Immigration and the Supreme Court

\*\*\*This lesson plan is adapted from the Constitutional Rights Foundation

***Judicial Case presentations***

Assign students (2-3) to research one of the following ten Supreme Court cases that deal with immigration. Each case has a hyperlink to an initial write-up from the CRF to give to the group:

--[*Chy Lung v. Freeman (1875)*](http://www.crfimmigrationed.org/index.php?option=com_content&view=article&id=237%3Achy-lung-v-freeman&catid=41&Itemid=89) - established that only Congress can make laws concerning the admission of non-citizens into the nation.

--[*Head Money Cases (1884)*](http://www.crfimmigrationed.org/index.php?option=com_content&view=article&id=68:sc-5-head-money-cases-1884-&catid=41&Itemid=112) *-* dealt with the power of the federal government to control immigration.

--[*U.S. v Wong Kim Ark (1898)*](http://www.crfimmigrationed.org/index.php?option=com_content&view=article&id=204%3Aus-v-won-kim-ark&catid=41&Itemid=131)- decided if a child born in the U.S. to immigrant parents became a citizen by birth.

--[*Perez v. Brownell (1958)*](http://www.crfimmigrationed.org/index.php?option=com_content&view=article&id=65:sc-2-perez-v-brownell-1958-&catid=41&Itemid=109) *-* identified ways that the government can revoke citizenship.

--[*Afroyim v. Rusk (1967)*](http://www.crfimmigrationed.org/index.php?option=com_content&view=article&id=70:sc-7-afroyim-v-rusk-1967-&catid=41&Itemid=114) *-* overturned the previous decision in Perez.

--[*Lau v.Nichols (1974)*](http://www.crfimmigrationed.org/index.php?option=com_content&view=article&id=232:lau-v-nichols-1974&catid=41&Itemid=163) - dealt with public schools' obligation to provide English instruction to non-native English speakers.

--[*Plyler v. Doe (1982)*](http://www.crfimmigrationed.org/index.php?option=com_content&view=article&id=64:sc-1-plyler-v-doe-1982-&catid=41&Itemid=108)- focused on the rights of children of undocumented immigrants to receive public education.

--[*INS v. Chadha (1983)*](http://www.crfimmigrationed.org/index.php?option=com_content&view=article&id=69:sc-6-chadha-1983-&catid=41&Itemid=113) - addressed Congress’ power to intercede in deportation proceedings.

--[*Tuan Anh Nguyen v. INS (2001)*](http://www.crfimmigrationed.org/index.php?option=com_content&view=article&id=66:sc-3-nguyen-v-ins-2001-&catid=41&Itemid=110) *-* dealt with the rules for a foreign-born child to become a citizen.

--[*Medellin v.Texas (2008)*](http://www.crfimmigrationed.org/index.php?option=com_content&view=article&id=67:sc-4-medellin-v-texas-2008-&catid=41&Itemid=111) *-* limited the president's power to make states follow international treaties, particularly involving the rights of immigrants in criminal court.

Each group should prepare a 2-3 minute presentation on their Supreme Court case. They may use the hyperlinks above but also additional resources that they found on their own. The presentations should include the following:

• An overview of the facts of the case.

• The crucial constitutional issue that the court had to decide.

• A summary of the holding and the reasoning that the court used to reach its decision.

Assign the presentations for the next class. Each member of the group must participate in the presentation. As students present their cases, the class should take notes on the presentations using the handout below.

***Class Reading and Discussion*** - As a class, the students will familiarize themselves with *Arizona v. United States (2010),* which addressed whether a controversial Arizona law that set criminal penalties for immigration violations should be preempted by federal law.

Assign students to read the following article - “*Arizona v. United States*: States and Immigration Law” from the Constitutional Rights Foundation. <http://www.crfimmigrationed.org/index.php?option=com_content&view=article&id=231:az-sa1070&catid=50:lessonsforteachers&Itemid=160>

Assign the students the following questions to answer to reflect on the reading:

1. The Supreme Court decided that three sections were preempted by federal law: Sections 3, 5(C), and 6. For each one, decide if it was a *conflict* preemption or a *field* preemption and explain your answers.
2. Justices Scalia, Thomas, and Alito dissented in part and concurred (agreed) in part with the majority in *Arizona v. United States*. Justice Scalia argued that states like Arizona are “sovereigns.” Therefore, they can control who enters their borders and who may stay. Do you agree? Why or why not?
3. Reasonable suspicion is not sufficient to make an arrest. But it is evidence that a person is about to commit a crime or has committed a crime. It must be more than a mere “hunch,” and gives police authority to investigate. Do you think that an officer can have reasonable suspicion that someone is an unauthorized immigrant without using race or ethnicity? Why or why not?

The Supreme Court and Immigration

As student groups present their specific cases, please take notes in the chart below.

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| **Name of Case** | **Key Background Info** | **Key Constitutional Question(s)** | **Court’s Holding and reasoning** |
| *Chy Lung v. Freeman (1875)* |  |  |  |
| *Head Money Cases (1884)* |  |  |  |
| *U.S. v. Wong Kim Ark (1898)* |  |  |  |
| *Perez v. Brownell (1958)* |  |  |  |
| *Afroyim v. Rusk (1967)* |  |  |  |
| *Lau v. Nichols (1974)* |  |  |  |
| *Plyler v. Doe (1982)* |  |  |  |
| *INS v. Chadha (1983)* |  |  |  |
| *Tuan Anh Nguyen v. INS (2001)* |  |  |  |
| *Medellin v. Texas (2008)* |  |  |  |