

Continuous Assessment Cover Sheet



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Lecturer's Name: Martin Maguire			
Assignment No. and/or Description/Topic: Research Essay		Mode of Submission: Softcopy <input type="checkbox"/> Hardcopy <input type="checkbox"/>	
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Research Essay

Yick Wo, this seemed to like a weird English, I do not know what it means, if not particularly familiar with the history of the constitutional history of the United States. In fact, Yick Wo is the laundry name of him, as the Chinese name is very difficult to verify. YickWo is now generally translated as "Yihe". However, it is this Chinese who did not even stay in the Chinese name but fought a vigorous lawsuit. Judging from this lawsuit up to now, in the judgments of the U.S. courts at various levels, once quoting this case for more than 130 times can be described as a rather important verdict. How can a Chinese who is not familiar with his name influence the United States through this lawsuit? This essay explores how Yick Wo case impact on US politics and society. In the opening section, the essay explains the reason why choose this case. The essay then goes on to analyse the immigration of Chinese and introduced the background of this case. The essay then goes on to explain the reason Yick Wo v. Hopkins became one of the most frequently quoted cases in the history of the declaration of facts in the United States. The essay stands for some point of view that Yick Wo won in the case changed the mind of American people and it perhaps is the begin of truly concerned about racial equality.

The reason why chosen this case is that Yick Wo v. Hopkins (1886) was the first case to ask the Supreme Court how citizens could be protected against racial discrimination in the enforcement of local laws. The Supreme Court's May 14, 1886 Judgment on Yick Wo v. Hopkins was the first case in the history of American justice to show the power of the 14th Amendment of the U.S. Constitution.¹ The United States Supreme Court even pointed out that "It was acceptable to hold administrators

¹ G. J. Chin, 'UNEXPLAINABLE ON GROUNDS OF RACE: DOUBTS ABOUT YICK WO' (<https://illinoislawreview.org/wp-content/ilr-content/articles/2008/5/Chin.pdf>), p.1359 (9 November 2017)

of the law liable when they abused their authority.”² The Supreme Court lifted the complaint not because the order specifically racially discriminated against the Chinese but because it was being executed in a manner that was unfairly treated. This case was the first case in which the court speculated about the existence of differences from the data on legal applications, a technique that would be used again in the 1960s to overturn discrimination against African Americans. This case gives the idea that the 14th Amendment provides for any person regardless of citizenship.

As early as 1820, the Chinese had emigrated to California, and by 1870 more than 49,000 Chinese lived in each other. This figure increased to more than 75,000 in 1880, adding up to 10% of the California population. In this Chinese society, 40% or about 30,000 people live in the San Francisco Bay Area.³ Many whites and Spaniards in California do not like the influx of these Asians, which has led to the start of legislation in many parts of the state, which discriminates against them.⁴ The first anti-China law passed is the 1853 Foreign Miner's License Tax, which places a special burden on Chinese miners. The pace of these racial discrimination laws increased in the 1870s, leading to the disallowed Chinese occupation of certain occupations and the anti-China clause adopted in the New State Constitution in 1877.⁵ Because of the many restrictions placed on them, Chinese are mostly focused on special causes, which make up 97% of all cigar makers in San Francisco, 84% of bootmakers and shoemakers, 88% of garment makers, With 89% of the laundry industry. The Chinese are not opting for the laundry industry and, once in the business,

² Chinese American Society, *The Rocky Road to Liberty: A Documented History of Chinese Immigration and Exclusion* (California, 2010), p.183

³ D. E. Bernstein, 'Lochner, Parity, and the Chinese Laundry Cases' in *William & Mary Law Review*, Volume 41, Issue 1 (1999), pp217-218

⁴ M. A. Failing, 'Yick Wo at 125: Four Simple Lessons for the Contemporary Supreme Court' in *Michigan Journal of Race and Law*, Volume 17, Issue 2 (2012), pp221-223

⁵ M. A. Failing, 'Yick Wo at 125: Four Simple Lessons for the Contemporary Supreme Court', p224

they must deal with tough, non-Chinese customers.⁶ The public has read many horrifying stories of laundry being used as a cover for non-ethical activities such as opiate abuse and prostitution, even though in fact most laundries are small home businesses.

In the 1880s, Chinese were unable to acquire citizenship and were professionally restricted under the discrimination laws of the U.S. Exclusion Act and the California SC. However, the focus was on working for individual industries in San Francisco, such as restaurants or laundries. May 1880, San Francisco City Council passed the No. 156 municipal ordinance, legislation unless the city council license, prohibit the operation of laundry in the wood building.⁷ Two hundred Chinese, but only one white person, were denied permits. Yick Wo, who had operated a laundry in a wooden building for many years, was convicted of violating the law when he continued to run his business. The Supreme Court reversed his conviction, ruling that a law that seems fair on its face may be unconstitutional if it discriminates against a group of people. In 1880, an administrative order was passed in San Francisco requiring laundries in wooden buildings to apply for permission from the Board of Supervisors before being allowed to operate.⁸ At first glance, this law seems plausible, because wooden buildings are very vulnerable to fire. There were 320 laundries in San Francisco at that time, and about 95% of the stores were set up in wooden buildings, two-thirds of which were opened by Chinese.⁹ Following this, the Commission refused to grant permits to Chinese laundries in any wooden building, while nearly 90% of non-Chinese laundries were allowed.¹⁰ Yick Wo, a Chinese man who ran a laundry in San

⁶ D. E. Bernstein, 'Lochner, Parity, and the Chinese Laundry Cases', pp222

⁷ D. E. Bernstein, 'Lochner, Parity, and the Chinese Laundry Cases', pp229

⁸ M. A. Failing, 'Yick Wo at 125: Four Simple Lessons for the Contemporary Supreme Court', p226-227

⁹ G. J. Chin, 'UNEXPLAINABLE ON GROUNDS OF RACE: DOUBTS ABOUT YICK WO', pp1362-1363

¹⁰ D. E. Bernstein, 'Lochner, Parity, and the Chinese Laundry Cases', pp248

Francisco for many years, refused to pay a fine and continued to operate after he was refused permission. He was later jailed and prosecuted.¹¹

Yick Wo first sued Hopkins for his arrest. The lawsuit hit the California Supreme Court directly, demanding that the plaintiff released the good and corrected the wrongdoing in San Francisco. In the United States at that time, Chinese always liked hiring the best lawyers for litigation, which this time was no exception. However, even though the lawyer is very good, discrimination is obvious and the result is still a losing one.¹² Fortunately, another Chinese owner, WoLee, has made some progress. Although WoLee also lost the verdict, at the time of the judgment, the judge's attitude was that he believed that if the Chinese laundry was to be expelled, it would "give those major Large enterprises established and operated by white capital have a monopoly position."¹³ At the same time, the verdict also expressed dissatisfaction with the unlimited discretion of municipalities.¹⁴ Later, both of the cases were appealed to the United States Supreme Court. Due to the similarity, the two cases were consolidated. Justice Stanley Matthews ruled: Both were unfairly treated and immediately released. In the history of constitutional history in the United States, this case is called the "Yick Wo v. Hopkins." In the judgment, the judge considered the "laundry ordinance" as "naked and arbitrary power to approve an applicant's application." And declared that "although the ordinance itself is impartial and ostensibly biased if the public-sector department takes a malicious view and enforces and applies them unequally ... then the fair and equitable denial of equality Prohibited by the Constitution. "In other words, the law is equal, not just to see whether the

¹¹ M. A. Failing, 'Yick Wo at 125: Four Simple Lessons for the Contemporary Supreme Court', p231-233

¹² G. J. Chin, 'UNEXPLAINABLE ON GROUNDS OF RACE: DOUBTS ABOUT YICK WO', pp1362-1363

¹³ D. E. Bernstein, 'Lochner, Parity, and the Chinese Laundry Cases', pp248-249

¹⁴ M. A. Failing, 'Yick Wo at 125: Four Simple Lessons for the Contemporary Supreme Court', p231-233

provisions of equality, but also depends on whether its implementation will lead to inequality. Since then, this case has encouraged more groups or individuals that are discriminated against to stand up and make American society more equal.

The nine judges of the Supreme Court unanimously ruled that the San Francisco government ordinance does not appear to have ethnic preferences, but its substantive design and implementation are highly targeted. On the surface, the law takes the risk of fire into consideration.¹⁵ However, based on past inspection records and evidence of the execution of the municipal government, this law is purely a subjective intent of municipal officials and seriously contradicts the spirit of equal protection of the Fourteenth Amendment of the United States Constitution. The principle must be repealed and the Chinese benefit should be released. The following verdict has become more commonly used in court after the gold sentence:

"Although it is neutral and not discriminatory on the ground of the law and its language if the public authority imposes illegal and ugly racial discrimination in the name of justice on implementation, the United States Federal Constitution will absolutely have forbidden because its essence is absolutely against the principle of justice." ¹⁶

The case in that year was to eliminate competition from the Chinese laundry industry against whites and echo other kinds of discrimination laws and laws against Chinese laws.¹⁷

In the judgment, Alfred Clarke, the lawyer of Hopkins, argued that "Chinese people residing in San Francisco, not Americans, are citizens of the Qing Empire and have no

¹⁵ D. E. Bernstein, 'Lochner, Parity, and the Chinese Laundry Cases', pp249-250

¹⁶ Justia US Supreme Court, 'Yick Wo v. Hopkins, 118 U.S. 356 (1886)' (<https://supreme.justia.com/cases/federal/us/118/356/case.html>) (9 November 2017)

¹⁷ M. A. Failing, 'Yick Wo at 125: Four Simple Lessons for the Contemporary Supreme Court', p. 268

right to claim with U.S. citizens the same right to treatment in the United States.”¹⁸ He said the Chinese did not have the right to claim because they are not the citizen. However, Hall McAllister, the lawyer of Yick Wo, further points out that these obvious racial discrimination laws are contradicted to the spirit of equal protection in the Fourteenth Amendment to the U.S. Federal Constitution, which the Supreme Court of the United States should order to repeal the new law of San Francisco.¹⁹ The Supreme Court ruled that each person, not just a citizen, due equal protection under the law and due process. The Court cannot take that as long as it is applied equally, the Court cannot do anything about it.²⁰ But it was the fact that it was applied unequally to the Chinese and not to the whites, that is why the Court ruled. Justice Matthews also stated that “It was applied with an evil eye and an unequal hand, a metaphor that bothers me a little bit, it is kind of a mixed metaphor.”²¹ It should have been an evil eye and a malicious hand to make it the same. The court said that the unequal application of a law violated the rights of a Chinese immigrant. Yick Wo is not even a citizen of the United States. He ends up establishing a fundamental Constitution Right for all of us.

The Supreme Court unanimously decided that the unequal application of a law violated the 14th Amendment’s equal protection clause and consequently the rights of a Chinese immigrant.²² The 14th Amendment was provided for any person regardless of citizenship. Yick Wo starts an important precedent. Equal Protection Clause: “Nor shall any state deprived 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 law.”²³

¹⁸ Justia US Supreme Court, ‘Yick Wo v. Hopkins, 118 U.S. 356 (1886)’

¹⁹ D. E. Bernstein, ‘Lochner, Parity, and the Chinese Laundry Cases’, pp249-250

²⁰ M. A. Failinger, ‘Yick Wo at 125: Four Simple Lessons for the Contemporary Supreme Court’, p. 258

²¹ Justia US Supreme Court, ‘Yick Wo v. Hopkins, 118 U.S. 356 (1886)’

²² J. A. Barron, C. Thomas Dienes, W. McCormack and M. H. Redish, *Constitutional Law: Principles and Policy, Cases and Materials*, (LexisNexis, 2012), pp711-712

²³ Justia US Supreme Court, ‘Yick Wo v. Hopkins, 118 U.S. 356 (1886)’

Also, in the 14th Amendment, it says that no person should be deprived of life, liberty, or property. So Yick Wo can go to court and do what he wants to do because he is a person, not that he is a citizen. The America court took a very unpopular stance against an unpopular people, the Chinese, and allowed them to come in their court and made a very important statement of law.²⁴ Matthews stated that “The protection of equal legal protection is committed to the protection of the equal law.” in the 14th Amendment.²⁵

During the Civil Rights Movement in the 1950s and 1960s, the case of Hopkins and Hopkins received wide attention. At that time, many ethnic minority groups in the United States challenged the laws and policies of racial discrimination in some states, such as denying their voting rights and quarantining schools and settlements, invoked the Yick Wo case as a means of obtaining equal protection of the 14th Amendment to the Constitution Terms basis for protection. In this way, Yick Wo v. Hopkins became an important cornerstone of U.S. equal protection laws of the mid-twentieth century and became the most frequently cited case for discussing the constitutional equal protection clause.²⁶ The Fourteenth Amendment made the Constitution constitutional today, guaranteeing the equal rights of all Americans, and any individual or group that feels denied their own could have the same right of appeal. This made the U.S. government play a considerable role in transforming from a "government for whites" to a "government for humanity." Most countries in this world have restrictions on the acquisition of citizenship through ethnic, cultural or religious factors, just like my own country, Malaysia. The Fourteenth Amendment made the United States different from other countries and gradually transformed itself into a major immigrant nation.

²⁴ T. W. Joo, 'YICK WO RE-REVISITED: NONBLACK NONWHITES AND FOURTEENTH AMENDMENT HISTORY' (<https://www.illinoislawreview.org/wp-content/ilr-content/articles/2008/5/Joo.pdf>), p.1429

²⁵ Justia US Supreme Court, 'Yick Wo v. Hopkins, 118 U.S. 356 (1886)'

²⁶ M. A. Failing, 'Yick Wo at 125: Four Simple Lessons for the Contemporary Supreme Court', p. 258

For the first time, Yick Wo case established the legal logic that the selective administrative act based on racial discrimination is illegal and unconstitutional because it violates the constitutional principle of equal protection. As an earlier case of selective prosecution, Yick Wo Case established a precedent that the selective administrative act was unconstitutional. It was dust-sealed for many years after the verdict was made and was basically unrelated until more than half a century later. One of the main cornerstones of American law on equal protection in the mid-20th century. As one of the most cited cases for discussing the clause on equal protection of the constitution, the total number of benefits and cases cited so far has been 125 times.

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