

# Equal Justice Under Law

A Lesson by Linda Weber for  
*Sunnylands Seminars 2009*



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## SUMMARY

In its first constitutional challenge to the equal protection clause of the Fourteenth Amendment, the U.S. Supreme Court decided to hear a case brought by a Chinese immigrant, not an American citizen.

Yick Wo believed city ordinances had been unfairly applied to him, so he challenged their constitutionality under the equal protection clause, and took his case all the way to the Supreme Court. Initiated by the Chinese in San Francisco, the precedent-setting case expanded the interpretation of the equal protection clause to include both citizens and non-citizens alike. It also established foundational principles of law.

In *Yick Wo v. Hopkins*, the court ruled that “an administration of a municipal ordinance . . . violates the Constitution . . . if it makes arbitrary and unjust discriminations founded on differences of race . . .” “The guarantees of the Fourteenth Amendment extend to “all persons within the territorial jurisdiction of the United States, without regard to differences of race, or color, or of nationality.” “. . . the equal protection of the laws is a pledge of the protection of equal laws.”

In this lesson, students explore the cause-and-effect relationships between historical events and the development of constitutional principles that protect the rights of all people in America today. The words inscribed on the U.S. Supreme Court building are a reminder of that protection—“Equal Justice Under Law.”

## NOTES AND CONSIDERATIONS

- This lesson presumes that students have some experience reviewing Supreme Court cases.
- Technology is relied on to enhance learning by facilitating information access, information gathering, and instruction.
- This is a self-contained lesson with a variety of resources and activities that can be adapted to different lengths of classes and levels of students.

## Snapshot of Lesson

**Grades:** Middle School; High School (Focus)

**Subject Focus:** Civics/Government

**Estimated Time:** 3 days

**Alignment to National Standards for Civics and Government:** Grades 5-8; Grades 9-12

### Materials/Equipment Needed:

Yick Wo and the Equal Protection Clause Video, available at:

<http://www.annenbergclassroom.org/page/yick-wo-equal-protection-clause>

Computer with internet connection and projector for class viewing.

### Materials Included:

#### Readings and Resources

- Video Transcript- Yick Wo and the Equal Protection Clause
- Chapter 3: “Right to Equal Protection of the Laws” from *Our Rights* by David J. Bodenhamer
- Full text of Supreme Court case: *Yick Wo v. Hopkins* (1886)
- U.S. Constitution: Fourteenth Amendment
- Excerpts from *Understanding Democracy: A Hip Pocket Guide*
- “The Court and Constitutional Interpretation” — Supreme Court
- Remarks by Justice Kennedy on the Rule of Law
- Epilogue: “We Are All Slaves of the Law” from *The Pursuit of Justice* by Kermit L. Hall and John Patrick

#### Student Materials

- Class-Prep: Assignment Sheet
- 5-Part Study: “Understanding Yick Wo”

#### Teacher Materials

- 5-Part Study: Teacher Notes “Understanding Yick Wo”
- “A Continuum of Points of View: Instructions”
- Rubric

### National Standards for Civics & Government

- Standards level detail for grades 5-8, 9-12

## TOPICS

- Constitution
- Equal protection clause
- Discrimination
- Civil rights
- Rule of law
- Justice
- History of the Chinese in California

## NATIONAL STANDARDS

Document: National Standards for Civics and Government (1994) Center for Civic Education  
<http://www.civiced.org/index.php?page=stds>

### Grades 5-8 Organizing Questions

The national content standards for civics and government are organized under five significant questions. The following outline lists the high-level organizing questions supported by this lesson.

- I. What are civic life, politics, and government?
  - A. What is civic life? What is politics? What is government? Why are government and politics necessary? What purposes should government serve?
  - B. What are the essential characteristics of limited and unlimited government?
  - C. What are the nature and purposes of constitutions?
  
- II. What are the foundations of the American political system?
  - A. What is the American idea of constitutional government?
  - B. What are the distinctive characteristics of American society?
  - C. What is American political culture?
  - D. What values and principles are basic to American constitutional democracy?
  
- III. How does the government established by the Constitution embody the purposes, values, and principles of American democracy?
  - E. What is the place of law in the American constitutional system?
  - F. How does the American political system provide for choice and opportunities for participation?
  
- V. What are the roles of the citizen in American democracy?
  - A. What is citizenship?
  - B. What are the rights of citizens?
  - C. What are the responsibilities of citizens?
  - D. What dispositions or traits of character are important to the preservation and improvement of American constitutional democracy?
  - E. How can citizens take part in civic life?

## Grades 9-12 Organizing Questions

The national content standards for civics and government are organized under five significant questions. The following outline lists the high-level organizing questions supported by this lesson.

- I. What are civic life, politics, and government?
  - A. What is civic life? What is politics? What is government? Why are government and politics necessary? What purposes should government serve?
  - B. What are the essential characteristics of limited and unlimited government?
  - C. What are the nature and purposes of constitutions?
  - D. What are alternative ways of organizing constitutional governments?
  
- II. What are the foundations of the American political system?
  - A. What is the American idea of constitutional government?
  - B. What are the distinctive characteristics of American society?
  - C. What is American political culture?
  - D. What values and principles are basic to American constitutional democracy?
  
- III. How does the government established by the Constitution embody the purposes, values, and principles of American democracy?
  - B. How is the national government organized, and what does it do?
  - C. How are state and local governments organized, and what do they do?
  - D. What is the place of law in the American constitutional system?
  - E. How does the American political system provide for choice and opportunities for participation?
  
- IV. What is the relationship of the United States to other nations and to world affairs?
  - C. How has the United States influenced other nations, and how have other nations influenced American politics and society?
  
- V. What are the roles of the citizen in American democracy?
  - B. What are the rights of citizens?
  - C. What are the responsibilities of citizens?
  - D. What civic dispositions or traits of private and public character are important to the preservation and improvement of American constitutional democracy?
  - E. How can citizens take part in civic life?

Note: A more detailed standards-level alignment related to these questions can be found in the “Standards” section at end of this lesson plan.

# STUDENT OUTCOMES

## Knowledge, skills, and dispositions

Students will . . .

1. Examine the cause-and-effect relationships between historical events and the development of constitutional principles related to the equal protection clause of the Fourteenth Amendment.
2. Explain the relationship between justice and law in the U.S.
3. Identify the legal precedents set by *Yick Wo v. Hopkins*.
4. Explain the significance of *Yick Wo* for citizens and non-citizens in the U.S. today.
5. Describe how the Supreme Court's interpretation of "equal protection" expanded over time and the contribution of *Yick Wo v. Hopkins* to that expansion.
6. Appreciate the impact that one person can have on the development of the law when resources and supports are rallied to pursue justice under the Constitution.

## Integrated Skills

### 1. Information literacy skills

Students will . . .

- Analyze primary and secondary sources to gather information
- Organize and analyze information
- Use skimming and search skills.
- Make informed decisions.
- Use technology as a tool for learning.

### 2. Media literacy skills

Students will . . .

- Read, view, and listen to information delivered via different media formats in order to make inferences and gather information.

### 3. Communication skills

Students will . . .

- Write and speak clearly to contribute ideas, information, and express own point of view.
- Listen for understanding
- Discuss with others to deepen understanding

### 4. Study skills

Students will...

- Manage time and materials
- Organize work effectively

### 5. Thinking skills

Students will . . .

- Describe and recall information
- Explain ideas or concepts
- Make connections between concepts and principles
- Draw conclusions
- Synthesize information
- Use sound reasoning and logic
- Distinguish the facts
- Evaluate different viewpoints

### 6. Problem-solving skills

Students will . . .

- Ask meaningful questions
- Consider diverse perspectives
- Support decisions with the facts
- Explore alternative solutions

### 7. Participation skills

Students will . . .

- Contribute to small and large group discussion
- Work responsibly both individually and with diverse people.
- Express own beliefs, feelings, and convictions.
- Show initiative and self-direction.

## ASSESSMENT

Evidence of understanding may be gathered from student performance related to the following:

1. Student activities
2. Participation in small and large group discussions
3. Rubric

## VOCABULARY

- **arbitrary** — depending on individual discretion and not fixed by standards, rules or law; based on preference, bias, prejudice, or convenience rather than on reason or fact.
- **citizen** — a native or naturalized individual who owes allegiance to a government (as of a state or nation) and is entitled to the enjoyment of governmental protection and to the exercise of civil rights
- **discriminate (1)** — to distinguish, single out, or make a distinction  
**discriminate (2)** — to make a difference in treatment or favor on a basis other than individual merit; to make a difference in treatment on a basis prohibited by law (as national origin, race, sex, religion, age, or disability)
- **discrimination** — unfair or unequal treatment of an individual (or group) based on certain legally protected characteristics, including age, disability, ethnicity, gender, national origin, race, religion, sexual orientation. Federal and state laws prohibit discrimination against members of these protected groups in a number of settings, including education, employment, governments services, housing, lending, public accommodations, transportation, and voting.
- **due process** — government procedures that follow principles of essential fairness; a requirement that laws and regulations must be related to a legitimate government interest (as crime prevention) and may not contain provisions that result in the unfair or arbitrary treatment of an individual
- **equal protection of the law** — a guarantee under the Fourteenth Amendment to the U.S. Constitution that a state must treat an individual or class of individuals the same as it treats other individuals or classes in like circumstances; the equal protection requirement of the Constitution protects against legislation that affects individuals differently without a rational basis for doing so.
- **habeas corpus** — a writ issued to inquire whether a person is lawfully imprisoned or detained; the writ demands that the persons holding the prisoner justify his detention or release him.
- **rights** — a person's justifiable claim, protected by law, to act or be treated in a certain way.
- **rule of law** — The rule of law exists when a state's constitution functions as the supreme law of the land, when the statutes enacted and enforced by the government invariably conform to the constitution. The rule of law, however, is not merely rule by law; rather, it demands equal justice for each person under the authority of a constitutional government. So, the rule of law exists in a democracy or any other kind of political system only when the following standards are met:
  - laws are enforced equally and impartially
  - no one is above the law, and everyone under the authority of the constitution is obligated equally to obey the law
  - laws are made and enforced according to established procedures, not the rulers' arbitrary will
  - there is a common understanding among the people about the requirements of the law and the consequences of violating the law.
  - laws are not enacted or enforced retroactively
  - laws are reasonable and enforceable

## Sources for Definitions

FindLaw—Law Dictionary  
<http://dictionary.lp.findlaw.com/>

American Bar Association  
<http://www.abanet.org/publiced/glossary.html>

Annenberg Classroom Glossary  
<http://www.annenbergclassroom.org/terms>

## LESSON OVERVIEW

### Class-Prep Assignment:

Advance preparation is important for students so they have the background knowledge and understanding needed for viewing the video on the first day, therefore a “Class Prep Assignment Sheet” is provided. In this assignment, students learn about law and justice in America through an analysis of the architecture and inscriptions on the U.S. Supreme Court building.

### DAY 1

#### The Story of Yick Wo

Students watch and listen to the story of *Yick Wo and the Equal Protection Clause* to learn how important legal principles were established because a Chinese immigrant sought justice under the Constitution in 1886.

### DAY 2

#### Understanding Yick Wo

Students gather information from the video, *Yick Wo and the Equal Protection Clause*, analyze the full text of *Yick Wo v. Hopkins*, and use a variety of other resources to complete the following 5-part study:

- Part 1: Historical Context
- Part 2: The Supreme Court Case
- Part 3: Use of Precedent
- Part 4: Contribution to American Law
- Part 5: Justice for All

### DAY 3

#### A Continuum of Points of View

Students are encouraged to express their positions on controversial issues raised in the lesson by participating in a continuum activity in which they physically move to positions along a continuum that reflect their points of view.

## DAY 2: Understanding Yick Wo

**OVERVIEW:** Students gather information from the video *Yick Wo and the Equal Protection Clause*, analyze the full text of *Yick Wo v. Hopkins* (1886), and use other resources to complete the following 5-part study that explores the story of this case and the legal principles it established that are relevant today.

- Part 1: Historical Context
- Part 2: The Supreme Court Case
- Part 3: Use of Precedent
- Part 4: Contribution to American Law
- Part 5: Justice for All

**GOAL:** Students will make connections between the past and the present through the story of Yick Wo, then draw conclusions about the role of the law and participation in a constitutional democracy.

### **MATERIALS/EQUIPMENT NEEDED:**

- Yick Wo and the Equal Protection Clause Video (20 mins), available at:  
<http://www.annenbergclassroom.org/page/yick-wo-equal-protection-clause>
- Computer with internet connection and projector for class viewing.

### **Readings Included:**

- Video transcript: *Yick Wo and the Equal Protection Clause*
- Full Text: *Yick Wo v. Hopkins* (1886)  
Also available at this link: <http://www.supreme.justia.com/us/118/356/case.html>
- Chapter 3: “Right to Equal Protection of the Laws” from *Our Rights* by David J. Bodenhamer  
Available online at:  
[http://www.annenbergclassroom.org/files/documents/books/our%20rights/chapter\\_3\\_our\\_rights.pdf](http://www.annenbergclassroom.org/files/documents/books/our%20rights/chapter_3_our_rights.pdf)
- Epilogue: ““We Are All Slaves of the Law”” from *The Pursuit of Justice* by Kermit L. Hall and John Patrick  
Available online at:

[http://www.annenbergclassroom.org/files/documents/books/the%20pursuit%20of%20justice/200\\_203\\_epilogue.pdf](http://www.annenbergclassroom.org/files/documents/books/the%20pursuit%20of%20justice/200_203_epilogue.pdf)

### **Readings Online:**

- Article: “From victims to victors; A Chinese contribution to American law: Yick Wo versus Hopkins” by Laurene Wu McClain, *Chinese America: History and Perspectives*, 2003 (This format requires reading the article section by section.)  
[http://findarticles.com/p/articles/mi\\_hb3167/is\\_2003\\_Annual/ai\\_n28984317/?tag=content;coll](http://findarticles.com/p/articles/mi_hb3167/is_2003_Annual/ai_n28984317/?tag=content;coll)

### **Student Materials:**

- 5-Part Study: “Understanding Yick Wo”

### **Teacher Materials:**

- 5-Part Study: Teacher Notes “Understanding Yick Wo”

### **PROCEDURE:**

1. Students may work individually, with partners, or in small groups to complete the study.
2. Allow one class session to get the study organized and underway, then assign for homework.
3. Keep track of any controversial issues that arise so they may be used in the continuum activity on Day 3.

## DAY 3: A Continuum of Points of Views

**Overview:** This large group continuum activity involves the physical movement of students as they organize themselves at different points along a continuum that ranges from “strongly disagree” to “strongly agree” in order to show their points of view on a controversial issue.

**Goal:** Encourage students to express and support their own opinions, learn about different perspectives, and reflect on changes in their own points of view.

### **Materials/Equipment Needed:**

#### **Student materials**

- Completed 5-part study

#### **Teacher materials**

- Materials to make a continuum across the room (e.g., tape, signs, string, etc.)
- “A Continuum of Points of View: Instructions” (Included)

### **Procedure:** (This is a teacher-facilitated session)

1. Briefly discuss the 5-part study. Generate a list of controversial issues that came out of the study.
2. Introduce the continuum activity. Select one of the controversial issues to start the activity (Refer to the instruction sheet for “A Continuum of Points of View.”)
3. Remind students to back up opinions with information and facts, not just thoughts and feelings.



## EXTENSION ACTIVITIES

Have more time to teach?

- Use one or more of the variations listed for the continuum activity.
- Examine discriminatory laws more in-depth. Compare and contrast examples of legal and illegal discrimination.
- Use the ABA dialogue program on the rule of law that “provides lawyers, judges, and teachers with the resources they need to engage students and community groups in discussion of fundamental American legal principles and civic traditions.” <http://www.abanet.org/publiced/features/dialoguesruleoflaw.shtml>
- Find additional ideas and activities in the Law Day 2008 Planning Guide: Rule of Law  
[http://www.abanet.org/publiced/lawday/2008/Full\\_catalog.pdf](http://www.abanet.org/publiced/lawday/2008/Full_catalog.pdf)

## RESOURCES

### Books

- *Our Rights* by David J. Bodenhamer  
<http://www.annenbergclassroom.org/page/our-rights>
- *Our Constitution* by Donald A. Ritchie  
<http://www.annenbergclassroom.org/page/our-constitution>
- *The Pursuit of Justice: Supreme Court Decisions That Shaped America* by Kermit L. Hall and John Patrick  
<http://www.annenbergclassroom.org/page/the-pursuit-of-justice>

### Other Resources

- Architectural Information Sheets, U.S. Supreme Court  
<http://www.supremecourt.gov/about/archdetails.aspx>
- Chinese Immigration and the Chinese in the United States  
<http://www.archives.gov/research/chinese-americans/guide.html>
- Landmark Supreme Court Cases  
<http://www.landmarkcases.org/korematsu/home.html>
- U.S. Supreme Court  
<http://www.supremecourtus.gov/>
- *Yick Wo v. Hopkins*  
U.S. Supreme Court Center  
<http://supreme.justia.com/us/118/356/case.html>

*The Fourteenth Amendment to the Constitution is not confined to the protection of citizens. It says: “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.”*

*These provisions are universal in their application to all persons within the territorial jurisdiction, without regard to any differences of race, of color, or of nationality, and the equal protection of the laws is a pledge of the protection of equal laws.*

— Opinion of the Court in *Yick Wo v. Hopkins* (1886) delivered by Mr. Justice Matthews

# Student Materials

- Class-Prep Assignment Sheet
- 5-Part Study: “Understanding Yick Wo”

## Class Prep Assignment Sheet: Equal Justice Under Law

The following assignment provides important background knowledge and context for the video *Yick Wo and the Equal Protection Clause*, which will be shown in class.

**INSTRUCTIONS:** Read, review and become familiar with the following resources, then answer the questions.  
**Bring this sheet and the completed work with you to class.**

**1. Readings:** (copies are available from the teacher or the readings may be viewed at the links provided)

- Definitions for “Constitution,” “justice” and “rule of law” from *Understanding Democracy: A Hip-Pocket Guide* (pgs. 26, 27, 49-51, 88-89)

Available at Annenberg Classroom:

<http://www.annenbergclassroom.org/page/understanding-democracy-a-hip-pocket-guide>

- Justice Kennedy Defines Rule of Law
- The Court and Constitutional Interpretation  
<http://www.supremecourt.gov/about/constitutional.aspx>

**2. Questions:**

- Define justice and law in your own words and explain the relationship between the two.
- How are laws made in the U.S.?
- What is an unjust law, and what can be done about it?
- How does the U.S. Constitution “ensure justice?”
- What is the responsibility of the Supreme Court concerning matters of justice and law?

**3. Research:**

Read about the architectural design of the Supreme Court building at these links:

- The Supreme Court Building: Visitor’s Guide to the Supreme Court  
<http://www.supremecourt.gov/visiting/visitorsguide-supremecourt.aspx>
- Architectural Information Sheets, U.S. Supreme Court  
<http://www.supremecourt.gov/about/archdetails.aspx>

**Questions:**

- a. Where are these words located?



Source of image:

<http://www.supremecourtus.gov/>

- b. Make a chart of the figures and symbols used to portray justice and law on the Supreme Court building.

Figure/Symbol	Location	Meaning
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- c. Which Aesop’s fable appears on one part of the building? Where is it located, and why do you think it was included?
- d. What can be learned about law and justice in the United States from the architectural design of the Supreme Court building? Reference specific sections of the building.

## 5-Part Study: Understanding Yick Wo

### RESOURCES FOR THIS STUDY:

- Video and video transcript for “Yick Wo and the Equal Protection Clause”
- Full text of *Yick Wo v. Hopkins* (1886)
- Chapter 3: “Right to Equal Protection of the Laws” from *Our Rights* by David J. Bodenhamer
- Article: “From victims to victors; A Chinese contribution to American law: Yick Wo versus Hopkins” by Laurene Wu McClain in *Chinese America: History and Perspectives*, 2003  
[http://findarticles.com/p/articles/mi\\_hb3167/is\\_2003\\_Annual/ai\\_n28984317/?tag=content;col1](http://findarticles.com/p/articles/mi_hb3167/is_2003_Annual/ai_n28984317/?tag=content;col1)

### PART 1: HISTORICAL CONTEXT

Every person’s story is shaped by the events and issues of the times in which they live.

**Instructions:** Describe the historical context needed to understand who Yick Wo was and why the decision he made in a particular time and place is important for all people in America today.

Facts about the place, the people, the times, the events
Facts about the laws (requirements and intent)
Legal issues

**PART 2: THE SUPREME COURT CASE**

**Instructions:** Reproduce the following chart, then analyze the case *Yick Wo v. Hopkins* (1886) to extract details and create a case profile. Use highlighters to mark (and number) where responses can be found within a full text version of the case. Use the Internet to conduct additional research as needed. Make a list of the sites used.

**Note:** A copy of the case is available from the teacher. It can also be accessed at this link:  
<http://supreme.justia.com/us/118/356/case.html>

1. Case Name:	
2. Citation:	
3. Background facts	
4. Problems/Issues	
5. Petitioner	
6. Respondent	
7. Movement of case through the courts	
8. Identify the constitutional issue(s)	
9. Reason Supreme Court accepted the case	
10. State the question before the Court	
11. Date of the decision	
12. Decision of the Court	
13. Vote of the Court	
14. Action of the Court	
15. Justice delivering the Court's opinion	
16. Reasoning behind opinion of the Court	
17. Justices who dissented	
18. Reasoning behind dissenting opinions	

**List Internet sites used:**

### PART 3: USE OF PRECEDENT

**Instructions:** The precedent of *Yick Wo v. Hopkins* (1886) has been used to support arguments by one side of the other in a variety of Supreme Court cases. Several of these cases are named in the chart below. Research to find the applicable issues in each one and the *Yick Wo* principle cited when the case was argued. (The validity of the argument and interpretation of *Yick Wo* are not being evaluated at this time.)

**Procedure:**

1. Use the following link to access the full text of *Yick Wo v. Hopkins*.  
<http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=US&vol=118&invol=356>
2. Click on “Cases citing this case: Supreme Court” in blue font above and to the left of the title for a list of all the cases. You will be searching each case named in the chart below.
3. **Principle from Yick Wo:** Open the case on Findlaw and search by keyword to locate the citation within the text of the case.
4. Read the context around the citation to determine the principle. Copy the text into the chart.
5. **Case Issues:** These may be identified from information on this site. Search by case name.  
<http://www.oyez.org>

Supreme Court Case	Case Issues (search by case at www.oyez.org)	Principle from Yick Wo (Search by keyword using the full text from Findlaw.)
1. <i>Romer v. Evans</i> , 517 U.S. 620 (1996)		
2. <i>Miller v. Johnson</i> , 515 U.S. 900 (1995)		
3. <i>Plyler v. Doe</i> , 457 U.S. 202 (1982)		
4. <i>University of California v. Bakke</i> , 438 U.S. 265 (1978)		
5. <i>Roe v. Wade</i> , 410 U.S. 113 (1973)		
6. <i>Cox v. Louisiana</i> , 379 U.S. 536 (1965)		
7. <i>Beilan v. Board of Education</i> , 357 U.S. 399 (1958)		
8. <i>Adamson v. California</i> , 332 U.S. 46 (1947)		
9. <i>Plessy v. Ferguson</i> , 163 U.S. 537 (1896)		
10. <i>United States c. Verdugo-Urquidez</i> , 494 U.S. 259 (1990)		

**PART 4: CONTRIBUTION TO AMERICAN LAW**

1. Review the *Yick Wo* principles cited in the cases in Part 3, then summarize the precedent-setting principles that endure to this day.
2. The ruling in *Yick Wo* was an exception to how the Supreme Court interpreted the Fourteenth Amendment in the late 19th century. Explain the early position of the Court and the significance of this change.
3. Since *Yick Wo*, the body of law against discriminatory practices has expanded to cover other groups and situations. Learn about the legal aspects of discrimination from Findlaw to complete the following:  
<http://public.findlaw.com/civil-rights/civil-rights-basics/discrimination-defined.html>

Unlawful Discrimination	
Discrimination prohibited for these protected groups	Discrimination prohibited in these settings

Discrimination may or may not be unlawful. What constitutes unlawful discrimination?

Give an example of lawful discrimination:

Give an example of unlawful discrimination:

### **PART 5: JUSTICE FOR ALL**

1. Explain what *Yick Wo* did for justice in America?
2. Describe the resources and supports that helped Yick Wo in his pursuit of justice.

Personal:

Community:

Work:

Legal:

3. What lessons can alien immigrants in America learn from *Yick Wo*?
4. What lessons can American citizens learn from *Yick Wo*?
5. Explain the impact of *Yick Wo* on the rule of law in America.