

1.7 - Racial Identity and American Citizenship in the Court

The Asian American Education Project

Grade Level(s)	Grades 5-12
Lesson Overview	PBS Asian Americans Episode 1 – Breaking Ground (1850s to 1920s). Three important lawsuits brought by Asian Americans with important consequences for American citizenship, equal protection, and racial identity: <i>Yick Wo</i> , <i>Wong Kim Ark</i> , <i>Takao Ozawa</i> , <i>Bhagat Singh Thind</i> .
Lesson Objectives	For students to understand the impact the three cases had on American citizenship and racial identity in the law, and the role of Asian Americans in challenging xenophobic and racist laws in the 19th and early 20th century. For students to learn race is a social construct.

Racial Identity and American Citizenship in the Court Essay:

From the late 1800s, Asian American immigrants began facing increasing levels of hostility, discrimination, and even exclusion from the United States. To protect their communities, Asian Americans found ways to resist and fight back. Legal challenges were particularly important for Asian Americans fighting for their rights because many of the obstacles they faced were created by the law and rooted in discrimination. Asian immigrants were excluded from citizenship and barred from political participation. The landmark court cases—*Yick Wo v. Hopkins*, *Wong Kim Ark v. United States* (1898), *Thind v. United States* and its parallel case *Ozawa v. United States*—had and continue to have important consequences on questions of citizenship, race, and equality.

The Supreme Court’s decisions in these cases had serious ramifications for not only Asian immigrants, but all Americans, citizen or otherwise. In 1886, a Chinese-born laundry owner named Yick Wo sued the San Francisco board of supervisors for refusing to grant laundry licenses to any Chinese person.¹ Over 200 Chinese people had applied for laundry licenses, and every Chinese application was denied. The Supreme Court found that all people in the United States were entitled to *equal protection of the law* under the Fourteenth Amendment, regardless of citizenship. As a result, San Francisco’s denial of laundry licenses along racial lines was ruled unconstitutional.

Asian Americans used this court victory to pave the way for future court challenges, using the U.S. Constitution as their guide. *Wong Kim Ark* is the flagship case on birthright citizenship, proving that U.S. citizenship should be granted not on the basis of bloodline, but on the basis of territory. In 1895, in the wake of the Chinese Exclusion Act, the U.S. government refused to allow Wong Kim Ark back into America after he visited China.² Wong, however, had been born in the United States. He sued for his rights, claiming that he was a U.S. citizen because of his birth, and brought the case all the way to the Supreme Court. The Court found that the Fourteenth Amendment guaranteed citizenship to those born in the United States, regardless of their race or their parents’ national origin. Because of the *Wong Kim Ark* decision, children born in the U.S. to Asian immigrants—indeed all immigrants—could become citizens even though their parents could not. This monumental case paved the way for a more diverse America and American citizenry.

Finally, the question of citizenship was revisited again in the cases *Takao Ozawa v. United States* (1922) and *Bhagat Singh Thind v. United States* (1923). Together, these cases illustrate how the social constructs of race and whiteness were manipulated to deny naturalization rights to Asian immigrants.

When the U.S. government attempted to limit citizenship only to whites, Asian Americans quickly moved to prove that they themselves were “white” in one way or another. Takao Ozawa was a Japanese American who had lived in the United States for twenty years. He attempted to argue that “whiteness” was a matter of skin color; because his skin was just as pale as white Americans, he should be treated as white and granted

citizenship. The Supreme Court unanimously denied him, saying explicitly that whiteness only extended to “the Caucasian race.”³

However, they changed their own reasoning only three months later so that they could deny an Indian man citizenship. *Thind* was an Indian man from the northern region of Punjab who had moved to the U.S. as a young man and joined the U.S. Army in WWI. He argued that he should be eligible for naturalization and citizenship because he was of the Caucasian race, as the *Ozawa* decision specified. However, the Court found that even though he was Caucasian, he was not white: Whiteness must “be interpreted in accordance with the understanding of the common man, synonymous with the word ‘Caucasian’ only as that word is popularly understood.”⁴ The Supreme Court demonstrated that they were more concerned about safeguarding white citizenship than maintaining their own line of reasoning. The *Thind* decision had serious consequences for Indian Americans, many of who were stripped of their property and denaturalized. One tragic example discussed in the film was Vaishno das Bagai, whose citizenship and store were taken away after the *Thind* decision, leading him to suicide.

Works Cited:

¹*Yick Wo v. Hopkins*, 118 U.S. 356 (1886).

²*United States v. Wong Kim Ark*, 169 U.S. 649 (1898).

³*Takao Ozawa v. United States*, 260 U.S. 178 (1922).

⁴*United States v. Thind*, 261 U.S. 204 (1923).

Vocabulary:

- **Birthright Citizenship:** the right to citizenship for all individuals born in a country’s territory regardless of parentage
- **Race:** the idea that the human species is divided into distinct groups on the basis of inherited physical and behavioral differences.² Race is socially constructed and influenced by cultural norms; different racial classifications carry social and cultural characteristics that are assigned by society.³
- **Caucasian:** of or relating to a race of humankind native to Europe, North Africa, and southwest Asia and classified according to physical features.⁴ Caucasian is often conflated with whiteness.
- **Naturalization:** the admittance of a foreigner to the citizenship of a country
- **Legal Right:** a right or entitlement under the law
- **Discrimination:** the prejudicial treatment of different categories of people or things, including on the grounds of race, age, or sex
- **Equal protection:** a guarantee under the 14th Amendment that a state must treat an individual or class of individuals in the same way it treats other individuals or classes in similar circumstances.⁵
- **The Supreme Court:** the highest judicial court in a country; the U.S. Supreme Court consists of nine justices and is the court of final appeal.

¹All definitions are adopted from the Oxford English Dictionary unless stated otherwise

²Definition is adopted from the Encyclopedia Britannica

³For more, see AAA Statement on Race

(<https://www.americananthro.org/ConnectWithAAA/Content.aspx?ItemNumber=2583>).

⁴Definition is adopted from Merriam-Webster dictionary

⁵Definition is adopted from Merriam-Webster dictionary

Discussion Questions:

1. Why did Asian Americans challenge racist laws and policies through the courts?
2. What effects does limiting citizenship to certain races have? What was the impact of the *Wong Kim Ark* and *Yick Wo* cases on American citizenship?

3. What do the *Thind* and *Ozawa* cases tell you about how race is defined? Why do you think the Supreme Court changed its reasoning about who is white? [See Activity 1 for a more detailed exploration of the social construct of race through the two cases]
4. What role do the courts play in American government? What are other ways to resist racist laws when even the top court of the land affirms these laws?
5. What is discrimination? How can laws be discriminatory? What are examples of similar discriminatory laws against immigrants today?
6. How can biases or prejudices affect who is in power and what those in power do? How does this affect society? Is it more or less (or equally) important for people to strive to be unprejudiced when they are in positions of power?
7. What is your earliest memory of experiencing or learning about race? Has your understanding of race evolved since that moment, and how? How do you know what race is?

Activity 1: Thind and Ozawa: Inconsistencies at the Court?

- A. To students to prepare for discussions,
 - Show this lesson’s video clip
 - Instruct the students to read this lesson’s essay. For this activity ask students pay attention to the two cases: *Takao Ozawa v. United States* (1922) and *Bhagat Singh Thind v. United States* (1923).
- B. Distribute the “*Ozawa and Thind: Inconsistencies at the Court*” handout. Instruct students to read the handout.
 - Instruct students to pay special attention to sections in bold.
- C. Discuss the following questions.
 1. How is “white” defined in *Ozawa*? In *Thind*?
 2. What do the Justices seem to say about the term “Caucasian” in *Ozawa*? What about in *Thind*?
 3. Why was it important for *Ozawa* and *Thind* to both argue that they were white as opposed to another race? For context, black people had the right to naturalize under the 14th Amendment.
 4. What bases or authorities did the Justices rely on in making their determination of who is “white” in each of the cases?
 5. How does science play a role in the Justices’ reasoning in *Ozawa* and *Thind*? Did their position change from *Ozawa* to *Thind*?
 6. Do the two decisions seem logical or consistent with the Constitution? Why or why not?
 7. Viewed together, what do the two cases say about citizenship and its relationship to race in the U.S. in the early 20th century?

Activity 2: Defining Race with the U.S. Census

- A. Pass out the “*Defining Race with the U.S. Census*” handout. Instruct students to read the handout.
- B. Split students into small groups of no more than five people each.
- C. Ask students to take up the role of a team of 1870 Census takers in their small groups. As census takers, students must categorize everyone so they are correctly counted for the census. The three profiles are three Americans who must be counted for the Census, and students must decide in their small groups the racial category to which each profile belongs, and why.
- D. Afterwards, ask each group to explain how they categorized the three people and why. Lead a discussion reflecting on the activity using the following questions/prompts:
 1. How were the racial categories different from how we categorize race today?
 - a. For example, the 2020 Census offers the following categories: White; Black or African American; American Indian or Alaska Native; Chinese; Filipino; Asian Indian;

Vietnamese; Korean; Japanese; other Asian; Native Hawaiian; Samoan; Chamorro; other Pacific Islander; some other race.

2. What does the evolution of racial categories throughout history tell us about how society's ideas about race might have changed over the years? Are our current racial categories "better" or more "correct" than before?
 - a. Note: These questions are meant to guide students to reflect critically on how race is socially constructed. While the current census categories are certainly broader than 1870, that does not necessarily make them better. These categories merely reflect the more differentiated view on race that we have today. The key takeaway is that racial categories are malleable and shift according to the societal context in which they exist. As such, they should be given less power because they do not truly correspond to immutable biological characteristics.
3. How do you see race in your own communities? Do certain groups of people receive different treatment than others?
4. If racial categories shift depending on how society views race, then can race be a reliable way of classifying or judging people? Why or why not?

Further Information

1. Books with more information on the cases (by the historians in the episode)
 - a. Lee, Erika. *The Making of Asian America: A History*. New York, Simon & Schuster, 2015. See chapters 3 (Wong Kim Ark), 5 (Ozawa), 7 (Thind)
 - b. Ngai, Mae. *Impossible Subjects: Illegal Aliens and the Making of Modern America*. Princeton, Princeton University Press, 2004. See introduction and chapter 1 for detailed discussion on the immigration regime in the early 20th century and the quota system
2. "Hindus Too Brunette to Vote Here." *South Asian American Digital Archive*, <https://www.saada.org/theproblem>. Accessed 7 March 2020.
3. Shih, David. "White Happened to You." *Arcade*, 27 Jan. 2015, <https://arcade.stanford.edu/blogs/white-happened-you>. Accessed 7 March 2020.