

# Primary Sources Lesson Plan Template

**Lesson Title:** The Struggle for Mexican American Rights

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**Appropriate for Grade Level(s):** 11

**Social Studies Standard(s):** H3.9 Identify and describe the major issues, events, and people of minority rights movements.

**Objective(s): At the end of this lesson, students will be able to...**

1. Describe the Hernandez v. Texas Supreme Court Case.
2. Define the term “impartial” and “peer”.
3. Read and analyze the 6<sup>th</sup> and 14<sup>th</sup> Amendments to the U.S. Constitution and an excerpt from the Treaty of Guadalupe Hidalgo (1848).
4. Establish and justify an argument based on the circumstances of the Hernandez case.

**Rationale: Why teach a lesson using these documents? (50-100 words)** There are many Mexican American students in the Washoe County School District. Each year we teach extensively about African American civil rights in our classrooms, yet rarely if ever describe the process by which Mexican Americans gained civil rights in this country. By examining the documents that surround the Supreme Court case of *Hernandez v. Texas*, students will be able to understand the struggle that Mexican Americans faced in establishing their own rights in this country. It can also serve as a review of the Bill of Rights, Reconstruction, and Mexican American War.

**Primary Sources (at least 3 used in lesson):** 1) 6<sup>th</sup> Amendment; 2) 14<sup>th</sup> Amendment; 3) Treaty of Guadalupe Hidalgo; 4) Mexican Segregation Signs

**Total Time Needed:** 2-4 hours (add or trim to modify to fit your time limitations)

**Historical Background & Context (+/- 250 words):** Seemingly everyone has heard of the landmark Supreme Court ruling in the *Brown v. Board of Education* decision that started the process of desegregating public schools. But another case that occurred in the same year, 1954, was just as monumental for Mexican American rights. Prior to the decision in the *Hernandez v. Texas* case, Mexican Americans living in the Southwest and especially Texas were in limbo. Although they were technically considered “white”, they still faced the same kind of segregated society that blacks faced in the south under Jim Crow laws. When Pete Hernandez went on trial for murder in Texas, there was little doubt that he was guilty of the crime. In fact he was tried and convicted of murder. However, the problem was that he was deprived of his due process rights under the 6<sup>th</sup> amendment whereby a citizen of the United States is guaranteed an “impartial” jury trial. The jury of his supposed peers was made up of all white citizens of the community. There was not a single Mexican American on the jury and none had sat on a jury for at least 25 years. The Texas Court of Appeals denied Hernandez’ appeal and that is when a team of lawyers led by the enigmatic Gus Garcia took the case to the Supreme Court. The decision ultimately protected Mexican Americans under the 14<sup>th</sup> Amendment which provided important civil rights that they were not receiving prior in most of the southwest.

**Source:** A Class Apart PBS Video found at <http://www.pbs.org/wgbh/americanexperience/films/class/player/>

**Detailed Steps of Lesson :**

<b>Time Frame</b> (e.g. 15 minutes)	<b>What is the teacher doing?</b>	<b>What are students doing?</b>
10 min	Set up the 6 <sup>th</sup> Amendment analysis sheet/Class Discuss	Read and analyze the document/Class Discuss
10 min	Ask students to define “impartial”, then “peer”	Individually, then as a class define terms
10 min	Set up the 14 <sup>th</sup> Amendment analysis sheet/Discuss	Read and analyze the document/Discuss
10 min	Set up Treaty of Guadalupe Hidalgo analysis sheet/Discuss	Read and analyze the document/Discuss
5 min	Set up the Mexican Segregation Signs/Discuss	Examine and analyze the document/Discuss
5 min	Briefly setup the context for the Hernandez case	Listening
40 min	Show the 1 <sup>st</sup> part of video “A Class Apart” (Stop at 38min 23 sec)	Watching the video
30 min	Setup the Pro Se Court for <b><i>Hernandez v. Texas</i></b> (Instructions provided)	Participate in the Pro Se Court Activity
10 min	Show the 2 <sup>nd</sup> part of video “A Class Apart”	Watching the video
10 min	Set up the Decision sheet	Read and discuss the Supreme Court Decision
20 min	Set up “Garcia” Follow-up Activity (Optional)	Creating Garcia’s argument before the court

**Description of Lesson Assessment Tied to Objective/Standards:** The assessment for this lesson will be a group activity called a Pro Se Court. (Instructions included) In this activity, students will take on the role of the petitioner, the respondent, or the justice in the *Hernandez v. Texas* case. This will allow students the opportunity not only to craft or judge an argument based on the case, but will provide substantial insight into the proceedings of the Supreme Court. A follow up assessment if desired would be to have the students write Gus Garcia’s argument in front of the court that the video describes.

Attached to the following pages are all readings, primary sources, guided questions, worksheets, assignment guidelines, rubrics, etc.

Lesson Flow:

- 1) Review the purpose of the Bill of Rights.
- 2) Read, analyze, and discuss the 6<sup>th</sup> Amendment (analysis sheet).
- 3) Define “impartial” and “peer” as a class (come up with a working definition of each).
- 4) Read, analyze, and discuss the 14<sup>th</sup> Amendment (analysis sheet).
- 5) Read, analyze, and discuss the Treaty of Guadalupe Hidalgo (analysis sheet).
- 6) Look at and analyze the Mexican Segregation Signs from Texas (analysis sheet).
- 7) Briefly set up the context for the Hernandez v. Texas case.
- 8) Show 1<sup>st</sup> part of the PBS American Experience video “A Class Apart”.

<http://www.pbs.org/wgbh/americanexperience/films/class/player/>

**\*\*\*If unable to play video for students, the website provides a complete transcript of the video that teacher can read and summarize for students or use as needed to provide the context of the case.\*\*\***

- 9) Hernandez v. Texas Pro Se Court Activity (instruction sheet)

10) Show 2<sup>nd</sup> part of “A Class Apart”.

11) Read and discuss the Supreme Court opinion in the case (Decision Sheet).

12) Optional Further Assessment: Students will imagine they are Gus Garcia standing in front of the Supreme Court and create the rest of his argument before the court.

The following websites can provide further information or ideas for this lesson:

[http://www.oyez.org/cases/1950-1959/1953/1953\\_406](http://www.oyez.org/cases/1950-1959/1953/1953_406)

<http://supreme.justia.com/us/347/475/>

<http://www.law.uh.edu/hernandez50/saga.pdf>

## Amendment VI (Analysis Sheet)

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.

Please list the seven rights granted under the 6<sup>th</sup> Amendment:

- 1)
- 2)
- 3)
- 4)
- 5)
- 6)
- 7)

## **AMENDMENT XIV (Analysis Sheet)**

### **Section 1.**

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. 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.

1. This is Section 1 of which constitutional amendment?
2. What year was this amendment passed?
3. Why was this amendment passed? What was the intended consequence?
4. What is the historical context of this amendment?
5. All persons born or naturalized in the United States are \_\_\_\_\_?
6. What protections does this amendment give to US born or naturalized individuals?

## Treaty of Guadalupe Hidalgo (Analysis Sheet)

TREATY OF PEACE, FRIENDSHIP, LIMITS, AND SETTLEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED MEXICAN STATES CONCLUDED AT GUADALUPE HIDALGO, FEBRUARY 2, 1848; RATIFICATION ADVISED BY SENATE, WITH AMENDMENTS, MARCH 10, 1848; RATIFIED BY PRESIDENT, MARCH 16, 1848; RATIFICATIONS EXCHANGED AT QUERETARO, MAY 30, 1848; PROCLAIMED, JULY 4, 1848.

### **ARTICLE VIII**

Mexicans now established in territories previously belonging to Mexico, and which remain for the future within the limits of the United States, as defined by the present treaty, shall be free to continue where they now reside, or to remove at any time to the Mexican Republic, retaining the property which they possess in the said territories, or disposing thereof, and removing the proceeds wherever they please, without their being subjected, on this account, to any contribution, tax, or charge whatever.

Those who shall prefer to remain in the said territories may either retain the title and rights of Mexican citizens, or acquire those of citizens of the United States. But they shall be under the obligation to make their election within one year from the date of the exchange of ratifications of this treaty; and those who shall remain in the said territories after the expiration of that year, without having declared their intention to retain the character of Mexicans, shall be considered to have elected to become citizens of the United States.

In the said territories, property of every kind, now belonging to Mexicans not established there, shall be inviolably respected. The present owners, the heirs of these, and all Mexicans who may hereafter acquire said property by contract, shall enjoy with respect to it guarantees equally ample as if the same belonged to citizens of the United States.

### **ARTICLE IX**

The Mexicans who, in the territories aforesaid, shall not preserve the character of citizens of the Mexican Republic, conformably with what is stipulated in the preceding article, shall be incorporated into the Union of the United States. and be admitted at the proper time (to be judged of by the Congress of the United States) to the enjoyment of all the rights of citizens of the United States, according to the principles of the Constitution; and in the mean time, shall be maintained and protected in the free enjoyment of their liberty and property, and secured in the free exercise of their religion without; restriction.

1. What options do Mexicans who live in areas that were once Mexico and are now part of the United States have? How long do they have to make this decision?

2. What happens if after one year they have not declared their intentions?

3. What kinds of promises are made to Mexicans who are now part of the U.S.?



1. What is the date on the first sign?
2. What city and state was this found?
3. Who issued the first warning?
4. Based on these signs, how does it seem Mexicans were treated during this time?

# PRO SE COURT

## **Why use a Pro Se Court?**

- \*Students learn to work with their peers to find evidence to justify a particular stance.
- \*Students work in heterogeneous groups to find and synthesize information for the case.
- \*Students are held individually accountable during the presentation of the case.
- \*It helps prepare students for the 21<sup>st</sup> Century Skills of reading/writing/presentation.
- \*It demonstrates that there is contention and disagreement (by even the smartest of people) in regard to the “big issues” of American democracy.
- \*It's highly engaging and kids love it!

## **Steps of the Activity**

1. Share the background of the case with students. Check for understanding of the basic issues. Ask questions to see if students can see the two (or more) major sides of the issue.
2. Explain the directions of the whole activity and check for understanding.
3. Split the student into three separate heterogeneous groups (petitioner, respondent, justice).
4. Work with student groups as they discuss and prepare their cases. (In regards to the group of justices, make sure that they are formulating questions for the lawyers and understand that they should make their decision based upon arguments given in court and not on their personal opinions.)
  - a. Make sure that students write down their arguments/questions.
  - b. You can provide some arguments to students if you think this type of scaffolding is necessary.
5. Have the petitioners line up against the wall. Then, have the respondents each stand in front of one of the petitioners. Allow them a few minutes to set up their triad of desks for the court.
6. “All Rise:” Bring in the justices while everyone is quiet and standing. Each justice then goes to one of the petitioner/respondent pairs to form a triad.
7. Announce that the petitioner will give their arguments (1 minute to 90 seconds, depending on your time frame.) Then, stop the class and announce that the respondents will give their arguments. (Allot the same time for them.) Next, allow each side a short rebuttal (30-45 seconds). Make sure that everyone in the room is following the same time requirements (a gavel is a good tool!).
8. The justice can stop and ask questions at any time. After the rebuttal, allow the justice to ask any questions they still have.
9. Finally, ask the courts to be silent. The justices will have time to write down their decision and reasoning. When they finish, they should quietly stand up. When all justices are standing, have each of them read their decision and record the decisions by using tally marks on the board.
10. Finally, read the result of the actual case and debrief. Describe how a split decision between judges demonstrates the similarity of the Supreme Court.



# Hernandez v. Texas (Decision Sheet)

## Facts of the Case:

Pete Hernandez, an agricultural worker, was indicted for the murder of Joe Espinoza by an all-Anglo (white) grand jury in Jackson County, Texas. Claiming that Mexican-Americans were barred from the jury commission that selected juries, and from petit juries, Hernandez' attorneys tried to quash the indictment. Moreover, Hernandez tried to quash the petit jury panel called for service, because persons of Mexican descent were excluded from jury service in this case. A Mexican-American had not served on a jury in Jackson County in over 25 years and thus, Hernandez claimed that Mexican ancestry citizens were discriminated against as a special class in Jackson County. The trial court denied the motions. Hernandez was found guilty of murder and sentenced by the all-Anglo jury to life in prison. In affirming, the Texas Court of Criminal Appeals found that "Mexicans are...members of and within the classification of the white race as distinguished from members of the Negro Race" and rejected the petitioners' argument that they were a "special class" under the meaning of the Fourteenth Amendment. Further, the court pointed out that "so far as we are advised, no member of the Mexican nationality" challenged this classification as white or Caucasian.

## Question:

Is it a denial of the Fourteenth Amendment equal protection clause to try a defendant of a particular race or ethnicity before a jury where all persons of his race or ancestry have, because of that race or ethnicity, been excluded by the state?

## Conclusion:

Yes. In a unanimous opinion delivered by Chief Justice Earl Warren, the Court held that the Fourteenth Amendment protects those beyond the two classes of white or Negro, and extends to other racial groups in communities depending upon whether it can be factually established that such a group exists within a community. In reversing, the Court concluded that the Fourteenth Amendment "is not directed solely against discrimination due to a 'two-class theory'" but in this case covers those of Mexican ancestry. This was established by the fact that the distinction between whites and Mexican ancestry individuals was made clear at the Jackson County Courthouse itself where "there were two men's toilets, one unmarked, and the other marked 'Colored Men and 'Hombres Aqui' ('Men Here')," and by the fact that no Mexican ancestry person had served on a jury in 25 years. Mexican Americans were a "special class" entitled to equal protection under the Fourteenth Amendment.

## Decision:

**Decision:** 9 votes for Hernandez, 0 vote(s) against

**Legal provision:** Equal Protection

Abstract submitted by Professor Marc S. Rodriguez

Hernandez v. Texas Lesson Rubric:

Name \_\_\_\_\_

“Peer” and “Impartial” Participation     \_\_\_\_/\_\_\_\_pts

6<sup>th</sup> Amendment Analysis Sheet            \_\_\_\_/\_\_\_\_pts

14<sup>th</sup> Amendment Analysis Sheet        \_\_\_\_/\_\_\_\_pts

Treaty Analysis Sheet                      \_\_\_\_/\_\_\_\_pts

Signs Analysis Sheet                        \_\_\_\_/\_\_\_\_pts

Pro Se Court Participation                \_\_\_\_/\_\_\_\_pts

Garcia Argument (optional)              \_\_\_\_/\_\_\_\_pts

Total Activity:                                \_\_\_\_/\_\_\_\_pts