**Case 1 Background**[**West Virginia State Board of Education v. Barnette (1943)**](http://www2.law.cornell.edu/cgi-bin/foliocgi.exe/historic/query=%5BGroup+319+U.S.+624:%5D%28%5BLevel+Case+Citation:%5D%7C%5BGroup+citemenu:%5D%29/doc/%7B@1%7D/hit_headings/words=4/hits_only)

Jehovah's Witnesses believe that saying a pledge of allegiance to a flag is forbidden by the Ten Commandments. The Jehovah's Witnesses also wanted to show their solidarity with fellow believers in Germany who had refused to give the "Heil Hitler" salute.

In the 1940 *Minersville School District v. Gobitis* case, the Court ruled that children of Jehovah's Witnesses must participate in the flag salute in public school. The Court said that the flag is a symbol of national unity and the pledge was necessary to promote patriotism.

The West Virginia Board of Education in 1942 required all teachers and students to say the pledge and "participate in the salute honoring the Nation represented by the Flag." Objections to the required salute "being too much like Hitler's" were raised by the Parent and Teachers Association, the Red Cross, the Boy and Girl Scouts and the Federation of Women's Clubs. The salute was modified, but no concession was given to Jehovah's Witnesses.

Barnette, a Jehovah's Witness, did not allow his child to participate in the flag salute. His child was expelled. West Virginia officials threatened to send his son to a state reformatory. Barnette was subject to a fine and jail. Lower appeals courts held that the *Gobitis* precedent meant Barnette had no protection under the First Amendment.

**Before the Court:**Argued on March 11, 1943   
Decided on June 14, 1943

**Key Question:**   
May individuals be forced by the government to participate in practices that are prohibited by their religion? May the Supreme Court overturn decisions of a previous Supreme Court?

**Case 1 Defendant Role Card**[**West Virginia State Board of Education v. Barnette (1943)**](http://www2.law.cornell.edu/cgi-bin/foliocgi.exe/historic/query=%5BGroup+319+U.S.+624:%5D%28%5BLevel+Case+Citation:%5D%7C%5BGroup+citemenu:%5D%29/doc/%7B@1%7D/hit_headings/words=4/hits_only)

**Defendant: Barnette**   
— Claiming freedom of religious beliefs

**Main Points**

* The First Amendment clearly allows me and my children to have freedom of our religious beliefs. Our church, the Jehovah's Witnesses, is well established and has hundreds of thousands of members nationwide.
* We believe, as the Bible teaches, that we can worship only one God. The Ten Commandments teach "You shall have no other gods before me," and "You shall not make for yourself an idol." Therefore we are bound by the Lord's commandments not to worship any image, including the American flag.
* We do respect the American flag and acknowledge it as a symbol of freedom and justice.
* Children of Jehovah's Witness Church should not be punished by expulsion or reform school for simply holding their personal religious beliefs.
* Dissent and disagreement in our free country are not signs of weakness, but rather of our strength as a people.

**Case 1 Plaintiff Role Card**   
[**West Virginia State Board of Education v. Barnette (1943)**](http://www2.law.cornell.edu/cgi-bin/foliocgi.exe/historic/query=%5BGroup+319+U.S.+624:%5D%28%5BLevel+Case+Citation:%5D%7C%5BGroup+citemenu:%5D%29/doc/%7B@1%7D/hit_headings/words=4/hits_only)

**Plaintiff:** **West Virginia State Board of Education**   
— Claiming societal and national values supersede religious values

**Main Points**

* The nation is engaged in a struggle for its existence in World War II. We cannot tolerate disrespect for our flag even in peacetime, but certainly not in these dangerous times.
* The Supreme Court ruled just three years ago in the *Gobitis* case that students may be mandated to salute our flag. West Virginia is following a clear legal precedent.
* As Justice Frankfurter said in *Gobitis*, "national unity is the basis for national security."
* Patriotism and political responsibilities to the community outweigh any single individual's religious freedom.

**Case 2 Background**  
[**Welsh v. United States (1970)**](http://www2.law.cornell.edu/cgi-bin/foliocgi.exe/historic/query=%5BGroup+398+U.S.+333:%5D%28%5BLevel+Case+Citation:%5D%7C%5BGroup+citemenu:%5D%29/doc/%7B@1%7D/hit_headings/words=4/hits_only)

Various religions, such as the Society of Friends (Quakers), oppose war in any form. A 1940 U.S. law exempted persons from military action if they opposed all war due to their "religious training and belief." In 1948 Congress defined "religious training and belief" as "an individual's relation to a Supreme Being involving duties superior to those arising from any human relation, but [not including] essentially political, sociological, or philosophical views or a merely personal moral code."

A 1965 Supreme Court case further defined beliefs sufficient to qualify for exemption. Justice Clark stated the new rule as "a sincere and meaningful belief which occupies in the life of its possessor a place parallel to that filled by God."

Welsh was convicted of refusing to be drafted into the Armed Forces. He claimed he was a conscientious objector. His opposition to war *did not* arise from religious objections. He could not affirm or deny belief in a "Supreme Being," he stated in his exemption application. However, he did believe strongly that killing was immoral and totally repugnant.

**Before the Court:**   
Argued on January 20, 1970   
Decided on June 15, 1970

**Key Question:**   
Does the statutory definition of conscientious objector include a sincere and meaningful belief that occupies in the life of its possessor a place parallel to the place filled by God of those admittedly qualifying for the exemption?

**Case 2 Defendant Role Card**   
[**Welsh v. United States (1970)**](http://www2.law.cornell.edu/cgi-bin/foliocgi.exe/historic/query=%5BGroup+398+U.S.+333:%5D%28%5BLevel+Case+Citation:%5D%7C%5BGroup+citemenu:%5D%29/doc/%7B@1%7D/hit_headings/words=4/hits_only)

**Defendant: United States**   
— Claiming Welsh cannot be protected by the Free Exercise clause

**Main Points**

* The First Amendment protects only the "free exercise of religion." Mr. Welsh proclaims no religion, and the First Amendment is therefore irrelevant.
* No religion is involved here. It is up to the government to decide what grounds are sufficient to qualify for conscientious-objector status.
* Congress specifically prohibited granting conscientious-objector status to persons claiming to object on the basis of a merely personal moral code. Mr. Welsh is acting on just such a personal code.
* Our nation's security demands well-equipped armed forces. This requires drafting men into those forces. Congress does not intend to make it easy to avoid the draft.

**Case 2 Plaintiff Role Card**   
[**Welsh v. United States (1970)**](http://www2.law.cornell.edu/cgi-bin/foliocgi.exe/historic/query=%5BGroup+398+U.S.+333:%5D%28%5BLevel+Case+Citation:%5D%7C%5BGroup+citemenu:%5D%29/doc/%7B@1%7D/hit_headings/words=4/hits_only)

**Plaintiff: Elliott Ashton Welsh II**   
— Claiming free exercise of personal beliefs

**Main Points**

* I believe that human life is valuable in and of itself; therefore, I will not injure or kill another human being.
* At the time of my registration for the draft, I had not yet come to accept pacifist principles. My views developed in subsequent years. That is when I filed with my local draft board for conscientious-objector status. I object to war in any form and could not live with my conscience if I were forced to participate in the military.
* I believe that our military complex wastes both human and material resources. In conducting war, we are failing our responsibilities as a nation.
* Though not a believer in any given religion, I have profoundly held convictions that war is wrong.
* The Universal Military Training and Service Act violates the First Amendment prohibition of establishment of religion.

**Case 3 Background**[**State of Wisconsin v. Jonas Yoder, et. al. (1972)**](http://oyez.nwu.edu/cases/cases.cgi?case_id=449&command=show)

Jonas Yoder and Wallace Miller were members of the Old Order Amish religion. Adin Yutzy was a member of the Conservative Amish Mennonite Church. Amish belief dates back to the 16th century and the Swiss Anabaptists. Old Order Amish communities are devoted to a life in harmony with nature and soil. Both religions require a simple life apart from worldly influences.

All three parents refused to send their children, who had finished eighth grade in the local public school, to high school. The children were 14- and 15-year-olds. Wisconsin law required attendance until students reached age 16.

There are penalties for breaking the law. The parents were each fined $5.

**Before the Court:**   
Argued on December 8, 1971   
Decided on May 15, 1972

**Key Question:**   
Did Wisconsin's requirement that all parents send their children to school at least until age 16 violate the First Amendment by criminalizing the conduct of parents who for religious reasons refused to send their children to school?

**Case 3 Defendant Role Card**   
[**State of Wisconsin v. Jonas Yoder, et. al. (1972)**](http://oyez.nwu.edu/cases/cases.cgi?case_id=449&command=show)

**Defendant: Jonas Yoder**   
— Claiming free exercise of religion

**Main Points**

* Requiring my children to go to high school will necessarily expose them to worldly values, which we do not believe in.
* The Amish religion requires us to lead simple lives apart from the rest of the world. Amish people have done this very well for hundreds of years.
* We will be censured by the church community. Compliance will endanger my own salvation and that of my children.
* The First Amendment guarantees us the right to our religious beliefs. This is not possible if our children are taken away from the Amish community to attend high school.
* Elementary school is allowed according to Amish belief because students learn the basic three R's there. In Amish society, there is no need for the intellectual and scientific curriculum taught in high schools.
* The Amish provide continuing informal vocational education that prepares our children for life in our community.

**Case 3 Plaintiff Role Card**   
[**State of Wisconsin v. Jonas Yoder, et. al. (1972)**](http://oyez.nwu.edu/cases/cases.cgi?case_id=449&command=show)

**Plaintiff: State of Wisconsin**   
— Claiming greater social good limits religious expression

**Main Points**

* The State of Wisconsin requires children up to age 16 to attend school for a good reason. All children are entitled to a quality education to prepare them for the future. Public high schools bring together students of different backgrounds so they may learn to live together, sharing and learning from each other.
* If Amish children choose as adults to leave the Amish community, they will be ill-prepared to deal with the non-Amish world unless they have the chance to attend high school.
* Meeting the educational needs of children is one of the most important duties of the state. As Thomas Jefferson emphasized, "some degree of education is necessary to prepare citizens to participate effectively and intelligently in our open political system if we are to preserve freedom and independence."
* Education prepares individuals to be self-reliant and self-sufficient participants in society.
* The public expects that all children, regardless of their religion, will have the chance to get an education at public expense until they are 16.
* The Amish may freely practice their religion, but the State believes the education of children outweighs the argument about free expression of religion in this case.

**Case 4 Background**[**Oregon Employment Division v. Smith (1990)**](http://oyez.nwu.edu/cases/cases.cgi?case_id=110&command=show)

Alfred Smith and Galen Black were members of the Native American Church. Some of the church's rituals involve the use of peyote, a cactus derivative containing the hallucinogen mescaline. The two men ingested peyote during religious rituals. As a result, they were fired from their jobs at a private drug rehabilitation program for "work-related misconduct."

When Smith and Black filed for unemployment benefits, they were turned down, again because of their use of peyote, possession or use of which was a crime, according to Oregon law. Although drug use in religious ceremonies is exempted from criminal penalties by federal law and by the laws of 23 states, Oregon provided no such exemption. The men sued, saying that the state had violated their rights to free exercise of their religion

**Before the Court:**   
Argued on November 6, 1989   
Decided on April 17, 1990

**Key Question:**   
Does Oregon's state law violate the Free Exercise Clause of the First Amendment?

**Case 4 Defendant Role Card**  
[**Oregon Employment Division v. Smith (1990)**](http://oyez.nwu.edu/cases/cases.cgi?case_id=110&command=show)

**Defendants: Alfred Smith and Galen Black   
—** Claiming free exercise of religion

**Main Points**

* Use of peyote has been a part of the religious rituals of the Native American Church for centuries. Twenty-three states and the federal government recognize our right to free exercise of our religion by exempting our use of peyote from their drug laws.
* Use of peyote in religious ceremonies is nothing like the irresponsible recreational use of unlawful drugs that the state of Oregon wishes to control. Peyote is used in prescribed ways and poses no danger to anyone else. Thus, the state does not have a compelling interest in regulating use of peyote in the Native American Church.
* Our right to exercise our religious beliefs was violated by the state of Oregon Employment Division when it denied us unemployment benefits.
* The "misconduct" provision under which we were disqualified for unemployment compensation was to preserve the financial integrity of the compensation fund, not to enforce the State's criminal laws.
* Previous Supreme Court cases (Sherbert v. Verner, for one) determined a State could not determine availability of unemployment insurance based upon the willingness of an individual to give up conduct required by his religion.

**Case 4 Plaintiff Role Card**   
[**Oregon Employment Division v. Smith (1990)**](http://oyez.nwu.edu/cases/cases.cgi?case_id=110&command=show)

**Plaintiff: Oregon Employment Division**   
— Claiming Smith and Black are not protected by the free exercise clause

**Main Points**

* State law is very clear that possession or use of peyote is a crime. Thus, evidence of its use is cause for dismissal from a job at a drug rehabilitation program. People who are fired for cause are not eligible for unemployment benefits.
* The state-and in fact the entire country-faces a serious drug problem. To solve the problem, tough laws are needed. Because of the seriousness of the drug problem, the Oregon state legislature chose not to make exemptions in the law for religious use of drugs. Because of the drug crisis, the state's interest in regulating drug use is more important than the defendants' right to free exercise of their religious beliefs.
* The "prohibiting the free exercise [of religion]" clause does not relieve an individual of the obligation to comply with a law that incidentally forbids (or requires) the performance of an act that his religious belief requires (or forbids) if the law is not specifically directed to religious practice.
* In previous Supreme Court cases involving religious practice and unemployment compensation, the conduct in none of the cases was prohibited by law. The State is free to withhold unemployment compensation from individuals "engaging in work-related misconduct, despite its religious motivation."

**Case 5 Background**  
[**Church of the Lukumi Babalu Aye v. Hialeah (1993)**](http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=US&vol=508&invol=520)

Members of the tiny Church of the Lukumi Babalu Aye in the Florida city of Hialeah practice a religion that involves the sacrifice of live animals such as pigeons, chickens, goats and lambs to commune with the "orishas" or spirits. The religion of Santeria-"the way of the saints"-originated in West Africa. When they were brought to Cuba as slaves, the Yoruba people blended their beliefs with some Roman Catholic practices. Nearly 70,000 Cuban-Americans in south Florida practice Santeria, as do people in other cities across the United States.

When the Church of Lukum Babalu Aye decided to establish a house of worship and other facilities in Hialeah in 1987, the city council held an emergency session. It issued new zoning laws that banned animal sacrifices inside city limits. The new laws specifically banned the killing of animals for ritual purposes. They exempted the killing of animals for food; for pest control; during hunting, trapping and fishing seasons; for medical research; and by animal shelters for purposes of population control. The church sued, claiming its religious freedoms had been violated by the new zoning laws.

**Before the Court:**   
Argued on November 4, 1992   
Decided on June 11, 1993

**Key Question:**   
May a city constitutionally enact ordinances that are designed to prohibit certain religious practices?

**Case 5 Defendant Role Card**  
[**Church of the Lukumi Babalu Aye v. Hialeah (1993)**](http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=US&vol=508&invol=520)

**Defendant: City of Hialeah**   
— Claiming that certain religious practices can be limited when they pose a particular threat to public health

**Main Points**

* Followers of the Santeria religion mistreat animals that are sacrificed and fail to dispose of them in a sanitary manner.
* The city of Hialeah has found remains of decapitated animals, which caused the city very particular problems related to public health. There are compelling government interests in preventing public health risks.
* The secret nature of the Santeria religion made unenforceable a regulation of disposal of animal carcasses.
* Public outcry followed announcements of the church's intention to put up a building in a downtown lot as a place to conduct animal sacrifices.
* Spokespersons for the American Society for the Prevention of Cruelty to Animals claim that the Santeria religion is not legitimate in the context of modern America.

**Case 5 Plaintiff Role Card**   
[**Church of the Lukumi Babalu Aye v. Hialeah (1993)**](http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=US&vol=508&invol=520)

**Plaintiff: Church of Lukumi Babalu Aye**— Claiming free exercise of religion

**Main Points**

* The ordinances were passed against the Church of Lukumi Babalu Aye. City Resolution 87-66 notes "city residents' 'concern' over religious practices inconsistent with public morals, peace, or safety, and declares the city's 'commitment' to prohibiting such practices."
* The zoning law barring animal sacrifice unfairly singles out an unpopular minority faith in violation of the Constitution's guarantee of religious freedom.
* The government has shown no compelling interest in enforcing a statute that affects the followers of the Santeria religion
* The sacrifice of animals is central to the beliefs and practices of the Santeria religion. The orishas are powerful, but not immortal. Their survival depends on the sacrifice. Animals are cooked and eaten following all Santeria rituals excepting healing and death rituals.
* The zoning law is a direct attack on a religious practice rather than a neutral law that only incidentally affects a church
* The sacrifice of animals as part of religious rituals has ancient roots. The Old Testament mentions animal sacrifice. The annual Muslim Feast of Sacrifice continues a centuries-old tradition.