TOPIC: Racial Identity and American Citizenship in the Court
GRADES: 7 -12

<u>BACKGROUND ESSAY</u>
In the 1800s, Asian American immigrants faced intensifying hostility, discrimination, and even exclusion from the United States. Notably, laws like the Chinese Exclusion Act of 1882 were passed to limit immigration, specifically prohibiting Chinese laborers from seeking citizenship. This was one of the first significant laws restricting immigration in the United States.

To protect their communities, Asian Americans found ways to resist and fight back, including legal challenges to fight these laws that were rooted in discrimination.

The case of Bhagat Singh Thind (1923) is a particularly important case in U.S. legal and immigration history, in how we perceive race and citizenship. Bhagat Singh Thind was from the Punjab region of India who came to the United States as a young man and joined the army, serving during World War I. After the war he sought to become a naturalized citizen. During this period the United States Caucasians were permitted to appeal for citizenship, and Bhagat Sign Thind sought citizenship, through a legal process that he where he claimed he was white. This legal fight went all the way to the Supreme Court. Ultimately, 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." (United States v. Thind, 261 U.S. 204 1923). At this time, the Supreme Court demonstrated that they were more concerned about safeguarding white citizenship than consistency in reasoning. This decision had serious consequences for all Indian Americans, and a result of this ruling, many were then stripped of their property and denaturalized.

Landmark legal cases throughout the years have had important consequences on citizenship, race and equality:

- Yick Wo v. Hopkins (1886) which was about the treatment of Chinese laundry owners which established that all individuals are entitled to equal protection of the law under the 14th Amendment, regardless of citizenship.
- Wong Kim Ark v. United States (1898) addressed birthright citizenship. Ark was born in the United States but was refused reentry into his birth country after he visited China. The Court found that the 14th Amendment guaranteed citizenship to those born in America, regardless of race or their parents' national origin.

VOCABULARY

- **Birthright Citizenship:** Citizenship for individuals as a result of being born in the country.
- **Naturalization:** The legal process wherein an individual becomes a citizen or nationality of a country.
- **Equal protection**: 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.

DISCUSSION QUESTIONS

- Why did Asian Americans challenge racist laws and policies through the courts?
- What role do the courts play in American government?
- What is discrimination? How can laws be discriminatory? Can you think of current examples?
- What ways can people challenge unjust laws?
- What does the Thind case tell you about how race is constructed?
- 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?

ACTIVITIES

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

The question of citizenship and race was visited in the parallel cases Bhagat Singh Thind v. United States (1923) and Takao Ozawa v. United States (1922). Together, these cases illustrate how the social construct of race was used to deny naturalization rights to Asian immigrants. When the U.S. government limited citizenship only to whites and blacks, Asian Americans made claims to being white.

- Ozawa was a Japanese American who had lived in America for twenty years. He argued that "whiteness" depended on skin color; because his skin was pale, he should be granted citizenship. The Supreme Court unanimously denied him, saying that whiteness only extended to "the Caucasian race."
- The Supreme Court changed their reasoning three months later to deny an Indian man, Bhagat Signh Thind, naturalized citizenship. A Punjab-born man, Thind argued that he should be granted citizenship because he was Caucasian, as the Ozawa decision specified. However, the Court found that even though he was Caucasian, he was not white.

Assign students either: Takao Ozawa or Bhagat Signh Thind. Give students time to research each individual and their court case, preparing to discuss, compare and contrast these cases as a class.

- How is "white" defined in *Ozawa*? In *Thind*?
- What do the Justices seem to say about the term "Caucasian" in *Ozawa*? What about in *Thind*?
- 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.
- How did the justices determine who is "white" in each of the cases?
- How did the justices' position change from *Ozawa* to *Thind*?
- Do the two decisions seem logical or consistent with the Constitution? Why or why not?

Activity 2*: Defining Race with the U.S. Census*
This activity will have students explore race and how it was defined through an activity around the census.

- Split students into small groups of no more than five people each.
- 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.
- Afterwards, ask each group to explain how they categorized the three people and why. Lead a discussion reflecting on the activity.

You are part of a group of 1870 Census Takers. It is your job to interview the people in your community and record them for the U.S. Census in the year 1870. You have been assigned the below three people to interview. Record their race according to your best guess and provide a short explanation describing your reasoning.

Please remember that the 1870 Census allowed only <u>five</u> different racial groups. You must assign each individual to one of the five racial categories used in the 1870 Census: 1) White, 2) Black, 3) Mulatto, 4) Chinese, 5) Indian.

For more information on the 1870 Census, visit: 1870s census examples

> ***Profiles***
> **My name is Liam Sullivan**. I came to the United States from Ireland five years ago with my brother, but my brother died on the ship voyage to this country. In the United States, I work as a physical laborer. Work is unstable and I am often cheated out of my wages. I work alongside many African Americans and Chinese immigrants, and I sometimes need to accept less money than I want so that I can stay competitive, which makes me resentful. I experience a lot of discrimination; sometimes white people refuse to serve me, and strangers on the street will call me things like "a Negro turned inside out."

My name is Aditya Singh. I came to the United States from India twenty years ago in hopes of a better life. I was able to use my savings to purchase a small tract of land, which I farm with my family. Over the years, we have developed a community of other immigrants from South Asia in my town, and I feel like America is my true home now. However, I still face racism and ignorance. My skin is darker than virtually all Mulattos of my acquaintance, and sometimes I am even mistaken for a Negro.

My name is Charity Barnett. I was born in the United States sixteen years ago. My mother and I used to be slaves, and she always swore that our former owner was my father, but he never acknowledged me. It can be awkward for me to walk in public with my mother. My skin is a lot lighter than hers, and shopkeepers end up treating her like she works for me even though I am much younger. Sometimes, when I'm out alone somewhere no one knows me, I act like I'm white and I get a kick out of everyone treating me differently.

Follow-up Discussion:
- What categories does the 2020 census offer on its form?
- How were the racial categories different from how we categorize race today?
- 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?
- 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
- "Hindus Too Brunette to Vote Here" *South Asian American Digital Archive*
- Shih, David. "White Happened to You" *Arcade*