fifth Amendment protections that life, liberty or property may not be taken without due process of law and that private property may not be taken for public use without just compensation.***

5. To learn more about this case, let's read a short article from the Houston Chronicle: "[Supreme Court set to consider hearings in key cases](#)" (*Houston Chronicle*, September 24, 2004). While reading, we will highlight evidence that helps us answer each question. Then, we will answer each question in our own words.

Article Question	Evidence from Text
What businesses does the city plan to build in place of the homes?	...converting the neighborhood into trendy condominiums...
Why does the city of New London want to get rid of the homes?	...city of New London can take her land away and sell it to real estate developers because they promise to pay more taxes and create jobs by converting the neighborhood into trendy condominiums
Why do the residents oppose the taking of homes in Fort Trumbull?	The idea that the government can kick you out of your home because they want expensive condos in your neighborhood really scares people
Why do you think the Supreme Court decided to hear this case?	Possibly because the term "public use" is in question in this case.

Extension Questions

Read the 5th Amendment. Why do you think the Founders allowed the possibility of the government taking private property in some circumstances? What do you think the Founders meant by "nor shall private property be taken for public use, without just compensation"?

The needs of the public may change over time and this gives the government flexibility. In order for the government to take private property, they must provide compensation to do so.

7. Now read this brief summary of the *Kelo v. City of New London* case and the Supreme Court's actual ruling: http://www.oyez.org/cases/2000-2009/2004/2004_04_108. Answer the following questions:

- What was the Supreme Court's ruling? What reason did the Supreme Court give for its decision? ***The Court ruled in favor of the City of New London. Their reason was that the city was not taking the land simply to benefit a certain group of private individuals, but was following an economic development plan.***

CASE STUDY 2: FREEDOM OF ASSEMBLY - *Sample Answers*

2.

As a group, summarize the main idea: Hosea Williams and John Lewis were leading a march from Selma, AL to Montgomery, AL in support of voting rights. They were ordered to stop marching by Alabama state troopers. They were attacked by the troopers before the two-minute warning was over.

4. Answer the following questions about the EXCERPTS

Question	Answer
What are three things that you think are important from these excerpts?	How close did you approach to these officers before your line stopped? We were able to move about fifty feet, and at that time a State Trooper made announcement on a bullhorn or megaphone and he said, "This march will not continue." Lewis: He said, "I am Major Cloud, and this is an unlawful assembly. This demonstration will not continue. You have been banned by the Governor." Mr. Williams said, "Mr. Major, I would like to have a word, can we have a word?" And he said, "No, I will give you two minutes to leave."
Why do you think the excerpts were written?	They are a transcript of a testimony about the event.
What evidence in the excerpts helps you know why they were written?	These pages show the questions posed by Attorney Hall and John Lewis's responses. At the end of the hearing, on March 17, Judge Frank Johnson, Jr., ruled that the demonstrators had a constitutional right to march;
List two things the excerpts tell you about life in the United States at the time they were written.	The fact that they were not allowed to march. The fact that the march ended in violence.
Write a question that is left unanswered by the excerpts.	Why was the march considered unlawful assembly?

5. Answer the following questions about the PHOTOGRAPHS:

Question	Photograph of John Lewis being beaten by state troopers	Photograph of John Lewis and Hosea Williams
What people are in the photos?	John Lewis, other participants in the march and the state troopers.	John Lewis and Hosea Williams
What objects are in the photos?	mattress company, car, weapons, men holding a coat/cloth	a sign behind both men and the shoulder of a third man
What activities are going on in the photos?	The state trooper is holding someone (John Lewis) on the ground.	They are focusing their attention on something or someone.

Based on what you observe, what might you conclude from these photos?	The participants in the march are being beaten by the state troopers.	Based on the caption, they are witnessing the Voting Rights Act get signed into law.
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6. Discuss the following questions as a whole group and have the scribe record responses:

- Why would Alabama have had a law against these types of marches? Why would the state troopers and other law enforcement officials have said the marchers were breaking the law? ***To avoid any violence that might result from an assembly.***
- Why did the marchers go ahead, knowing they were breaking Alabama law? ***They were expressing their constitutional right to freedom of assembly.***
- In general, why are protesters sometimes willing to go to jail when they assemble? ***They believe in their constitutional right to assemble.***
- The First Amendment says the government may not violate our right to freedom of assembly, yet there are limits to this right. In your opinion, is it ever good for our society to limit freedom of assembly? Why?
- Do you think civil disobedience can have a positive effect on society? Why or why not? Under what circumstances might it be okay? ***Civil disobedience can impact change in the government by creating an awareness of issues.***
- At the end of the hearing, on March 17, Judge Frank Johnson, Jr., ruled that the demonstrators had a constitutional right to march. On March 21, under the protection of a Federalized National Guard, 3,200 demonstrators set out from Selma in a mass demonstration that became a turning point in the civil rights movement. Why do you think the judge made this ruling? ***Due to the fact that they were peacefully assembled.***

CASE STUDY 3: WAR VS. INDIVIDUAL RIGHTS - *Sample Answers*

This case study focuses on the following civics vocabulary term:

- **forced internment** - the confinement of a group of people, especially during a war

2. Executive Order 9066

Question	Evidence from Text	Answer
What will this Executive Order do?	the successful prosecution of the war requires every possible protection against espionage and against sabotage...to prescribe military areas in such places and of such extent as he or the appropriate Military Commander may determine, from which any or all persons may be excluded, and with respect to which, the right of any person to enter, remain in, or leave shall be subject to whatever restrictions the Secretary of War or the appropriate Military Commander may impose in his discretion	The President is authorizing the creation of military areas for people who are suspected of espionage or sabotage.
What reasons are used to justify this order?	the successful prosecution of the war requires every possible protection against espionage and against sabotage	The President justifies these actions in order to ensure the success of war.
To whom did President Roosevelt give authority to carry out the evacuation?	I hereby authorize and direct the Secretary of War and the Military Commanders whom he may from time to time designate,... I hereby further authorize and direct all Executive Departments, independent establishments and other Federal Agencies	The President has given authority to the Secretary of War and the Military Commanders, as well as all Executive Departments and Federal Agencies.
List two things the document tells you about life in the United States at the time they were written.	...successful prosecution of the war... The Secretary of War is hereby authorized to provide for residents of any such area who are excluded therefrom, such transportation, food, shelter, and other accommodations as may be necessary,	The U.S. is at war during this time and residents of the military areas transportation, food, shelter and other accommodations.
According to this order, what specific steps does Roosevelt authorize?	The Secretary of War is hereby authorized to provide for residents of any such area who are excluded therefrom, such transportation, food, shelter, and other accommodations as may be necessary, in the judgment of the Secretary of War or the said Military Commander, and until other arrangements are made, to accomplish the purpose of this order.	The Secretary of War is authorized to create military areas and provide transportation, food, shelter and other accommodations that are necessary for as long as needed.

4. As a group, answer the following questions:

- Why was Korematsu (and other people of Japanese descent) forced to go to an internment camp? What is the in text to help you answer this question? *The Japanese attacked the port of Pearl Harbor, Hawaii, in December 1941. After this, the American government was worried that the West Coast of the United States would also be attacked. Many Americans were angered by the bombing of Pearl Harbor and blamed Japanese Americans who were living in the United States. Some people thought that the many Japanese and Japanese Americans who lived there would help the Japanese military.*
- Look at a copy of the Constitution. Which part (Article and Section) describes the war power of the President? Which Article and Section describe the war powers of the Congress? What are the war powers of the President and Congress? *Article I, Section 8 of the U.S. Constitution grants Congress the power to declare war, control war funding, raise and support the armed forces, and affirms the “Power...to make all Laws which shall be necessary and proper for carrying into Execution...all other Powers vested by this Constitution in the Government*

of the United States, or in any Department or Officer thereof.” Article II, Section 2 of the U.S. Constitution states that, “The President shall be commander in chief of the Army and Navy of the United States, and of the militia of the several states, when called into the actual service of the United States...”

- The United States was also at war with Germany and Italy. People of German and Italian descent were also interned in the United States, but there were fewer people interned from these groups than who had Japanese ancestors. Why do you think people whose ancestors were from Japan were treated differently? **Possibly because the Japanese directly attacked an American navy base. Germany and Italy did not attack American soil.**

5. The following table lists arguments in the *Korematsu v. United States* U.S. Supreme court case. Read through each argument and decide whether it supports **Korematsu’s side against internment (K)**, **the United States’ side in favor of internment (US)**, **both sides (BOTH)**, or **neither side (N)**. In the column labeled “Decision” place a K, US, B or N to mark your answer.

Argument	Decision
<p>The Fifth Amendment of the Constitution states: No person shall...be deprived of life, liberty, or property, without due process of law....</p> <ul style="list-style-type: none"> • By subjecting Japanese and Japanese Americans to internment as a group, the United States has denied them due process of law. Proper due process requires individuals to be proven guilty through individual, established procedures. 	K
<p>The Fourteenth Amendment of the Constitution states: No State shall...deny to any person within its jurisdiction the equal protection of the laws.</p> <ul style="list-style-type: none"> • Though the Fourteenth Amendment refers to states, it also applies (through the Fifth Amendment) to the federal government. The government is obliged to provide equal rights; if the rights of a particular racial group are taken away, the reason for doing so must pass the highest possible standards. 	B
<p>Article II, Section 2 of the Constitution gives the President the power as commander in chief of the military. Commanding the military includes issuing orders as necessary to help the military carry out its duties to protect the nation. Such orders include Executive Order 9066, which specifically allowed restrictions on the movement and presence of groups of people in certain areas of the country.</p>	US
<p>German Americans and Italian Americans were treated differently from the Japanese during World War II. Though some were interned and suffered discrimination, they were not gathered up as a group without hearing or evidence as the Japanese were.</p>	K
<p>In <i>Hirabayashi v. United States (1943)</i>, the Supreme Court supported the conviction of a Japanese American who violated a curfew order imposed through the same presidential Executive Order and Congressional Act at issue in this case.</p>	US
<p>No Japanese or Japanese American had been accused of or convicted for espionage or sabotage in the months between the attack on Pearl Harbor and the beginning of internment.</p>	K
<p>There was no evidence that Fred Korematsu engaged in any spying or criminal activity.</p>	K
<p>The armed services must protect a society, not merely its Constitution.</p>	US
<p>We may not be able to keep military actions within the boundaries of the Constitution, but that does not mean that the Constitution should be misused to approve of everything the military thinks is necessary.</p>	K
<p>If the Supreme Court issues a ruling supporting racial discrimination in this case, it becomes a principle for supporting racial discrimination in any case where an urgent need is claimed.</p>	N

Response Worksheet – Sample Answers

Case Study	Main Events/People in Case Study	Civics Content Vocabulary for this case	Main Constitutional Right the Case Study Focuses On	Conflict in Case Study (Conflict Between Rights)	How is the constitutional right being exercised or infringed in this case?	What is the impact of the government upholding or restricting this right?
Property rights	Kelo v. City of New London	economic freedom, eminent domain, property rights	property rights, Fifth Amendment	eminent domain – What does public use mean when the government wants to take private land for public use?	The city of New London was exercising its right to take private property for public use.	Through the Court’s decision the city’s right of eminent domain was upheld and they were able to develop the land. Individuals lost their homes.
Freedom of assembly	John Lewis and Hosea Williams	civil disobedience, freedom of assembly	freedom of assembly, First Amendment	Whether or not the march participants had the right to assemble and march from Selma to Montgomery, AL	The march participants are assembling and marching to bring awareness to voting rights. The police infringed on their freedom of assembly.	By the government upholding the right of freedom of assembly, they allowed for a group of people to peacefully assemble and march to express their views.
Individual rights in wartime	Fred Korematsu Korematsu v. United States	forced internment	individual rights	Whether or not the US government had the power to force people into internment camps and whether or not Korematsu was discriminated against due to his race.	Japanese Americans individual rights of life and liberty were infringed due to Executive Order 9066.	The impact of the government infringing this right is that thousands of Americans were placed in internment camps, however the government’s view was that this was to protect society during war time.

Civics Content Vocabulary

Word/Term	Part of Speech	Definition
civil disobedience	noun	the refusal to obey certain laws as a form of political protest
economic freedom	noun	the freedom to produce, trade, or use any goods or services in a way that is legal
eminent domain	noun	the right of the government to take private property for public use; the Fifth Amendment requires that people be paid fairly (compensated) for their property if it is taken by the government
forced internment	noun	the confinement of a group of people, especially during a war
freedom of assembly	noun	the right to hold meetings and form groups without interference by the government; guaranteed in the First Amendment
property rights	noun	the right to own property; mentioned in the Fifth and Fourteenth Amendments

Essential Teacher Content Background Information

This section addresses the following issues:

1. The relationship between the people and the government in the U.S. Constitution
2. When individual rights and the public interest conflict

1. The relationship between the people and the government in the U.S. Constitution

The relationship between the people and the government in the U.S. is based on the notion that both individual rights and the public interest should be protected by government. Individual rights are central to democratic political and social life and represent the “life, liberty and happiness” identified by Thomas Jefferson in the Declaration of Independence and “life, liberty or estate” addressed by John Locke in the Two Treatises of Government (1690). Protecting the public interest is also critical because community stability is threatened when the public believes that its interests as a community are threatened due to government action or inaction. The public interest is also understood as the general welfare or common well-being.

Individual rights are best understood as those rights found in the Bill of Rights. The Bill of Rights was offered by the Federalists as a compromise to the Anti-Federalists who believed that the constitution proposed in 1787 would deny rights that the people enjoyed under the Articles of Confederation. The Bill of Rights was added to the U.S. Constitution in 1791 as the first ten amendments to the U.S. Constitution. The Bill of Rights protects social (First Amendment freedoms of association, peaceable assembly, speech, press), political (First Amendment freedom to petition the government for redress of grievances) and economic (Fifth Amendment protections that life, liberty or property may not be taken without due process of law and that private property may not be taken for public use without just compensation) rights. Other amendments to the U.S. Constitution further protect political rights such as the right to vote protected by the Fifteenth (no race discrimination in voting), Nineteenth (no sex discrimination in voting), Twenty-third (Washington, DC given Electoral Votes)¹, Twenty-fourth (no poll taxes) and Twenty-sixth amendments (lowers voting age to 18). The Fourteenth Amendment protects property rights in that, like the Fifth Amendment, life, liberty or property may not be taken without due process of law by the states (the Fifth Amendment applies to the federal government only).²

The concept of the public interest is central to the Preamble of the U.S. Constitution. Four phrases included in the Preamble address the public interest. “We the people”, the first three words of the Preamble, and the last phrase “do ordain and establish this Constitution for the United States of America” speak to the notion that it is the people who extend power to and establish the government. The collective “we” suggests that it was Americans as a community, or public, who formed the government. Part of the power that Americans created and gave to the new government was to “insure domestic tranquility” and “provide for the common defence”.³ Ensuring domestic tranquility and providing for the common defense both focus on the public interest.

2. When individual rights and the public interest conflict

Conflict has emerged when the lawmakers have believed that limiting individual rights for the sake of the public interest and, in reverse, broadening individual rights while limiting the public interest, is needed. Four examples are provided below:

a. Civil disobedience: In Letter from a Birmingham Jail (1963), Dr. Martin Luther King, Jr. justified civil disobedience (refusing to abide by unjust laws) as follows:

Since we so diligently urge people to obey the Supreme Court's decision of 1954 outlawing segregation in the public schools, at first glance it may seem rather paradoxical for us consciously to break laws. One may want to ask: "How can you advocate breaking some laws and obeying others?" The answer lies in the fact that there are two types of laws: just and unjust. I would be the first to advocate obeying just laws. One has not only a legal but a moral responsibility to obey just laws. Conversely, one has a moral responsibility to disobey unjust laws. I would agree with St. Augustine that "an unjust law is no law at all"

¹ The Twenty-third Amendment is not included in the NGSSS; however, in giving U.S. citizens the right to vote for president and vice-president that they had not previously had protects political rights.

² SS.7.C.3.7 includes the Thirteenth Amendment among those constitutional amendments impacting minority group participation. The Thirteenth Amendment served as the first step to citizenship, found in the Fourteenth Amendment.

³ Spelling in original

In essence, Dr. King argued that being a law-abiding citizen did not require one to obey laws meant to suppress civil rights and deny political, social and economic rights to minorities.

b. Economic freedom: Economic freedom is guarded as an individual right because it is a way to experience the freedom that is protected by the U.S. Constitution and addressed in the Declaration of Independence. A commitment to economic freedom has been cited by lawmakers and interest groups seeking to reduce trade barriers, enact policies broadening the role of money in political campaigns, weaken labor unions, increase or reduce taxes, and limit increases in the minimum wage.

In each of these areas, economic freedoms have been limited for the sake of the public interest. For example, contributions to political campaigns are limited in some contexts (direct contributions to candidates) but not others (money spent by interest groups on behalf of candidates). Many ways of earning money are outlawed; for example, President Obama has stated that the U.S. embargo on Cuba is “in the national interests of the United States” which limits persons from buying and selling Cuban products.

c. Forced internment: On December 7, 1941, the Japanese government executed a surprise attack on the U.S. naval base in Pearl Harbor, Hawaii, a U.S. territory. The attack resulted in 2400 deaths and 1300 non-mortal casualties. In response to this attack, President Franklin D. Roosevelt asked Congress to declare war on Japan the following day. The U.S. entered World War II on December 8, 1941 once Congress voted.

In addition the Congress’ vote to declare war, President Roosevelt issued Executive Order 9066 on February 19, 1942 which authorized the Secretary of War to exclude persons from prescribed military areas. In essence, the executive order targeted Americans of Japanese descent (and some resident aliens) who were subject to forced internment or curfews depending on the area in which they lived.

The U.S. Supreme Court upheld the forced internment of U.S. citizens of Japanese descent in *Korematsu v. U.S.* on the grounds that the public interest must be protected at the expense of individual rights. Below is a quote from the U.S. Supreme Court decision:

But hardships are part of war, and war is an aggregation of hardships. All citizens alike, both in and out of uniform, feel the impact of war in greater or lesser measure. Citizenship has its responsibilities, as well as its privileges, and, in time of war, the burden is always heavier. Compulsory exclusion of large groups of citizens from their homes, except under circumstances of direst emergency and peril, is inconsistent with our basic governmental institutions. But when, under conditions of modern warfare, our shores are threatened by hostile forces, the power to protect must be commensurate with the threatened danger.

d. Property rights: The right to own property is addressed in the Fifth and Fourteenth Amendments to the U.S. Constitution. The Fifth Amendment also guarantees that, should the government take money for purposes of “eminent domain” (taking property for public use), one is entitled to “just compensation”. As discussed earlier, property rights are the economic parallel to the political rights articulated in the First Amendment in that one has them unless the government denies them; in ideal circumstances, those rights are denied only for the sake of protecting the public interest.

Over the last few decades, the U.S. Supreme Court, and lower courts, has been asked to rule on situations when local governments denied property rights in ways that many believe was unconstitutional. For example, persons buying beachfront property have been compelled to retain public access to that property even though the property is privately owned. In other circumstances, property has been taken from one private entity and sold to another private entity. Local governments have argued that the public interest is promoted when private property is taken from one owner and sold to another because the entity purchasing the property plans to open businesses on that property that will bring sales tax revenues, or the entity purchasing the property may build higher cost housing compared with the housing that had been at that location before thereby increasing property tax revenues. Consequently, the increased tax revenue that results from these property takings may be deemed consistent with the public interest which justifies that they be classified as takings for public use.