Whose Law?: State Sovereignty and the Integration of the University of Alabama

Topic: The Integration of the University of Alabama

Grade Level: 9-12

Subject Area: US History after World War II – History and Government

Time Required: 2 class periods

Goals/Rationale
The Supreme Court’s 1954 Brown v. Board of Education decision marked a significant milestone in the civil rights movement. The Court’s ruling, however, did not immediately lead to the integration of public schools. Many states took years to desegregate their schools, and segregationist governors who presented integration as a tyrannical dictate of an overreaching federal government found strong support from white constituents. By framing the argument as a states’ rights versus federal rights conflict, these segregationists argued that the Supreme Court ruling was unjust. The Kennedy administration contended that the decision of the Supreme Court was the law of the land--and that the rule of law must be obeyed.

Essential Question: When is a law just or unjust? If there are laws, rules, or codes of conduct in a society and they are in conflict, how does one decide which takes precedence?

Connection to Curricula (Standards)

National History Standards
US History, Era 9

Standard 3B: The student understands the “New Frontier” and the “Great Society.”
Standard 4A: The student understands the “Second Reconstruction” and its advancement of civil rights.

Common Core Standards:
RH.9-10.1: Cite specific textual evidence to support analysis of primary and secondary sources, attending to such features as the date and origin of the information.

RH.9-10.2: Determine the central ideas or information of a primary or secondary source; provide an accurate summary of how key events or ideas develop over the course of the text.

RH.9-10.8: Assess the extent to which the reasoning and evidence in a text support the author’s claims.

W.9-10.1 and W.11-12.1: Write arguments to support claims in an analysis of substantive topics or texts, using valid reasoning and relevant and sufficient evidence.

W.9-10.2 and W.11-12.2: Write informative/explanatory texts to examine and convey complex ideas, concepts, and information clearly and accurately through the effective selection, organization, and analysis of content.
**SL.9-10.1 and SL.11-12.1:** Initiate and participate effectively in a range of collaborative discussions (one-on-one, in groups, and teacher-led) with diverse partners on grades 9–10 and 11-12 topics, texts, and issues, building on others’ ideas and expressing their own clearly and persuasively.

**SL.9-10.3:** Evaluate a speaker’s point of view, reasoning, and use of evidence and rhetoric, identifying any fallacious reasoning or exaggerated or distorted evidence.

**SL.9-10.4:** Present information, findings, and supporting evidence clearly, concisely, and logically such that listeners can follow the line of reasoning and the organization, development, substance, and style are appropriate to purpose, audience, and task.

**Objectives**
Students will:

- analyze primary sources.
- consider the idea of just and unjust laws.
- discuss the 10th and 14th amendments to the Constitution of the United States and how they were invoked in civil rights conflicts of the early 1960s.
- analyze the arguments made by Governor Wallace to prevent the integration of the University of Alabama.
- analyze the arguments made by the Kennedy administration to enforce the court order to desegregate the University of Alabama.
- consider why Governor Wallace, Attorney General Kennedy and President Kennedy might have chosen to use the language they used to make their points.

**Materials**
1. Reading: “Whose Law?: State Sovereignty and the Integration of the University of Alabama.”
2. Handout: “States’ Rights and Federal Law” (and Answer Sheet for Teachers)
3. April 25, 1963 transcript of an excerpt of the meeting between Attorney General Kennedy and Governor Wallace (pages 8-15) in which Governor Wallace discusses his rationale for preventing the integration of Alabama schools and Attorney General Kennedy discusses the need for the Governor to abide by the decisions of the courts.
4. May 22, 1963 press conference excerpt in which a reporter asks the president how he will handle Governor Wallace’s announced intention of preventing the integration of the University of Alabama and President Kennedy responds by discussing the governor’s obligation to carry out the court order to integrate the school.

**Historical Background and Context**
Martin Luther King Jr., in his April 1963 Letter from a Birmingham Jail, wrote the rhetorical question: "How can you advocate breaking some laws and obeying others?" “The answer,” he wrote, “lies in the fact that there are two types of laws: just and unjust… Any law that uplifts human personality is just. Any law that degrades human personality is unjust. All segregation statutes are unjust because segregation distorts the soul and damages the personality. It gives the segregator a false sense of superiority and the segregated a false sense of inferiority.” In defining laws in this manner, King was able to justify actions that may have been considered unlawful in the towns in which they occurred.
In 1954, the Supreme Court handed down a decision on Brown v. Board of Education, stating that separate-but-equal education was unconstitutional. For this ruling, the Court drew upon the 14th Amendment of the Constitution of the United States: “No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”

Governors in some states, particularly in the South, responded to the Supreme Court’s ruling by calling it unjust. They referred to the 10th Amendment of the Constitution (“The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”) to justify defying the Court’s decision. The decision, they said, was unjust because the federal government had not been given control of education in the Constitution, and therefore, public schools, by law, were the responsibility of individual states. This argument was central in their rationale for refusing to obey the federal law to integrate schools.

The president, on the other hand, was bound to follow the rulings of the Supreme Court. The Constitution includes a Supremacy Clause (Article VI, Section 2), which states that the “Constitution, and the Laws of the United States … shall be the supreme Law of the Land.” According to this clause, states must follow federal law when conflicts arise. As Chief Executive of the United States, President Kennedy’s role was to enforce the orders of the federal courts.

In the fall of 1962, the integration of the University of Mississippi by James Meredith led to a showdown between Governor Ross Barnett of Mississippi and the Kennedy administration. After Meredith was escorted to the university by federal marshals, rioting broke out and President Kennedy was forced to federalize the Mississippi National Guard and send in thousands of troops to restore order. Two men were killed and dozens were wounded during the night of violence before Meredith was enrolled in the university on October 1, 1962.

George Wallace took his first oath of office as governor of Alabama on January 14, 1963. Elected by mostly segregationist white voters (African Americans were disenfranchised in the South in the early 1960s), his inaugural address stressed his opposition to integration. He spoke of the sufferings of southern states after the “War Between the States,” noting that when the South was “set upon by the vulturous carpetbagger and federal troops, all loyal Southerners were denied the vote at the point of bayonet, so that the infamous illegal 14th Amendment might be passed.”

Governor Wallace’s opposition to school desegregation would come to a crisis point at the University of Alabama. The governor made it clear that he would stand in the schoolhouse door and block the entrance of any African-American students, should they be accepted.

On April 25, 1963, accompanied by Assistant Attorney General Burke Marshall and the Department of Justice’s Director of Public Information Edwin Guthman, Robert Kennedy met with Wallace in Montgomery, Alabama. The purpose of the meeting was to discuss the integration of the University of Alabama. Governor Wallace began the meeting by asking whether Attorney General Kennedy had any objections to his taping the conversation, making it clear to Robert Kennedy that what he said in the meeting could be used to the governor’s advantage—particularly if it showed Alabamans that the federal government had plans to send troops into their state. In his 1964 oral history, Robert Kennedy said that after the tape recorder
was turned on, “It was necessary, then, for both of us to say things to each other that, on the basis that it was going to be played on the local radio station. So that they—at least for me, I couldn’t let anything he’d say go by, sort of, as if it had been unanswered. It made it difficult.” Not surprisingly, no progress was made at this meeting in resolving the conflict over school integration.

Less than a month later, President Kennedy addressed this issue at a press conference. As in his brother’s discussion of the University’s integration, Kennedy used the temperate language of law and order to address an issue that evoked great passion. “We are a people of laws, and we have to obey them,” he said. Whether or not the Kennedys’ views on the legality of integrating the schools was in line with King’s moral view of justice, both John and Robert Kennedy spoke about the law and courts from their roles in the federal government as the ensureurs that federal laws would be upheld. They did not speak about just or unjust laws, or insert moral language into their public discussions.

On June 11, 1963, after months of preparation, Governor Wallace stood at the doorway of Foster Auditorium at the University of Alabama in Tuscaloosa to prevent two African-American college students, Vivian Malone and James Hood, from registering for classes. After President Kennedy federalized the Alabama National Guard, the two students were admitted to the University without bloodshed. That night, President Kennedy addressed the nation about civil rights, calling it a moral issue and stating his plan to present a comprehensive civil rights bill to Congress.

Prior Knowledge and Skills
Students should have a basic understanding of the struggle for civil rights in the United States during the 1950s and early 1960s.

Procedure
1. For homework, have students read: “Whose Law?: State Sovereignty and the Integration of the University of Alabama” and answer the Questions to Consider.  

2. In class, discuss the answers to the three Questions to Consider. Tell students they are going to be looking at two primary sources that will allow them to hear the arguments made by Governor Wallace, Attorney General Kennedy, and President Kennedy to support their positions in this conflict. Provide students with the handout “States’ Rights and Federal Law” and the transcript of an excerpt of the April 25, 1963 meeting between Attorney General Kennedy and Governor Wallace. Remind students that all the participants at the meeting knew they were being taped by Governor Wallace and, therefore, knew their remarks might be heard by the public.

3. Go over the questions that students must answer on the handout.

4. Put students into small groups to read the transcript out loud. Have one student in each group read Attorney General Kennedy, another read Governor Wallace, and the others take notes—underlining quotations that might help the group fill in the handout. After each group has read through the transcript, students in each group should discuss the answers to the handout and begin filling in their own handout.
5. Provide students with the transcript of the excerpt from President Kennedy’s May 22, 1963 press conference and tell them you will play the recording of the Q & A for the entire class. Tell students that, as they are listening to the recording, they should underline sentences from Kennedy’s response that might help them additionally fill in their handouts.

6. After you have played the recording from the press conference for the students, have them return to their small groups to finish filling in the handout.

7. Have all the students come together to discuss their responses in their completed handouts with the full class. Discuss with students the fact that these primary sources were all public comments and have them consider how that fact might have influenced how these leaders articulated their beliefs.

Assessment
For homework have students make use of their handout and the class discussion to write a 2-3 page essay responding to the following questions:

- In what ways did Governor Wallace and the Kennedy administration invoke the rule of law in their clash over the integration of the University of Alabama? (Consider how the men talked about just and unjust laws and the rights and responsibilities of state and federal leaders.)
- What are some reasons that Governor Wallace may have chosen to talk about just and unjust laws?
- What are some reasons President Kennedy and the Attorney General may have focused on the roles and responsibilities of the Governor and the president’s office (including the Department of Justice), instead of focusing on just and unjust laws?

Student must use at least three quotes from the primary sources in their essays.

Extension
Have students consider why a president’s federalizing of a state’s National Guard to ensure compliance with a federal law might be a significant act. In federalizing the Alabama National Guard in order to integrate the University of Alabama, President Kennedy released Executive Order #11111, exercising a provision of the US Constitution. Have students look over Proclamation #3542 (commanding Governor Wallace to cease and desist in his obstruction of justice), Executive Order #11111, and the exchanges between George Wallace and President Kennedy in this chapter in *1963: The Struggle for Civil Rights* and research the Constitutional provisions President Kennedy invoked and Governor Wallace’s response. Have them also consider these questions: Why would it be in the interest of the Governor to have federal personnel maintain the peace at the university? Why would it be in the interest of the president to have state and local officials maintain the peace at the university? Students can present their responses in a format of their choosing (political cartoon, essay, exhibit, etc.).

Additionally, you might have students research how President Eisenhower in 1957 federalized the Arkansas National Guard in Little Rock, and some of the responses by political leaders and the public to Eisenhower’s actions.
As members of countries, states, towns, schools, religions, workplaces, etc., we are all governed by laws or rules that help us live peacefully within our various communities. Sometimes, however, these diverse laws or rules come into conflict.

Martin Luther King Jr., in his April 1963 Letter from a Birmingham Jail, wrote the rhetorical question: "How can you advocate breaking some laws and obeying others?" "The answer," he wrote, "lies in the fact that there are two types of laws: just and unjust... Any law that uplifts human personality is just. Any law that degrades human personality is unjust. All segregation statutes are unjust because segregation distorts the soul and damages the personality. It gives the segregator a false sense of superiority and the segregated a false sense of inferiority." In defining laws in this manner, King was able to justify actions that may have been considered unlawful in the towns in which they occurred.

In 1954, the Supreme Court handed down a decision on Brown v. Board of Education, stating that separate-but-equal education was unconstitutional. For this ruling, the Court drew upon the 14th Amendment of the Constitution of the United States: "No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

Governors in some states, particularly in the South, responded to the Supreme Court's ruling by calling it unjust. They referred to the 10th Amendment of the Constitution ("The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.") to justify defying the Court's decision. The decision, they said, was unjust because the federal government had not been given control of education in the Constitution, and therefore, public schools, by law, were the responsibility of individual states. This argument was central in their rationale for refusing to obey the federal law to integrate schools.

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In the fall of 1962, the integration of the University of Mississippi by James Meredith led to a showdown between Governor Ross Barnett of Mississippi and the Kennedy administration. After Meredith was escorted to the university by federal marshals, rioting broke out and President Kennedy was forced to federalize the Mississippi National Guard and send down thousands of troops to restore order. Two men were killed and dozens were wounded during the night of violence before Meredith was enrolled in the University of Mississippi on October 1, 1962.

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Less than a month later, President Kennedy, addressed the resistance of George Wallace to integrate the University of Alabama at a press conference. “We are a people of laws,” he said, “and we have to obey them.”

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Questions to Consider:

1. Why is the 10\textsuperscript{th} Amendment of the Constitution called the States' Rights Amendment?

2. How were the 10\textsuperscript{th} and 14\textsuperscript{th} Amendments of the Constitution used by segregationists and civil rights advocates?

Can you think of a situation in your own life or someone else's life when a rule or law from one of your communities might come into conflict with that of another? Describe the rules or laws and how they might conflict.
## States’ Rights and Federal Law

Use the following documents to fill in the chart:

1. April 25, 1963 transcript of an excerpt of the meeting between Attorney General Kennedy and Governor Wallace
2. Excerpt from President Kennedy’s May 22, 1963 press conference

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1.  
2.  
3.  
4.  | Note at least 4 reasons the attorney general and president give for obeying the court order to desegregate Alabama schools:  
1.  
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| What are the rights and responsibilities of the governor, as he sees it? | What are the rights and responsibilities of the governor as the Kennedy administration sees it? |
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<td>1. As Governor, I must see to the safety of my people---and integration is unsafe. “… I believe it is up to the Governor of the state to maintain peace and protect the safety and health and morals of the people of the state, because the Constitution of the State of Alabama says that the Governor shall see that the laws are faithfully executed, and you can’t have any peace in Alabama with an integrated school system.”</td>
<td>1. A governor is a citizen of the US, and the laws of the country supersede the laws of the state. RFK: “You take an oath under the Constitution of the United States.” “…I think your primary responsibility is to the Constitution of the United States and the American people”</td>
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<td>2. In forcing the federal government’s laws onto states it is degrading our view of the courts. “[Integration] is bringing about a disrespect for the courts. Why, the courts are so disrespected here in our part of the country that it is a popular thing to defame the courts...”</td>
<td>2. If you do not obey federal laws, it undermines our whole system of government. RFK: “If the orders of the court can be disobeyed by you, Governor... then they can be disobeyed by anybody throughout the United States who does not happen to think that the particular law of the federal court applies to them or feels that it is not the kind of law that would be good for them.”</td>
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<td>3. We have a long history of segregated schools—it is our legacy—and it has never been considered illegal before the 1954 Supreme Court ruling. “For a hundred years [the federal courts] said we could have segregated schools, and then all of a sudden, for political reasons, they pull the rug out from under us. Had we been operating all these many years illegally, and finally been caught up with, then we would have no room to gripe. But for a hundred years we operated under what the Supreme Court said was legal and lawful and all right...”</td>
<td>3. Every citizen has access to the courts in our country and courts determine what is right and just. RFK regarding James Meredith: “This is an individual citizen of the United States who decides and determines that he wants to take a particular course of action. He has difficulty doing it and takes it to the federal court. The federal courts says he has a right, a constitutional right. It has nothing to do with who is going to get votes or who is not going to get votes. This is a question of him exercising his constitutional right and getting a court order.”</td>
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<td>4. It’s all about politics and not what is good for the people. “… if there weren’t so many colored voters that vote block like they do in certain sections, why, I doubt if there would be so much interest evidenced in their so-called civil rights.”</td>
<td>4. This a decision of the federal courts—a judicial matter—not a political matter. RFK: “... it is not the central government... It is the federal courts that have made a decision...” “…if the court gives an order, we don’t—it doesn’t have anything to do with how it is going to affect politics.”</td>
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| 5. I told the people of Alabama that I would prevent integration. “Now, I made a covenant with the people. | 5. Laws of our land have nothing to do with choice: JFK: “This is part of our constitutional system. There is no choice in the matter. It must be carried out, and laws,
Don’t you think I should carry it out?"  which we do not like must be carried out, and laws which we like. This is not a matter of choice.” “We are a people of laws, and we have to obey them.”

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| • “...to maintain the peace and protect the safety and health and morals of the people of the state.”  
• to abide by the laws of his state’s constitution.  
• to abide by his promises to the people of Alabama.  
• to handle local problems and issues such as those involving schools. | • to maintain law and order in his state by following federal law. If force is necessary to maintain order and preserve the peace, the Governor must provide state and local police officers for that purpose. |

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| • to be true to the Constitution as originally written by our country’s founders. (The 14th Amendment was not part of the original Constitution, and Wallace thinks the Constitution has been “perverted.”)  
• to acknowledge the sovereignty of each state and stay out of matters that should be handled locally such as school integration. | • to make sure the orders of the court are obeyed, and that the integrity of the courts is maintained. |