

Extended Controversial Issue Discussion Lesson Plan Template

Lesson Title: Who's in Charge Here Anyway? The Continued Debate Over Immigration Policy

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Appropriate for Grade Level: 8

US History Standard: **H4.[9-12]. 7:** Describe the U.S. policy concerning strategic political and economic interests on the Middle East, Latin America, Mexico, immigration, trade, and the environment. **C13.[6-8].4:** Describe how the Nevada and U.S. Constitution serve as devices for preserving state and national principles and as vehicles of change. **CC Anchor Reading Standards:** Read closely to determine what the text says explicitly and make inferences from it, Determine central ideas of a text and summarize key details and ideas.

Discussion Question: Is Controlling Illegal Immigration a State or Federal Issue?

Engagement Strategy: Cross the Line, close reading, debate, written assessment

Student Readings: 1. Review of Federalism Venn Diagram
2. Arizona Immigration Law (SB 1070)
3. Do Illegal Aliens Have Constitutional Rights?
4. Excerpted Original Text of the 5th and 14th Amendments of the U.S. Constitution

Total Time Needed: (8) 50 minute class periods

Lesson Outline:

Time Frame	What is the teacher doing?	What are students doing?
Day 1 30 min	Reading the "Cross the Line" immigration questions and moving the PowerPoint that displays the question	Participating silently in the "Cross the Line" activity
15 min	Review of immigration policy of the past (Chinese, Eastern Europe, Irish, Etc.) Images and notes from previous lessons	Listening with intensity! Loving every second of cherished memory they have with me in the classroom!
Day 2 20 min	Review of federalism using the Venn Diagram/circulating the class	Working in small groups to answer the questions with the Venn diagram
15 min	Reviewing in front with whole class	Sharing, changing and adding to answers as needed
15 min	1. Quietly circulating the room while students do cold read of "Arizona Immigration Law (SB 1070)" article 2. Read aloud to students as they	Reading, underlining, making question marks next to words or phrases they are confused by on the initial close read

	follow along	(HW: students attempt first few questions of article)
Day 3 30 min	Teacher leads students in text-dependent answers for the first (and longest) article	Students working in small group and whole class to answer text dependent questions (HW: students clean up answers as needed, write any final clarifying questions for next day)
Day 4 10 min	Ask: Is controlling illegal immigration a state or federal issue?	Students discuss using the two sources they have received thus far (Venn Diagram and AZ imm. Article)
10 min	1. Quietly circulating the room while students do cold read of "Do Illegal Aliens Have Constitutional Rights?" article 2. Read aloud to students as they follow along	Reading, underlining, making question marks next to words or phrases they are confused by on the initial close read
30 min	Teacher leads students in text-dependent answers for the second article	Students working in small group and whole class to answer text dependent questions (HW: students attempt to complete questions on their own as needed)
Day 5 15 min	Review of article and continue to review text-dependent questions and answers as whole class and small group	Students continue working in small group and whole class to answer text dependent questions
15 min	1. Quietly circulating the room while students do cold read of "Original and Excerpted Original Text of the 5 th , 6 th , and 14 th Amendments of the U.S. Constitution" 2. Read aloud to students as they follow along	Reading, underlining, making question marks next to words or phrases they are confused by on the initial close read.
20 min	Teacher leads students in text-dependent answers for the Amendments.	Students working in small group and whole class to determine how these Amendments support that controlling immigration is either a state or federal issue.
Day 6 15 min	Ask: Is controlling illegal immigration a state or federal issue?	Students discuss using all four sources they have received
10 min	Holds hat with debate sides for students to randomly select	Students move to the corresponding side of the room to begin working in smaller teams on text-based argument over whether illegal immigration is a state or federal issue
25 min	1. Circulate to both sides of the room to support building of opposing arguments 2. Hand out debate scoring rubric and	Students complete simple debate "organizer"

	note taker	
Day 7 10 min	1. Review debate scoring rubric and note taker (both assessment pieces) 2. Review debate language	Listening to instructions
35 min	Marking students on rubric as they speak	Taking notes, speaking, keeping track of speakers (all for points)
5 min	1. Thank students for a job well done 2. Collect assessment pieces	Turn in all assessment requirements
Day 8 30 min	Writing prompt: Is Controlling Illegal Immigration a State or Federal Issue?	Student completes the writing prompt citing evidence from all four sources to support their opinion

Description of Lesson Assessment: Students and teacher will use the rubric on the following page:

Classroom Debate Rubric

Criteria	5 points	4 points	3 points	2 points	1 point	Total Points
Respect for Other Team	All statements, body language, and responses were respectful and were inappropriate language	Statements and responses were respectful and used appropriate language, but once or twice body language was not	Most statements and responses were respectful and in appropriate language, but there was one sarcastic remark	Most statements and responses were respectful and in appropriate language, but there was one sarcastic remark	Statements, responses and/or body language were borderline appropriate. Some sarcastic remarks	Statements, responses and/or body language were consistently not respectful
Information	All information presented in this debate was clear, accurate and thorough	Most information presented in this debate was clear, accurate and thorough	Most information presented in the debate was clear and accurate, but was not usually thorough	Most information presented in the debate was clear and accurate, but was not usually thorough	Some information was accurate, but there were some minor inaccuracies	Information had some major inaccuracies OR was usually not clear
Rebuttal	All counter-arguments were accurate, relevant and strong	Most counter-arguments were accurate, relevant, and strong	Most counter-arguments were accurate and relevant, but several were weak	Most counter-arguments were accurate and relevant, but several were weak	Some counter-arguments were weak and irrelevant	Counter-arguments were not accurate and/or relevant
Use of Facts/Statistics	Every major point was well supported with several relevant facts, statistics and/or examples	Every major point was adequately supported with relevant facts, statistics and/or examples	Every major point was supported with facts, statistics and/or examples, but the relevance of some was questionable	Every major point was supported with facts, statistics and/or examples, but the relevance of some was questionable	Some points were supported well, others were not	All points were not supported
Organization	All arguments were clearly tied to an idea (premise) and organized in a tight, logical fashion	Most arguments were clearly tied to an idea (premise) and organized in a tight, logical fashion	Most arguments were clearly tied to an idea (premise) and organized in a tight, logical fashion	Most arguments were clearly tied to an idea (premise) and organized in a tight, logical fashion	Most arguments were clearly tied to an idea (premise) and organized in a tight, logical fashion	Most arguments were clearly tied to an idea (premise) and organized in a tight, logical fashion
Understanding of Topic	The team clearly understood the topic in depth and presented their information forcefully and convincingly	The team clearly understood the topic in depth and presented their information with ease	The team seemed to understand the main points of the topic and presented those with ease	The team seemed to understand the main points of the topic and presented those with ease	The team seemed to understand the main points of the topic, but didn't present with ease	The team did not show an adequate understanding of the topic

Total Points:

Comments:

Name _____ Period _____

Debate Organizer
Is controlling illegal immigration a state or federal issue?

Use this table to organize your information to make a strong argument for your team and earn points toward your final grade!!

My Position: "It is a state / federal issue" (circle state or federal)	
Document No.	Evidence from document

For Points* Keep track of people who speak by making tick marks below:

Speaker was on topic _____

Speaker used evidence from documents _____

Number of times I spoke and was on topic and used evidence from documents _____

Who's in Charge Here Anyway?
The Continued Debate Over Immigration Policy



Is Controlling Illegal Immigration a
State or Federal Issue?



Prove it... debate it...

Created by
Alison Cadwell
Dayton Intermediate School
For the 2011-2012
TAH Cohort: Conversations and Controversies

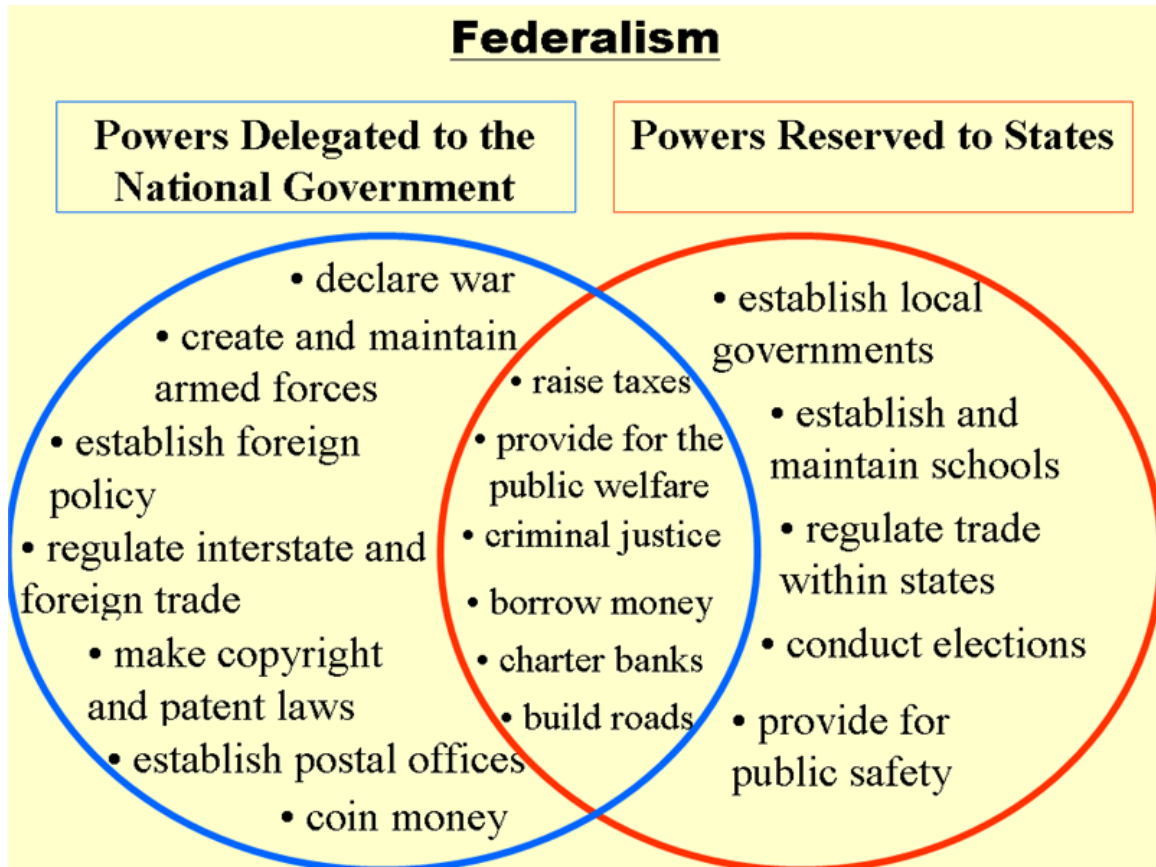
CROSS THE LINE STATEMENTS REGARDING FEDERAL AND STATE POWER AS IT PERTAINS TO IMMIGRATION POLICY

(on PowerPoint only- do not make student copies of questions)

- 1. Every human being deserves a chance to make a better life for their family.**
- 2. Issues that affect people in their homes and their families should be decided by the states, because the states understand their people better.**
- 3. States have a right to protect the economic (money) and job interests of the people who live there.**
- 4. States have a right to separate mothers and fathers from their children.**
- 5. The federal government has a right to separate mothers and fathers from their children.**
- 6. Being a citizen of your country is MORE important than being a citizen of your state.**
- 7. States have a right to protect their borders.**
- 8. The federal government has a right to imprison people who break laws.**
- 9. States have a right to imprison people who break laws.**
- 10. It makes the most sense for the national government to make laws on immigration that all states have to follow.**
- 11. The national government is in charge of protecting the borders.**
- 12. Illegal immigration is a difficult problem for every part of the United States.**
- 13. Current Immigration issues are very different from past immigration issues.**
- 14. If every state has different laws on immigration, it will be too confusing for the country.**
- 15. The federal government is supreme to state governments.**
- 16. If states do not like a federal law, they should not have to follow it.**
- 17. The Supreme Court should not hear cases about illegal immigrants since they are not citizens.**

Document 1

Review of Federalism



<http://mrberlin.com/federalismpowerpointpresentation.aspx>

Use the Venn diagram above to answer the following questions:

- 1a. List three things you understand that are listed under powers delegated to the federal government.
1b. Give a specific example of each of the three things you listed above.

- 2a. List three things you understand that are listed under powers reserved to states.
2b. Give a specific example of each of the three things you listed above.

- 3a. List three things you understand that are listed under powers shared by federal and state governments.
3b. Give a specific example of each of the three things you listed above.

4. With your limited knowledge based of this diagram, where might the issue of immigration fall? Justify or explain your opinion based off of information provided in the diagram.

Document 2

<http://topics.nytimes.com/top/reference/timestopics/subjects/i/immigration-and-emigration/arizona-immigration-law-sb-1070/index.html>

Arizona Immigration Law (SB 1070)

Updated: April 25, 2012

In April 2010, Arizona adopted the nation's toughest law on illegal immigration, provoking a bitter national debate and federal lawsuits.

The law, known locally as SB1070 or [Senate Bill 1070](#), was aimed at discouraging illegal immigrants from entering or remaining in the state. It expanded the powers of state police officers to ask about the immigration status of anyone they stop, and to hold those suspected of being illegal immigrants. It coincided with economic anxiety and followed a number of high-profile crimes attributed to illegal immigrants and smuggling, though federal data suggest that crime is falling in Arizona, as it is nationally. The law's supporters said it reflected frustration over inaction by the federal government, while critics said it would lead to harassment of Hispanics and turn the presumption of innocence upside down.

The legislation requires police officers, "when practicable," to detain people they reasonably suspect are in the country without authorization and to verify their status with federal officials, unless doing so would hinder an investigation or emergency medical treatment. The law also makes it a state crime — a misdemeanor — to not carry immigration papers. In addition, it allows people to sue local government or agencies if they believe federal or state immigration law is not being enforced.

Since the law was passed, it has been weakened, bit by bit. Four of the law's most contentious provisions were suspended by federal courts.

In July 2010, just days before the law was to take effect, Judge [Susan Bolton](#) of Federal District Court in Phoenix issued an injunction blocking its most controversial provisions, including sections that called for officers to check a person's immigration status while enforcing other laws and that required immigrants to carry their papers at all times. Gov. [Jan Brewer](#), a Republican who supports the crackdown on immigrants, filed an appeal seeking to have the injunction lifted.

In April 2011, the United States Court of Appeals for the Ninth Circuit [ruled against the State of Arizona and let stand the lower court's decision](#), indicating that it believed the state had overstepped its authority. State Senator Russell K. Pearce, a Republican who is the principal sponsor of the law, remained defiant, saying the issue would ultimately be decided by the [Supreme Court](#). In October 2011, Judge Bolton dismissed Governor Brewer's lawsuit.

This box is for
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questions, thoughts

Supreme Court Hearings: Other States Are Watching

[On April 25, 2012](#), the [Supreme Court](#) heard arguments. Across the ideological spectrum, the justices appeared inclined to uphold one of the law's most controversial parts, based on their questions.

"You can see it's not selling very well," Justice Sonia Sotomayor, a liberal-leaning justice and the first Hispanic appointed to the court, told Solicitor General Donald B. Verrilli. Mr. Verrilli, representing the federal government, was seeking to strike part of the law's requirement that state law enforcement officials determine the immigration status of anyone they stop if the officials have reason to believe that the individual might be an illegal immigrant.

It was harder to read the court's attitude toward other provisions of the law, and the final ruling, expected by June, may be a split decision.

Chief Justice John G. Roberts Jr. made clear that the case, like the [arguments over President Obama's health care law](#), was about the allocation of state and federal power.

The argument was a rematch between the main lawyers in the health care case, with Paul D. Clement representing Arizona, and Solicitor General Donald B. Verrilli Jr. representing the federal government. In an unusual move, the court allowed the argument to last 20 minutes longer than the scheduled 60 minutes. The two lawyers presented sharply contrasting accounts of what the Arizona law meant to achieve.

Mr. Clements said the state was making an effort to address an emergency situation with a law that complemented federal immigration policy. "Arizona borrowed the federal standards as its own," he said.

Mr. Verrilli countered that Arizona's approach was in conflict with the federal efforts. "The Constitution vests executive authority over immigration with the national government," he said.

Most of the argument concerned the part of the law requiring state officials to check immigration status in some circumstances. That provision also requires that the immigration status of people who are arrested be determined before they are released.

Several justices said states were entitled to enact such provisions, which make mandatory practices that are already widespread.

"What does sovereignty mean if it does not include the ability to defend your borders?" Justice Antonin Scalia asked.

Chief Justice Roberts said the state law merely requires that the federal government be informed of immigration violations and leaves enforcement decisions to it. "It seems to me that the federal government just doesn't want to know who is here illegally and who's not," he said.

States around the nation are closely following the Arizona case, and a majority of them have joined friend-of-the-court briefs. [Sixteen of them](#) sided with Arizona, while [11 supported](#) the federal government. Arizona's immigration

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law [has inspired similar statutes in Georgia, Alabama, Indiana, South Carolina and Utah.](#)

Fundamental Questions About Federal Powers

Constitutional lawyers on both sides of the argument say the case raises fundamental questions about federal powers. With the strong conservative bent the court has shown this session, a distinct possibility has emerged that the justices could uphold at least some of the Arizona law's contested sections, going against the trend in the lower courts on the core legal issues.

The Arizona case, lawyers said, could lead the Supreme Court to redraw long-established boundaries between the federal government and the states when it comes to immigration enforcement, which has been considered a nearly exclusive federal preserve.

If the court endorses any part of Arizona's approach, it would provide a big lift to groups that campaign against illegal immigration, which have clamored for tough action by states, saying the federal government has failed to do its part. It could rekindle political battles in state legislatures, including in Georgia, where support for Arizona-style laws had begun to fade.

Immigrant and Latino groups have assailed SB 1070, saying it would unleash a wave of discriminatory arrests. Those civil rights issues are not directly before the Supreme Court in the current case. But if the justices strike down the Arizona law, it would be a powerful victory for those groups. Aside from the five states that enacted police laws similar to Arizona's, at least eight additional states weighed such legislation but did not move forward, with many awaiting the outcome in the Supreme Court.

A Dormant Issue Revived

Immigration reform had been in effect a dormant issue nationally until the passage of the Arizona law in April 2010. Republicans and Democrats had agreed for years on the need for sweeping changes in the federal immigration laws. President George W. Bush for three years pushed for a bipartisan bill before giving up in 2007 after an outcry from voters opposed to any path to legal status for illegal aliens.

But immigration reform came back to life in April 2010 after the passage of the Arizona statute. About 20 other states are considering similar laws, and Democratic governors have complained to the White House of the political fallout of opposing the Arizona measure.

After the Arizona law passed, a coalition of top Senate Democrats laid out the contours of a proposed overhaul of immigration laws — and appealed to Republicans to join them in pursuing it — even as doubts mounted about the prospects of winning approval of legislation in 2010.

A Federal Challenge

The Justice Department on July 6 had filed a lawsuit in federal court in Phoenix to challenge the state law, contending that controlling immigration

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is a federal responsibility. Polls, however, suggest that a majority of Americans support the Arizona law, or at least the concept of a state having a strong role in immigration enforcement.

The lawsuit had been expected since mid-June 2010, when Obama administration officials first disclosed they would contest the legislation, adding to several other suits seeking to have courts strike it down.

The federal government added its weight to the core argument in those suits, which also had argued that the Arizona law usurps powers to control immigration reserved for federal authorities. The main suit was brought by the American Civil Liberties Union, the Mexican American Legal Defense and Educational Fund and other civil rights groups.

The mere fact of being present without legal immigration status is a civil violation under federal law, but not a crime.

The Justice Department contended that the law would divert federal and local law enforcement officers by making them focus on people who may not have committed crimes, and by causing the “detention and harassment of authorized visitors, immigrants and citizens.”

The Justice Department suit was also aimed at stemming a tide of similar laws under consideration in other states. “The Constitution and the federal immigration laws do not permit the development of a patchwork of state and local immigration policies throughout the country,” the suit says. White House officials said Mr. Obama was not involved in the Justice Department’s decision to sue. But the suit came after steps by Mr. Obama to frame the immigration debate in terms that will favor Democrats in advance of midterm elections in November, including a speech in July when he restated his commitment to overhaul legislation that would give legal status to millions of illegal immigrants.

Judge’s Ruling

On July 28, Judge Bolton in Phoenix blocked central provisions of the Arizona law from taking effect. The judge broadly vindicated the Obama administration’s high-stakes move to challenge the state’s law and to assert the primary authority of the federal government over state lawmakers in immigration matters.

Arizona’s lawyers had contended that the statute was written to complement federal laws. Judge Bolton, who was appointed by President Bill Clinton in 2000, rejected that argument, finding that four of its major provisions interfered or directly conflicted with federal laws.

The Arizona police, she wrote, would have to question every person they detained about immigration status, generating a flood of requests to the federal immigration authorities for confirmations. The number of requests “is likely to impermissibly burden federal resources and redirect federal agencies away from priorities they have established,” she wrote.

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While opponents of the Arizona law had said it would lead to racial profiling, the Justice Department did not dwell on those issues in its court filings. But Judge Bolton brought them forward, finding significant risks for legal immigrants and perhaps American citizens. There is a “substantial likelihood that officers will wrongfully arrest legal resident aliens,” she wrote, warning that foreign tourists could also be wrongly detained. The law, she found, would increase “the intrusion of police presence into the lives of legally present aliens (and even United States citizens), who will necessarily be swept up” by it.

The federal ruling shifted the political pressure back onto President Obama to show that he can effectively enforce the border, and to move forward with an overhaul of the immigrations laws, so that states will not seek to step in as Arizona did.

Lawmakers’ Second Round

In February 2011, Arizona legislators were crafting a sweeping restrictions that would make the 2010 bill look watered down. In it, illegal immigrants would be barred from driving in the state, enrolling in school or receiving most public benefits. Their children would receive special birth certificates that would make clear that the state does not consider them Arizona citizens.

Some of the bills, like those restricting immigrants’ access to schooling and right to state citizenship, flout current federal law and are being put forward to draw legal challenges in hopes that the [Supreme Court](#) might rule in the state’s favor. Similar legal challenges are likely to come in response to the latest round of legislation, some of which cleared a key Senate committee in February after a long debate that drew hundreds of protesters, some for and some against the crackdown.

The measures would compel school officials to ask for proof of citizenship for students and require hospitals to similarly ask for papers for those receiving non-emergency care. Illegal immigrants would be blocked from obtaining any state licenses, including those for marriage. Landlords would be forced to evict the entire family from public housing if one illegal immigrant were found living in a unit. Illegal immigrants found driving would face 30 days in jail and forfeit the vehicle to the state.

Some state lawmakers said their constituents were furious over the Obama administration’s lawsuit challenging the last immigration law and wanted the state to continue pressing the issue. Gov. Brewer said the state would file a countersuit against the federal government accusing it of not enforcing immigration laws. The hope is that the Supreme Court will decide the matter in favor the states.

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Answer the questions on the following page:

Document 2 Questions

1. What is SB 1070?
2. Review lines 10-29, what specifically does the law allow officers and citizens to do?
3. Who is Susan Bolton?
4. Who is Jan Brewer?
5. Why are they important to SB 1070?
6. What part of the law is the federal government trying to stop (lines 61-64)?
7. According to Chief Justice Roberts, what is this case really about? (Besides immigration).
8. In line 81 and 82, what does Arizona lawyer Clements mean when he says the Arizona law, “complemented federal immigration policy.”
9. What is the federal lawyer concerned about in lines 89-92?
10. In lines 93-103, what do the Supreme Court justices seem to think about the Arizona state law?
11. What do groups who are opposed to the law say? Cite specific line numbers in your answer and explain the meaning in your own words.
12. Using lines 139-155, explain the sub-heading “A Dormant Issue Revived” on line 138.
13. Re-read the section titled, “A Federal Challenge”. Why is the federal government against Arizona’s SB 1070?

Do Illegal Aliens Have Constitutional Rights? Courts Have Ruled They Do

By [Robert Longley](#), About.com Guide

Do not let the fact that the term "illegal aliens" does not appear in the [U.S. Constitution](#) lead you to believe that its rights and freedoms do not apply to them. The courts have held otherwise.

Often described as a "living document," the Constitution has repeatedly been interpreted by the [U.S. Supreme Court](#), federal appeals courts and [Congress](#) in order to address the ever-changing needs and demands of the people. While many argue that "We the People of the United States," refers only to legal citizens, the Supreme Court has consistently disagreed.

Yick Wo v. Hopkins (1886)

In [Yick Wo v. Hopkins](#), a case involving the rights of Chinese immigrants, the Court ruled that the [14th Amendment's](#) statement, "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," applied to all persons "without regard to any differences of race, of color, or of nationality," and to "an alien, who has entered the country, and has become subject in all respects to its jurisdiction, and a part of its population, although alleged to be illegally here." ([Kaoru Yamataya v. Fisher, 189 U.S. 86 \(1903\)](#))

Wong Wing v. U.S. (1896)

Citing [Yick Wo v. Hopkins](#), the Court, in the case of [Wong Wing v. US](#), further applied the citizenship-blind nature of the Constitution to the [5th](#) and [6th](#) amendments, stating ". . . it must be concluded that all persons within the territory of the United States are entitled to the protection guaranteed by those amendments, and that even aliens shall not be held to answer for a capital or other infamous crime, unless on a presentment or indictment of a grand jury, nor be deprived of life, liberty, or property without due process of law."

Plyler v. Doe (1982)

In [Plyler v. Doe](#), the Supreme Court struck down a Texas law prohibiting enrollment of illegal aliens in public school. In its decision, the Court held, "The illegal aliens who are plaintiffs in these cases challenging the statute may claim the benefit of the Equal Protection Clause, which provides that no State shall 'deny to any person within its jurisdiction the equal protection of the laws.' Whatever his status under the immigration laws, an alien is a 'person' in any ordinary sense of that term... The undocumented status of these children vel non does not establish a sufficient rational basis for denying them benefits that the State affords other residents."

This box is for vocabulary, questions, thoughts

It's All About Equal Protection

When the Supreme Court decides cases dealing with [First Amendment](#) rights, it typically draws guidance from the [14th Amendment's](#) principal of "equal protection under the law." In essence, the "equal protection" clause extends First Amendment protection to anyone and everyone covered by the [5th](#) and [14th](#) Amendments. Through its consistent rulings that the 5th and 14th Amendments apply equally to illegal aliens, they also enjoy First Amendment rights.

In rejecting the argument that the "equal" protections of the [14th Amendment](#) are limited to U.S. citizens, the Supreme Court has referred to language used by the Congressional Committee that drafted the amendment:

"The last two clauses of the first section of the amendment disable a State from depriving not merely a citizen of the United States, but any person, whoever he may be, of life, liberty, or property without due process of law, or from denying to him the equal protection of the laws of the State. This abolishes all class legislation in the States and does away with the injustice of subjecting one caste of persons to a code not applicable to another. . . . It [[the 14th Amendment](#)] will, if adopted by the States, forever disable every one of them from passing laws trenching upon those fundamental rights and privileges which pertain to citizens of the United States, and to all persons who may happen to be within their jurisdiction."

While illegal aliens do not enjoy all of the rights granted to citizens by the [Constitution](#), specifically the rights to vote or possess firearms, these rights can also be denied to U.S. citizens convicted of felonies. In final analysis, the courts have ruled that, while they are within the borders of the United States, illegal aliens are granted the same fundamental, undeniable constitutional rights granted to all Americans.

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Answer the questions on the following page:

Document 3 Questions

1. In line 47, what does “undocumented” mean?
- 2a. In your own words, what did the court decide in the 1886 case *Yick Wo v. Hopkins*?
- 2b. What Constitutional Amendment did the Supreme Court cite in that decision?
- 3a. In your own words, what did the Supreme Court decide in *Wong Wing v. U.S.* in 1896?
- 3b. What Constitutional Amendment did the Supreme Court cite in that decision?
- 4a. The “equal protection clause” is from the 14th Amendment. How did the Supreme Court use this clause in the 1982 case *Plyler v. Doe*?
- 4b. In what way did it protect illegal immigrants?
5. Reread lines 52-58. In your own words, explain the Supreme Court’s findings when dealing with 1st Amendment rights and illegal immigrants.
6. What rights are denied to non-citizens in the United States?
7. What rights has the Supreme Court ruled non-citizens DO have?

Document 4

Original and excerpted text of the 5th, 6th, and 14th Amendments of the U.S. Constitution

5th Amendment- Trial and Punishment, Compensation for Takings

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person [be subject for the same offense to be twice put in jeopardy of life or limb](#); nor shall be compelled in any criminal case to be a witness against himself, nor be [deprived](#) of life, liberty, or property, without [due process](#) of law; nor shall private property be taken for public use, without just compensation.

6th Amendment- Right to Speedy Trial, Confrontation of Witnesses.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an [impartial](#) jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his [defence](#).

14th Amendment- Citizenship Rights

1. All persons born or naturalized in the United States, and subject to the [jurisdiction](#) thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; 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.

Answer the questions on the following page:

This box is for vocabulary, questions, thoughts

Document 4 Questions

1. Use each of the Amendments from the previous page to support BOTH claims that controlling illegal immigration is either a state issue or a federal issue. You will be randomly selected to pick a side later.

Make notes in the blank space below:

Background Essay for the lesson:
Is Controlling Illegal Immigration a State or Federal Issue?

Controversy is nothing new in regard to the U.S. Constitution. Since its ratification in 1789, the Supreme Court has been called on to interpret the meaning of just about every article and amendment that comprises it. Strangely, for a country that prides itself on being a nation of immigrants, the Constitution says nothing about immigration and a path to citizenship, which is one reason that immigration has been a controversial topic for most of the United States' existence. The main argument is also a common one: is controlling immigration a state or federal issue? This controversy has arisen to target immigrant groups that are either entering the nation in large numbers or for fear of an incoming groups' political or cultural differences that are seen as a threat to "American" politics and culture.

The first clear immigration laws are the Alien and Sedition Acts, Alien Friends Act, and Alien Enemies Act of 1798. Also, they are the first clear immigration laws to target a specific foreign group, in this case, French revolutionaries who many felt had radical political ideas (Israel). Besides the 1798 laws, federal regulation on immigration was not common before 1875. However, looking more closely, immigration and citizenship law expert, Hiroshi Motomura, author of Americans in Waiting: The Lost Story of Immigration and Citizenship in the United States argues that the first immigration laws were always tied to interfering or conflicting with federal regulation of commerce or foreign affairs (Motomura 21).

The Supreme Court's early rulings on immigration gave states a fair amount of power. For example, in *Gibbons v. Ogden* (1824) the Supreme Court considered whether New York could allow one steamboat company to monopolize travel between New York City and Albany on the Hudson River. The Supreme Court ruled that states could not allow a monopoly because it was interfering with federal interstate and foreign commerce control but that the state could regulate the movement of people (Motomura 22). This is significant to immigration because it gave states some, although unclear, power to regulate immigration. Adding to the vagueness, but definitely reinforcing the Supreme Court's interpretation of federalism, was the 1837 case of

City of New York v. Miln requiring a \$75 penalty per unreported passenger to all ship masters coming into New York's port and the Supreme Court upheld this law. These laws were significant for states because during the 1800s, there were literally millions of immigrants coming into the United States but there were almost no federal laws regulating immigration.

Federal immigration laws start becoming more prevalent with the passage of the 1875 Chinese Exclusion Act and in 1891, the federal government created the Office of Immigration that is today known as Immigration and Naturalization Services. Three cases between 1876 and 1884 cemented the Supreme Courts view that federalism authorized the federal government to be in control of immigration into the United States (Israel).

Historically and recently, the regions of the nation that have pressed for more state control over immigration has changed due to where immigration was occurring at higher rates than other places, and as laws have been added over time, the argument has also changed. For instance, during the Gold Rush of 1849, Californians urged Congress to limit the number of Chinese laborers but it was not until 1882 that the Chinese Exclusion Act was passed by the federal government. Before the law went into effect, California had passed numerous state and local laws targeted specifically at Chinese immigrants such as, in 1852, a tax on Chinese gold miners in order to force them out of mining and into periphery occupations. Another California law of 1879, forced incorporated cities to remove Chinese immigrants from their city limits (Motomura 17). The goal here would seemingly be to hamper employment for the Chinese to make them live further away from a town center and therefore have to travel to a job or business rather than living near a job or living above or in a business as was a common practice in the nineteenth century. This would not only make it harder to be employed but may also have increased travel expenses and housing if a secondary residence was required rather than one located on the same property as a business. Additionally, there was gender and racial discrimination present in this law to keep Chinese prostitutes out of town (Leong 116).

In addition to French revolutionaries and Chinese laborers, other immigrant groups have been targeted such as Irish, Mexican, and many other smaller influxes of nationalities from Eastern Europe and beyond. As

students learn about immigration in the United States, they will see that the immigration issues the country is facing today are not new but are recurring issues throughout history. Similarly, the arguments over time have not really changed drastically either. Immigrants, especially illegal immigrants today, are accused of taking away jobs from Americans, bringing down wages, and using public welfare services that they do not contribute to since their jobs are illegally acquired and therefore are not under the arm of taxation (Lowenstein). In order to step back from the emotionally charged aspect of this issue, consideration of governmental control is an important point to consider.

The competing viewpoints on the issue of immigration are linked to federalism and whether it is a state or federal issue. Clearly, states want control of this issue because they feel that the federal government is not successful at enforcing the laws that they've passed or they aren't stringent enough to deter immigrants. The federal government is claiming that states are over stepping their powers that are granted them in the Constitution by creating their own immigration laws. Specifically, in the Arizona law (SB 1070), state legislators insist that the law is complementary to existing federal immigration law (Longley). Another point that must be considered is that historically and recently, the Supreme Court has also given rights to illegal immigrants citing the 5th, 6th and 14th Amendments, which also impacts the scope of any state laws on immigration. In the late 1800s, two cases involving Chinese immigrants upheld the Constitution to protect anyone "within its jurisdiction to equal protection of the laws" (*Wo v. Hopkins*, 1886) and that anyone within the United States must be provided with the rights of the accused as provided for by the 5th and 6th Amendments (*Wong Wing v. U.S.*, 1896). As recently as 1982, in *Plyer v. Doe*, where Texas attempted to require proof of citizenship to enroll in school, the Supreme Court struck down this law reasoning that a person's undocumented status is not sufficient to deny them benefits of the state offered to other residents (Longley, About.com).

The topic of whether illegal immigration is a state or federal issue is relevant to all students today. Immigration is a topic brought up in all regions of the U.S. today but specifically in areas close to the Mexican border. In Nevada, our recent immigration history consists of ICE raids on McDonalds and student walkouts during school to support the Latino community. By looking specifically at federalism and Supreme Court

rulings on immigration, some of the emotion of this controversy can be set aside so that an informed discussion can ensue about facts of immigration and facts about Supreme Court rulings. Probably students will be surprised to know that illegal immigrants have been granted Constitutional rights in this country and a discussion about the amendments and how they have been interpreted by the Supreme Courts will lead to more thoughtful discussion. Most students have likely heard something about the Arizona Immigration Law but have not looked closely at it or the arguments from each side. Numerous other states have now also passed immigration laws and are waiting for the Supreme Court ruling on the Arizona case to better determine their chances of a state immigration law being upheld in the courts. As this case is decided, engaging classroom discussion can follow Arizona's case and other states such as Alabama and Georgia to allow students an ever deeper understanding of the complex nature of illegal immigration in the United States.

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